

# REALESTATE LICENSEE UPDATE & WASHINGTON STATE DEPARTMENT OF

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ALAN HAIGHT, DIRECTOR SUMMER 2012

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# **Avoiding Complaints**

Licensees reading this issue will find summaries of recent disciplinary actions. Many of the complaints we receive begin with a written complaint against a licensee from an unhappy member of the public. A limited number of disciplinary actions are from audits

Experience has shown us that by the time a complainant takes the time and trouble to put their complaint in writing, they are often angry and frustrated. Further, the complainant may believe that their concerns have been trivialized by the licensee and by this point, they are determined the licensee will answer for their alleged professional misconduct.

A complaint may result in substantial expense and damage to reputations, with serious implications for the business of the licensee and their brokerage. Here are a few simple, proactive steps a licensee may take to avoid the time consuming, unsettling process of responding to an investigation:

# 1. Communicate clearly with clients and customers – early and often

Complaints often arise because of a gap between a client's expectation of the services that are to be provided and those that are delivered. At the onset of a relationship, licensee should clearly describe the scope and limitations of the services they will be providing and set out obligations of the client. Be cognizant of all of the duties listed in RCW 18.86.030 which cannot be waived.

#### 2. Standardize your processes and procedures

Be professional! If you are the designated broker, run your business like a business. Mistakes and poor or untimely communications occur when things get busy and crucial steps are missed. Standardized

processes and checklists can help ensure that this does not happen to you. By virtue of the real estate license, licensees are considered by the courts to be competent, trusted advisors with special expertise. Conduct yourself and your business accordingly. Remember that you must exercise reasonable skill and care and to deal honestly and in good faith at all times.

# 3. Use your designated broker or authorized delegated managing broker

The licensing law holds the designated broker responsible for all activities, so use your designated broker or authorized delegated managing broker! Keep open communication lines with your designated broker and routinely discuss situations with them that may lead to problems. If they are too busy or don't care, then at the appropriate time, associate with another firm. If you are a designated broker and have an issue, talk with members of your professional association or other peers. You are probably not the only person that has dealt with this issue.

#### 4. Remember who you work for

The answer is not "myself". You work for your clients and you must always act honestly and fairly. You should avoid all conflicts with the client's interest and in the event that a conflict does arise, promptly and fully disclose the degree and nature of the conflict. Often, complaints arise when licensees try to serve too many masters (dual agency) or wear too many hats where relationships or knowledge acquired through an agency relationship can preclude a licensee from having the ability to work in the best interests of their clients. Please remember that affiliated licensees cannot perform brokerage services except through

# **Commissioner Corner:**

"Who do you work for?"

"Multiple offers are back! Do you know why?

"Demographically speaking, who are you? Why is this important to your career?"

In this newsletter, you will find the answers to these questions and much more. Your research staff is providing you with the latest, most up to date stats and opinion on the key issues that impact your license and success in your business. Here are a few highlights from this issue:

Who do you work for? As real estate brokers, we like to think of ourselves as the last of the entrepreneurs, real independent, 100% commission based and self-employed! But do we really work just for ourselves? This issue's lead article is a good reminder of the duties we all have under the Law of Agency and answers the question, "Who do you work for." Take this article and the Law of Agency to heart, and you will have long success in our industry and hopefully never see your name listed in the last section of this newsletter, Disciplinary Actions!

"Maturity Rules" is a very thought provoking article. Consider the questions raised by the breakdown by age and demographic for brokers in the state compared to the driving demographic of new home buyers! There is an opportunity coming for those who understand the impact of these generational changes. Will you take hold of that opportunity?

Residential brokers! Have you been in a multiple offer situation this spring? If you have, you are not alone. In the "Real Estate Market Roundup," you will find the latest data and interpretation about many aspects of our housing market statewide, including the inventory shortages in bell weather neighborhoods across the state that are leading to multiple offer situations. When you are asked "how's the market," this data will be useful to you.

As for the "why" of inventory shortages in the most desirable areas, my personal opinion is that there are many home owners who would like to move, who have the job and the income to afford a move, but they don't have the equity to make a down payment on a move. Those who purchased a home in the last 10 years may have little to zero equity in their home (or worse, negative equity) and they need equity to move to a larger home or downsize to a retirement home.

