March 2013
Volume 9 Issue 3

Monthly Newsletter of the Georgia Real Estate Commission

GREC RENews

This Issue:

2013 Calendar

GREC Brokerage Course & Trust Accounts Class Dates:

- **April 24 & 25, 2013**
  NAMAR
  http://www.namar.org
- **May 22 & 23, 2013**
  Lake Country Board
  http://www.lakecountryrealtors.com/
- **June 19 & 20, 2013**
  Cherokee Board
  Cherokee Association of REALTORS

GREC Georgia Instructor Training Workshop

- **May 9 & 10, 2013**
  Atlanta, GA
  http://www.grec-git.com/
  Register Online

Common Violations Class Dates:

- **April 15, 2013**
  Savannah BOR
  912-354-1513
- **April 16, 2013**
  Golden Isles AOR
  912-264-2915
- **April 17, 2013**
  Middle GA AOR
  478-471-7336
- **May 8, 2013**
  GA Institute of RE
  www.learningrealestate.com

Click here to see GREC Disciplinary Sanctions

Georgia Real Estate Commission
Suite 1000
International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916

Case Review

A salesperson, Ellen Lang, specializes in international transactions and the sale of businesses. She was involved in a transaction on a restaurant property named Bali's in the Atlanta area. The buyer was Tangent Corporation, and the sellers were individuals named Bob Loher and Paul Basin.

Salesperson Ellen Lang negotiated the purchase and sale of a restaurant business and related real estate. She included an Assignment of Lease pertaining to the real property. The Assignment of Lease provided in-part that if the Bali Restaurant transaction failed to close, then the Lease Assignment would be null and void. In other words, she made sure the lease on the property would not be assigned if the sale of the business itself did not close. She included a commission of $3,000 to be paid to herself for her efforts in negotiating the transaction.

During the course of the transaction, the salesperson made several violations of the License Laws, Rules, and Regulations:

1. She failed to timely disclose to all parties her agency relationship with the buyer, the Tangent Corporation. Salesperson Lang was the President of Tangent Corporation, the buyer.
2. She failed to place in the custody of her broker the funds of others (the earnest money deposit) she received in the personal transaction.
3. She directly paid herself $3,000 commission from the sale of the transaction and did not provide those funds or any information on the transaction to her broker. All commissions must be paid from the broker.
4. Salesperson Lang demonstrated incompetency to act as a real estate licensee in such manner as to safeguard the interest of the public, and her actions outlined in the case constitute dishonest dealings.

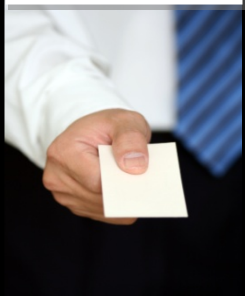
Ms. Lang was fined $2,000 and reprimanded. The sanction is included in her history of licensure. Several years later this information was considered in determining the severity of another disciplinary action as a result of another violation by the same licensee.

Key Summary:

- Disclose any agency relationships or material relationships.
- Keep your broker informed.
- Give all funds of others to the broker holding your license.
- All commissions must be paid by the broker holding your license.

To sign up to receive the GREC RENewsletter Click Here

Comments or Suggestions [Click Here](#).



Online Courses from GREC

$10 each 3 Hour CE Course

Total of 9 Hours CE Available

"Avoiding Trust Account Trouble"

"Practicing Real Estate & Staying Out of Trouble"

"Being a Broker and Staying Out of Trouble"

Click Here

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Being Helpful…

A local women's club sends out email notices and requests varying from selling items to obtaining recommendations for plumbers. Finding the email community helpful, a neighbor sent out a request for real estate advice concerning her mother's house they have put on the market. There are a few real estate licensees in the neighborhood and some who chose to respond. Which would be the best response?

- Email her and give some advice about marketing and pricing and tell her you would be glad to look over the offers.
- Advise the individual that you are licensed and would be glad to give her a referral for an agent in the local market to handle the transaction.
- Give her some general advice and cautions about the offers, and provide your business contact information so she may call you for future business.

Whenever a licensee gives advice about real estate, it can develop into an agency relationship. As innocent as giving help to a neighbor may be, it can become a tangled web when the advice does not give the desired result, and the neighbor claims it was based on your professional advice. Licensees are held to a higher professional standard than the general public.

First, it is best to decide if you want to try to create an agency relationship and represent him/her and if not, it may be best not to become involved at all. Providing a name for a referral in the area would probably be the best response, but you must inform the neighbor that you would be receiving a referral fee should the transaction be handled by that licensee.

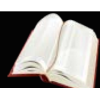
Whether it a casual conversation or a posting on a social media site, advice is advice, and the licensee must be careful not to create unwanted agency relationships.

Financial Word Scramble

Match the definitions with the correct scrambled word.

retogameg	**capilripn**	**wrerrobo**	**notip**	**trineste**

1. The amount of money borrowed or the amount still owed on a loan.
2. 1% of the principal amount of a mortgage loan; an amount a borrower may sometimes choose to pay for a lower interest rate.
3. A percentage stated as an annual rate; the cost of borrowing money.
4. The lender in a mortgage.
5. The mortgagor in the loan.