I believe that this erosion of equity is creating the inventory shortages in the most desirable areas. With income, but without equity, would-be sellers are deciding to stay put and not sell. They are not financially distressed, just stressed, and they have decided to weather the storm and wait for a housing recovery. These would-be sellers are holding tight until the market begins to appreciate again and their equity rises to the point where they can make a move. The result? Inventory shortages.

This spring, many buyers have been surprised to find themselves in multiple offer situations and competing for new listings. It will be interesting to see how buyers and sellers adjust to this quickly changing and unexpected dynamic in the housing market. Will it lead to a rebound and appreciation in values? Don't know yet, but we are seeing signs of price stabilization. After all, when inventory is down and demand is up, can rising prices be far behind?

George Pilant has served on the Real Estate Commission since 2005 and is the Vice-Chair for the Commission. He is a residential broker with over 20 years experience, and has served as a Branch Manager for RE/MAX Professionals in Tacoma. The 2011 REALTOR of the Year for the Washington Association of Mortgage Professionals. You can reach George at 253-988-6060 or GeorgePilant@Remax.net





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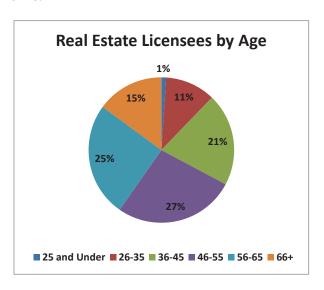
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# Maturity Rules Real estate brokerage has more than its share of older participants

Glenn E. Crellin, Runstad Center for Real Estate Studies, University of Washington

Employment dynamics by industry is beginning to confront issues related to the retirement of large numbers of Baby Boomers, a trend which will accelerate as the economy stabilizes and Boomers feel more comfortable relinquishing positions in many industries. Real estate brokerage is more vulnerable than many professions because the workforce has always been older than other occupations. However, it has also been a business where significant numbers of participants continue to work long after usual retirement ages.

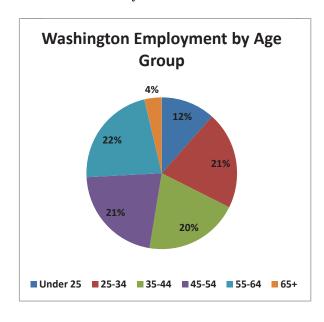
The Washington State Department of Licensing has been looking at this trend recently. The accompanying chart shows the distribution of broker and managing broker licensees combined as of early June 2012. Roughly four out of 10 real estate licensees are older than 55, an age at which labor force participation generally declines. The managing broker category especially showed the industry participation by older licensees, with a quarter of Managing Brokers at least 66 years of age. Another third of Managing Brokers are between the ages of 56 and 65. Since the individuals included in these statistics hold active licenses, it is presumed that these individuals are really engaged in real estate practice, although often not full time.



This age distribution contrasts sharply with overall state employment, although it must be acknowledged that the time period covered by the total employment, where the most recent data available covers the first quarter of 2011. This is employed individuals only, and knowing that unemployment during the recession hit younger workers harder than more experienced personnel, this data is also skewed to more mature workers, making the comparisons even more striking. The youngest and oldest age groups are especially telling. While workers under the age of 25 represent 12 percent of overall employed workers in the state, they account for only one percent of real estate

licensees. At the other extreme, four percent of the state's workers are over the age of 65, while nearly four times as many real estate licensees are at least 66 years of age.

Age profiles of the two other licensed categories administered by the real estate section – real estate appraisers and home inspectors also show this concentration of older licensees, especially among real estate appraisers. About 12 percent of non-trainee appraisers (licensed, residential and general) are 66 years of age or older, with virtually no appraisers younger than 25. In the home inspection business, about one percent of licensees are in the youngest category, but only eight percent are at least 66 years old.



These generational differences may play a role in how real estate licensees relate to the clients they will be serving in the years ahead as the Millennial Generations (Gen Y) become predominant in the home purchase marketplace. Some believe this age group is less committed to home ownership than their elders. That remains to be seen, and will be explored in a future issue of Licensee Update. One thing is clear that their expectations regarding the use of technology will be key to their expectations. While the industry is embracing technology in business, it is unclear whether real estate licensees are meeting the expectations of the new wave of clients. studies by the National Association of Realtors found that the younger generation of buyers and sellers expect nearly instantaneous responses to their texts to real estate licensees, and are unwilling to wait a few hours or longer for an e-mail or a phone call. Participating in social networking groups, posting QR codes on your listings, etc., may not be sufficient. Keeping abreast of the changing technologies and consumer expectations will be a challenge to those charged with regulating the industry as well.



# Real Estate Market Roundup

Glenn E. Crellin, Associate Director for Research, Runstad Center for Real Estate Studies, University of Washington

The housing market continues to send mixed signals. Data recently released by the Runstad Center on the number of home sales in Washington showed clear improvement in sales. That same data showed continued significant declines in statewide median prices. Brokers are reporting many incidences of multiple-offer situations and a shortage of homes available for sale. A few days later the Mortgage Bankers Association reported increases in the number of mortgages in Washington that are seriously delinquent (at least 90 days past due) or at some stage in the foreclosure process. This inventory of distressed properties constitutes a continuing drag on the market's ability to recover. With additional strong sales activity during the current quarter, it will be interesting to see how the shadow inventory changes when data is finally available for mid-year.

#### Sales and Construction Activity

Home sales activity in the first quarter of 2012 resembled most of the last 20 years, achieving a seasonally adjusted annual sales rate of 97,020, 8.0 percent above the sales rate in the closing quarter of 2011, and 11.3 percent above the year-ago quarter. It is certainly not a robust sales pace, but neither is it the lackluster pace which has prevailed in most recent quarters. Only once since the bust has the sales rate been this high, and that was as the tax credit designed to spur home sales was expiring. Just to put this number in perspective, the last time there were actually over 90,000 home sales in a single calendar year was in 2007, when there were 120,710 existing single-family home sales throughout the state.

With such a strong increase in sales activity, it is no surprise that most parts of the state reported improved sales. Eight counties had lower sales rates than in the fourth quarter of last year, and six counties were down compared to a year ago. Only two counties had both comparisons in the negative—Lewis and Thurston. In terms of metropolitan areas, the Wenatchee area demonstrated in spades that all real estate is local. The Chelan County sales rate was 33.0 percent above the last quarter, the greatest improvement among urban counties. Meanwhile, adjacent Douglas County saw the largest quarterly decline, registering a sales rate 6.8 percent lower than the previous period.

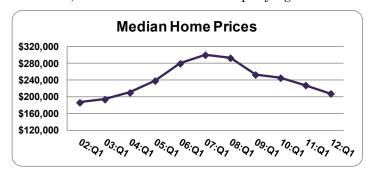
While quarterly data on residential building permits are also available, the annual data is far more complete. In 2011 there were building permits issued for 20,864 residential units throughout the state, an increase of 173 homes and apartments compared to 2010. Although single-family permits still accounted for 63 percent of the new constructions, they actually declined by 10.5 percent from 2010 (although they remained somewhat above

2009's cyclical low. More than 1,000 single-family homes were authorized for construction last year in only King, Snohomish and Pierce counties. At the other extreme, only two homes each were permitted in Columbia and Garfield counties. Of course, only 6,350 persons reside in those two counties, combined.

#### **Home Prices**

Home prices are measured by the Washington Center for Real Estate Research as medians, meaning that half the home sales took place above that price, and half below. Changes in median prices are reflective of general trends, but cannot be inferred to represent how the prices of individual homes may be changing. Because of changes in composition of the market from period-toperiod, all interpretations of price changes are limited to comparisons to the same point in time a year earlier.

During the first quarter of 2012 the median price in Washington was \$208,300. This represented a decline of 8.7% compared to a year earlier. This was the fifth consecutive decline in first quarter median prices statewide, as illustrated in the accompanying chart.