Focus on Terminology: "CLTV"

A LTV, (loan-to-value) ratio is an expression that describes the amount of the mortgage as a percent of the home's value. The value could be either its appraised value or the purchase price. If a home appraises for $240,000 and the down payment is $48,000, the loan amount is $192,000 or 80% of the value. The LTV is 80%

CLTV stands for Combined-Loan-To-Value ratio. If a homeowner is re-financing a first mortgage **and** a home equity loan or home equity line of credit, the ratio is the Combined Loan-To-Value ratio. For example, if a homeowner has a first mortgage that is 70% of the home's value and the equity loan is 10% of the home's value, the CLTV is 80%. Just as a high LTV ratio has risks of falling values, so does a Combined-Loan-To-Value ratio. Usually a CLTV or LTV higher than 80% is considered a high ratio and might require private mortgage insurance in addition to monthly principal and interest payments.

1.principal 2.point 3.interest 4.mortgagee 5.borrower

The Appraisers Page

Georgia Real Estate Appraisers Board March 2012

Useful Links:

[GREAB Web Site]

[Appraisal Act]

[GREAB Disciplinary Sanctions]

Multiple offers, DOM less than a week and the property still doesn't appraise? By: D. Scott Murphy, SRA

We are seeing multiple offers on homes in Metro Atlanta, many parts of Georgia and cities around the country. These are not "highest and best" distressed sales or properties purposely priced below market. They are regular arm's length listings. Most are selling within days of being listed. I recently heard of a property which was listed on a Friday and by Sunday had 14 legitimate offers.

This is due primarily to a convergence of three forces; a recovering economy, a pent up demand for housing, and an extremely low inventory of available homes. To add fuel to the fire, the rate of new home construction is now at a seven year high. While one might think this would satisfy the demand, it has not yet reached a rate that would make a dent and it does not satisfy those who want to be in popular, well established neighborhoods. What this does do is give those in popular, well established neighborhoods options which they have not had in many years. A few months ago I wrote about the reluctant seller syndrome; where sellers held off on listing their house due to a lack of alternative replacement homes.

In years past the number of distressed properties outnumbered the "good homes" or regular arms length sales. The tables have now turned, as foreclosure listings and short sales are declining; buyers are feeling more confident about the economy, and real estate markets are seeing the value of their current homes either level off or rise slightly as many potential purchasers are better qualified for a mortgage.

There is no question the market is recovering in many areas and we are actually seeing appreciation in value. Some of this may be artificial as unrealistic sales prices are resulting from extremely competitive bidding. It's important that agents caution their clients when in these situations. And given these conditions, consultation from an unbiased, professional appraiser may be called for.

This type of sales activity can create problems for the appraiser. Short term spikes in value may be difficult for the appraiser to justify. While it is true that market value is defined as the amount a willing and well informed buyer and seller agree upon – given the property is adequately exposed to the market and there are no seller's concessions – the dilemma for the appraiser is that if there are no recent comparables to support that value, the appraiser's hands are tied. Even the best skilled and knowledgeable appraisers will have difficulty justifying the sales price to a lender.

The key factor at work here is that the market may be in a state of appreciation. The appraiser must be able to verify this, quantify the impact and make the appropriate adjustments. Many appraisers may not be able to or willing to determine and make the necessary adjustments. Appraisers have been locked into a declining or barely stable market for so long, that the use of appreciation adjustments are sure to trigger objections from the underwriter.

Appraisers have always been required to determine the direction of the market. In 2008 Fannie Mae introduced the form 1004MC which assists appraisers in determining the state of the market. It analyzes comparable properties in the subject market area and displays the values in an easy to read table *.....continued on page 4*

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The problem is that since its introduction, appraisers have argued about its proper use. One group says it should consider all the sales and listings in the appraiser's defined neighborhood while others, including me, feel it should include only "comparable" properties in the subject neighborhood. The difference is that the first group will use sales in the $100k's and $2M's in the same analysis. These properties are clearly not comparable and while homes in the $100k's may be appreciating, homes in the $1M-$2M range may be depreciating.

Regardless of which side of that argument you are on, the form and the required method of analysis are flawed. First, the form reports the MEDIAN sales price. While this may be the more preferable method by statisticians it can give an inadequate view of the true direction of values in the area. Another unintended consequence and unavoidable pitfall is that the form does not truly analyze market value – it analyzes sales price.

Let's take four homes in a given subdivision. All are the same model, same square footage, same lot size, same age – the only difference is condition/maintenance. Let's say that two are in very good condition and sold three months ago. The other two are in average condition with no recent improvements – clearly inferior in condition and overall market value. No surprise that they sell $20,000 lower than the two homes in better condition. They sold just 30 days ago.

By using Fannie Mae's form the appraiser is forced to conclude that the market is declining, as sales prices have dropped $20,000 over the recent past. However, let's say that the appraiser was able to prove that the two homes in better condition required an adjustment of $40,000 compared to the two properties in inferior condition. Then the adjusted "values" of the two recent comparables is actually $20,000 higher than the older sales – therefore, the market is actually improving and values are appreciating – despite what the 1004MC Form is incorrectly concluding.

That was a very long winded explanation of the issues faced by appraisers, reviewers and underwriters. But it was intended to show that many of the tools available have significant flaws. This is where the experience of the appraiser comes in. He needs to be able to carefully analyze the market, taking these and many other factors into consideration and act appropriately. I see this on a daily basis in my appraisal practice. The forms and online data sources are often showing a decline in value when upon closer analysis it is actually appreciating.

Appraisers and underwriters are going to have to remember that buyers and seller determine market value – appraisers only interpret market value. We are charged with the responsibility of determining if the contracted sales price is reasonable. This may require using the highest end of our adjusted range, putting considerable value on pending and listing comps and when possible waiting a few days or a week for a sale to close so that we can properly reflect the most current market conditions.