Local medians ranged from a high of \$322,400 in King County to a low of \$62,500 in rural Lincoln County. While the median price was lower than a year ago in 29 of Washington's 39 counties, there were areas with higher medians, led by double-digit increases in three very small counties. At the other extreme, there were 15 counties where the median price was more than 10 percent below a year ago. Urban counties tended to have smaller percentage changes in median prices.

#### **Affordability**

Just as national headlines have indicated that the affordability of ownership housing is at record highs, and that owning is less costly than renting in many areas, Washington has achieved record high levels of housing affordability at a time where home ownership rates are declining. There are three components determining

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affordability—home prices, mortgage rates and family (or household) incomes. Prices have declined. Mortgage rates are at record lows. Incomes, despite the recession, have stagnated in nominal terms (although when adjusted for inflation, they have declined).

The Runstad Center produces two measures of housing affordability, following the model developed 30 years ago at the National Association of Realtors. The All-Buyer Housing Affordability Index (HAI) compares the mortgage payments on a median price home to median FAMILY income (2 or more persons, related by blood, marriage or adoption) assuming a 20 percent downpayment and allocating 25 percent of gross income to principal and interest payments. An index of 100 means the family can just afford the median price home, and higher values are more affordable. The statewide HAI in the first guarter was 184.7, meaning the typical family has 84.7 percent MORE income than the minimum required to qualify for a mortgage on the median price home. All 39 counties reported index levels above 100, ranging from a low of 108.7 in San Juan County to a high of 458.0 in Lincoln County with its very low median price and small population. Among urban markets the affordability indices ranged from a low of 144.2 in Chelan County to a high of 237.6 in Cowlitz County.

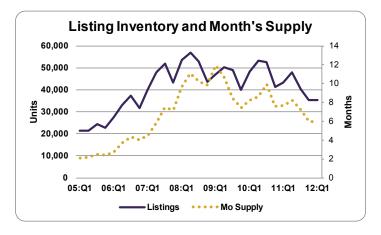
First time buyers face greater hurdles, as expected. The First-time Buyer Affordability Index (FTBHAI) assumes a less costly home (85 percent of area median). a lower down payment (10 percent) and a lower income (70 percent of median household income, which includes single person households, many of whom have lower income levels. The statewide FTBHAI in the first quarter reached a record high 98.9. This means that despite the low assumed income level that homeownership is within the reach of most interested households. However, many are afraid to commit until they are sure the market has hit bottom, or they complete saving the down payment, or they are convinced they will stay in their current location for several years, or, or, or, Only 15 counties recorded first-time buyer index values less than 100. Among 17 metropolitan counties the range was from a low of 74.2 in Whatcom County to a high of 133.7 in Cowlitz County.

#### **Inventory for Sale**

Recent Roundups have focused on delinquency and foreclosures as a risk to the market. While those properties are continuing to drag down prices in neighborhoods where there are significant numbers of distressed properties, the market improvement has had another impact. The listings have not kept pace, and suddenly there is a shortage of inventory available for sale, especially in desirable neighborhoods where most mortgages are current and prices have not declined as sharply as in neighborhoods which are riddled with foreclosures.

Now, similar to the height of the market, but not to the same extreme, there seems to be a shortage of listings available for sale. As of the end of March there were 35,304 homes listed for sale on the various multiple listing services throughout the state. This represents an inventory 18.2 percent smaller than a year ago, and 33.6 percent below the number of homes on the market in March 2008. By contrast, however, there were only

24,694 homes on the market in March 2005 when the market was hot. The homes currently on the market would be enough to sustain sales for about 5.5 months at current sales rates. While this is in the range of a balanced market, much of the inventory is concentrated in the same neighborhoods where distressed properties are located. Homes in the most desirable neighborhoods which are in good condition are selling quickly, often with multiple offers and at prices which are above the asking price. Personal visits to open houses in recent weeks have clearly illustrated this, with many of the homes in pending status by the end of the open house weekend.



This surge in activity coupled with the low overall inventory level may help reduce the overhang of distressed properties, which actually climbed slightly in March. Widespread price stabilization depends on clearing the problem properties from the market and convincing some of the owners who tried and failed to sell their homes early in the downturn that it is now safe to return to the market—to sell their current home and perhaps purchase another while interest rate conditions remain so favorable.

#### Rental Market

Earlier the fact that multifamily construction was outpacing single-family home building was discussed. Since many real estate licensees are engaged in residential property management, it is appropriate, from time to time, to include a discussion of the apartment rental market in this Roundup.

Data collected by the Runstad Center is combined with material from Dupre + Scott Apartment Advisors to monitor the rental market in counties where there are at least 1,000 rental apartments. Those counties represent over 90 percent of the state's apartment inventory, and many of the apartments outside those counties are not market-rate rentals which would have been candidates for inclusion in the research anyway. For the March 2012 study, information on over 255,000 apartments was analyzed. The statewide apartment vacancy rate was 4.5 percent, the same as observed a year ago. Since most apartment developers believe that a vacancy rate of five percent or slightly higher is optimal, it is not surprising that there is an apartment construction boom underway. especially since lenders have been convinced that the apartment market will remain strong awhile. Are there

# Disciplinary Actions

# **JUNE 2011**

#### David B. Newberry - Kent

Finding: Unprofessional conduct – incompetence and untrustworthiness per the Final Order of Director served October 28, 2010.

Action: Agreed order of June 2011 amends action of October 28, 2010 Final

Order: real estate broker license

changed from fully suspended to suspended two (2) years, stayed (not imposed) five (5) years on the condition that there are no violations.

## **JULY 2011**

#### Jeffrey C. Burdette - Snohomish

Finding: Unprofessional conduct relating to revoked vehicle dealer's license associated with Nextcar, Inc.. Action: Real estate broker license is denied at this time.

#### Matthew Aaron Walker - Tacoma

Finding: Unprofessional conduct – convicted of a felony assault charge in San Mateo County Superior Court; Failure to report criminal charges or conviction within 20 days.

Action: Real estate broker license revoked for until February 2, 2015, or until receipt of a certified copy of a San Mateo County Superior Court order clearly stating that the above case has been expunged or that he has successfully satisfied or otherwise completed all the terms of its probation.

## **AUGUST - NOVEMBER 2011**

No final orders issued in the months of August, September, October or November  $\,$ 

# **DECEMBER 2011**

#### Tracy A. Schenk - Spokane

Finding: Unprofessional conduct – convicted of Felony 2nd degree theft in Spokane Co. Superior court.

Action: Real estate Broker license revoked for ten (10) years from December 20, 2010.

#### Andrew Gower - Seattle

Finding: Unprofessional conduct – submitted false information and misrepresenting the completion of the mandatory clock hours while obtaining and renewing your real estate license.

Action: Real estate broker license suspended for one (1) year, stayed (not imposed) for three (3) years pending no further violations.

## **JANUARY 2012**

#### Vanessa Crowley - Allyn

Finding: Multiple criminal convictions in the state of Washington.

Action: Real estate broker license application denied for five (5) years from July 12, 2010.

Myliam Kowitz - Boring

Finding: A Stipulated Final Order from the Oregon Real Estate Agency was entered 08/11/11 revoking her Oregon Real Estate license.

Action: Real estate broker license revoked for ten (10) years from September 1, 2011.

#### Danny E. Vincent – Lacey

Finding: Unprofessional conduct; Failure to inform Dept. of Licensing of convictions or charges within 20 days of occurrences; Felony conviction on June 17, 2011, in Thurston County Superior Court for vehicular assault and driving under the influence.

Action: Real estate broker license revoked for ten (10) years from June 17, 2011.

#### **FEBRUARY 2012**

#### William "Skeets" Fletcher - Kirkland

Finding: Unprofessional conduct; Obtained funds directly from client without funds going through the real estate company employing him.

Action: Real estate broker license suspended one (1) year, stayed (not imposed) for three (3) years on condition there are no violations; and complete department approved real estate education course in "Practices and Principles" of 30 hours each, totaling 60 hours within 6 months in addition to requirements in place for licensure renewal.

#### Michael T. Mellergaard – Ellensburg

Finding: Unprofessional conduct; Conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness, or incompetency; Failed to follow the Duties of Licensee per RCW 18.86.030(1)(a), (d) and (g).

Action: Real estate broker license suspended one (1) year, stayed (not imposed) for three (3) years on condition there are no violations; and fined Two Thousand Five Hundred Dollars (\$2,500).

#### Carole M. Higa – Kirkland

Finding: Unprofessional conduct; Received a Final Order from the Department of Financial Institutions dated 02/01/10 for these actions: Failure to pay examination fees; Failure to reconcile trust accounts; Failure to file quarterly reports and disbursing funds from an escrow account exceeding funds received.

Action: Real estate broker license revoked for five (5) years.

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#### **MARCH 2012**

#### Fred L. Bess - Seattle

Finding: Unprofessional conduct; Conduct in a real estate transaction which demonstrated bad faith, dishonesty, untrustworthiness, or incompetency.

Action: Real estate broker license revoked for two (2) years.

#### Ken Kim - Lakewood

Finding: Unprofessional conduct; Failed to cooperate with Dept. of Licensing during an investigation.

Action: Real estate broker license suspended for one (1) vear.

#### Ty B. Truly - North Bend

Finding: Unprofessional conduct; Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another.

Action: Real estate broker license suspended for six (6) months, stayed (not imposed) for one (1) year on condition there are no violations.

#### Timothy Kairez – Bellevue

Finding: Unprofessional conduct – had multiple convictions in the state of Washington.

Action: Real estate broker license denied for ten (10) years from June 10, 2011.

#### Kenneth F. Erbar – South Hill

Finding: Unprofessional conduct; Multiple criminal convictions; Falsely answering application questions; Failed to cooperate with Dept. of Licensing during an investigation.

Action: Real estate broker license suspended for one (1) year.

#### Paul A. Campbell - Vancouver

Finding: Unprofessional conduct – Convicted of Possession of a Controlled Substance for the Purpose of Sale; Failed to notify the Dept. of Licensing of the criminal conviction or complaint within 20 days as required by law.

Action: Real estate broker license suspended one (1) year, stayed (not imposed) for three (3) years on condition there are no violations; and fined One Thousand Dollars (\$1,000).

#### Richard W. Hinds - Ocean Shores

Finding: Falsely answered application question; Required to register as a sex offender.

Action: Real estate broker license denied.

#### Alden Graebner - Seattle

Finding: Unprofessional conduct – convicted of ten counts of 1st degree theft in King Co. Superior Court.

Action: Real estate broker license revoked for ten (10) years from November 9, 2010.

#### Maria G. Kevorkian – Bonney Lake

Finding: Unprofessional conduct; Obtained funds directly from client without funds going through the real estate

company; Misuse of funds; Conduct in a real estate transaction which demonstrated bad faith, dishonesty, untrustworthiness, or incompetency.

Action: Real estate broker license revoked for three (3) years.

#### **APRIL 2012**

#### Sharon Lenz - Yelm

Finding: Engaged in unprofessional conduct; Did not exercise reasonable skill and care; Did not deal honestly and in good faith as a real estate broker; Conversion of trust funds; Demonstrated bad faith, dishonesty, untrustworthiness, and/or incompetency.

Action: Real estate broker license revoked for ten (10) years.

#### Sherri Johnston - Hoodsport

Finding: Unprofessional conduct; Failed to report criminal charges and conviction to the Department of Licensing. Action: Real estate broker license revoked for five (5) years.

#### Chad B. Storey - Kirkland

Finding: Unprofessional conduct; Failed to report a civil court order to the Department of Licensing.

Action: Fined Two Thousand Five Hundred Dollars (\$2,500); and must complete a 30 hour Practices Education Course prior to being allowed to renew license.

#### Grzegorz Lenda – Federal Way

Finding: Unprofessional conduct; Failed to report judgments issued by King County Superior Court to the Department of Licensing; Answered "No" on applications regarding judgments found against him.

Action: Real estate broker license revoked for five (5) years.

#### Jeff T. Kraai – Vancouver

Finding: Unprofessional conduct; Guilty of making false statements to the Small Business Administration, a federal agency, arising out of the sale of a business.

Action: Real estate broker license revoked for five (5) years starting September 21, 2010, or until federal probation is completed, whichever is less.

#### Mandy L. Brymer – Eatonville

Finding: Unprofessional conduct; Convicted of criminal charge; Failed to notify the Department of Licensing of conviction or of charge.

Action: Real estate broker license revoked two (2) years, stayed (not imposed), unless fails to successfully complete the current drug court program or engages in unprofessional conduct between March 21, 2012, and September 15, 2013.

#### Derek Cole – Lynnwood

Finding: Unprofessional conduct-- acceptance of a commission without going through his employing firm.

Action: Real estate broker license suspended for one (1) year, stayed (not imposed), for a period of three years on condition there are no violations; and fined One Thousand Five Hundred Dollars (\$1,500).

# **Managing Broker Simulation Examination**

On July 6, 2011, Washington joined with ten other states in using the National Simulation Examination, developed by the DOL's testing provider, Applied Measurement Professionals (AMP), to evaluate prospective managing brokers on higher-order skills and abilities. (In the meantime, an eleventh state has begun to use the simulation examination.) The simulation examination replaces the multiple-choice national portion of the examination.

Simulation examinations place prospective managing brokers in "real world" situations and then evaluate their

abilities to resolve issues involved in the situations. This format allows much more complex questioning than traditional multiple-choice examinations and much realistic evaluation of a licensee's skills and abilities. In addition, use of the simulation examination eliminates the possible redundancy of testing candidates on similar content using the identical format that was needed to obtain the initial real estate license.

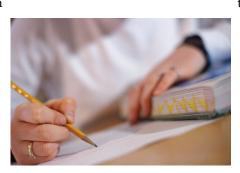
AMP first developed the simulation examination in mid-2006 in response to requests from other states' real estate commissions for an alternative to the standard multiple-choice examination. AMP had significant experience with simulation examinations in health-care settings prior to their use in real estate licensure, and the format has been very well received by real estate regulators and by the bulk of the examinee population. The content of the examination is based on AMP's 2010 national job analysis, and the examination is accredited

by the Association of Real Estate License Law Officials (ARELLO).

The simulation examination consists of nine scored problems and one pretest problem. Each problem focuses on an overall primary topic in a given property type category (e.g., residential, commercial). Each problem opens with a scenario that sets the scene and introduces the situation. Examinees are asked to complete a series of "information gathering" and "decision making" sections as they proceed through the examination. Each problem has one to three information gathering sections, which require examinees

to select as much or as little information they believe is necessary to be fully informed about the problem. Can they collect the appropriate information without going overboard? Subsequent decision making sections ask examinees to select the best action to take. Can they use the information they gathered to make the correct choice? Each response is scored based on the consensus of experts in the real estate profession. Scores reward those who make the correct decisions using an appropriate

amount of information. Those who gather irrelevant facts or who make repetitively incorrect decisions are penalized. The simulation examination replaces the multiple-choice national portion of the managing broker licensing examination. Prospective managing brokers are still required to pass the 40-item state multiple-choice portion, which covers state-specific content. More detailed information on the simulation examination format is available in the Candidate Handbook, which is available from AMP's web site (www.goAMP.com).



Avoiding Complaints, continued from page 1

the firm/designated broker to whom they are licensed with.

#### 5. Disclose all material facts

Licensees have a positive obligation to disclose all material facts to their clients and customers. Licensees do not have a duty to investigate matters they have not agreed to investigate. However, licensees must exercise reasonable care and inquiry to ensure the statements or promises they make are correct. This speaks to the licensee's competency and the need to apply reasonable care and skill.

#### 6. There is no such thing as a "private deal" for licensees

Licensees must provide real estate services in the name of the firm or assumed name. The real estate licensing law specifically states the director can take action against a licensee who is acting upon their own account. The licensing law applies to every licensee who provides real estate services, even if they provide services for free or for their own behalf. So even if you are buying or selling property "privately" that is not

listed, all provisions of the real estate licensing law apply. Remember that rental property management, even if done for free or as a favor, is a real estate brokerage service.

#### 7. Deal appropriately with clients' concerns as they arise

Mistakes happen. Communications may become confused or break down for any number of reasons. Clients may become anxious with a poor understanding of the elements of offers and counter-offers or other scenarios like multiple offers. Dealing with challenges and concerns appropriately as they arise, in a professional, calm, informed fashion, will go a long way to fulfilling your role as a "trusted professional with special expertise". Licensees will be able to refute, with confidence, any unwarranted allegation of professional misconduct.

Not all complaints can be avoided, but a mindful, proactive approach to the problems that arise in the course of a licensee's daily business can go a long way to the successful resolution of potential controversies and complaints.

Portions of this article are rewritten with permission from the "Report from Council" February 2012, a publication for the Real Estate Council of British Columbia. VOLUME V, ISSUE 1

# **Legislature Changes Disclosure Forms**

If you are still using the seller property condition and agency disclosure forms you were using last year, it's time to make sure you have the newest version. Minor changes were made to both forms during the 2012 legislative session, and for all new purchase and sales agreements signed after June 7, the new forms are required.

Substitute Senate Bill 6472 modified the contents of the seller property condition disclosure form for improved residential properties to include disclosures about both carbon monoxide and smoke alarms. While those forms are completed by the sellers, they often look to real estate licensees for guidance. If your sellers do not currently have carbon monoxide alarms installed in the property, they need to be reminded that those devices are now required. The same bill modified the commercial disclosure form by adding the question about carbon monoxide alarms, but there is no current requirement to install those alarms in commercial (multifamily) properties.

The same legislation makes it clear that real estate brokers shall not be liable in any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requires of the act, or rules adopted by the building code council. Exact language for the disclosure forms is contained in RCW 64.06.020 for residential and RCW 64.06.13 for commercial properties. Forms may be available from local multiple listing groups or real estate firms.

Engrossed Substitute House Bill 2614 (Homeowners In Crisis—Assistance) modified the agency disclosure by adding this language regarding short sales: "When the seller of owner-occupied residential real property enters into a listing agreement with a real estate licensee where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate licensee to disclose to the sellers in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate licensee's commission." It goes on to specify that "owner-occupied real property" includes single-family residences, residential condominium units or residential cooperative units that are principal residences of the borrower. Most firms have prepared their own version of this disclosure form following the requirements specified in the RCW. Licensees should make certain the form they are providing to customers and clients includes the short sale language.



# **Real Estate Fingerprinting Requirements and Tips**

To learn about fingerprinting requirements for real estate brokers and managing brokers in Washington State, and for tips for getting good fingerprints that will be acceptable for background check purposes, copy and paste the link below into your browser to view a brief informational video:

 $http://www.youtube.com/watch?v=PB93CAj\_tmA\&feature=youtu.be$ 

Real Estate Market Roundup, continued from page 4

enough apartments in the construction pipeline to tip the market to an oversupply? If all the projects which have been announced, but are not yet under construction, actually get built, there will likely be a glut of apartments by 2014 or 2015. This is especially true in those areas where multifamily construction is especially strong, even if current vacancy rates are low. Vacancy rates in March were below four percent in Chelan/Douglas, Clark, Cowlitz, Whatcom, Whitman and Yakima counties.

Persistently low vacancy rates are encouraging landlords to boost rents. The average rent this March was \$960, up 3.7 percent over the last year. If rents had increased at the inflation rate, the average would have only been \$946. Not surprisingly, the most expensive rental housing is in King County, with an average overall apartment rent of \$1,098. Meanwhile, rents are a comparative bargain in Yakima County, which had a \$586 average.

Disciplinary Actions, continued from page 7

## **MAY 2012**

#### **Edward Dorham -- Olympia**

Finding: Unprofessional conduct – had multiple convictions entered in Thurston County District Court.

Action: Real estate broker license denied during time of Thurston Co. probation. May reapply for license after August 16, 2012, if all terms of probation satisfied.

#### Rick Alexander – Bellingham

Finding: Unprofessional conduct – Conviction by guilty plea of Theft 3 in Whatcom County District Court in 2008; Failed to report the conviction to Department of Licensing; Falsely answered "No" on 2010 DOL forms asking if he had ever been convicted.

Action: Real estate broker license suspended for 1 year, stayed (not imposed) for 1 year on condition there are no violations.