



December 2013

Arkansas Real Estate Commission

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Gary C. Isom
Executive Director

Andrea S. Alford
Deputy Executive Director

ARKANSAS REAL ESTATE COMMISSION NEWSLETTER

Executive Director Comments

By Gary Isom, Executive Director

Many changes are occurring at the Real Estate Commission. Your Deputy Executive Director, Andrea Alford, was recently appointed to the Board of Directors of the Association of Real Estate Law Officials (ARELLO). In addition, the incoming President of the National Association of REALTORS has invited Andrea to represent ARELLO on NAR's Professional Development Committee. Other AREC personnel are taking on greater responsibilities and new positions, as you'll read about in this newsletter.

Commissioner Allen Trammell was recently appointed by his fellow commissioners to the Individual Sewage Disposal Systems Advisory Committee. In August, the Commissioners reappointed Lu Taylor of Pine Bluff and Bill Ladd of Russellville to the Arkansas Real Estate Foundation.

Andrea and I have visited local Realtor boards in Faulkner County, Benton/Bryant, North Pulaski County, Jonesboro, Heber Springs, Hot Springs, Northwest Arkansas, Van Buren County, Eureka Springs and Mountain Home. We also presented a program at the Arkansas REALTORS Association's annual conference, while Investigator Grant Grigg visited the Harrison Board. AREC's Deb Randolph has visited several real estate offices in an effort to offer education and promote best practices by Arkansas licensees.

Don't Ruin Your Mistletoe Moment

By Andrea Alford, Deputy Executive Director

Every time I sit down to write an article to licensees about renewal and CE requirements, I try to think of a fun, fresh way of framing the message. Sometimes it's fairly easy, and sometimes I really have to get creative to take this ages-old message and make it new.

Well you know what? It's December, and you're all busy with shopping, planning and spending time with family, not to mention listing, selling and trying to finish 2013 with a bang. You don't want to sit here and read on and on about license renewals. So let's just cut to the chase, shall we?

If you haven't renewed your license for 2014, you're gonna want to get on that. Like, now. Go to www.arec.arkansas.gov. It's easy as pumpkin pie. (Or pecan, or sweet potato, or whichever pie you like best. But not apple. Apple pie is actually not easy to make.)

If you haven't either completed or submitted your CE to the Commission, you're *really* gonna want to get on that. Like, yesterday. Go to www.arec.arkansas.gov for a list of CE providers.

The deadline for both license renewal and continuing education completion/submittal is December 31, 2013, right about the time you'll be leaning in to give your sweetie a Happy New Year smooch. Imagine having to tell your sweetie that you forgot to renew your license or send in your CE, and you're about to get a citation and fine from the Real Estate Commission. Not real pleasant. So let's get those renewals and CE reports in here and save the smooches!

Merry Christmas, y'all!

What I Learned From My Plumber

By Chad Kumpe

As Principal Broker, I prepared a Real Estate Contract for the sale of a property in Benton County. The contract for the vacant property was accepted and a home inspector was employed to look at the property. Several plumbing and electrical issues were noted by the Inspector to be repaired or replaced and the Seller was subsequently informed of these issues by the Inspection and Repair Addendum. The Seller proposed that a repair allowance be given to the Buyer to repair or replace the items to the Buyer's satisfaction.

The Buyer wanted to look at the items before they agreed to the Seller's proposal, so I took the electrician, plumber, and the Buyer in to the property to do the inspection. Before the inspection was completed, I left the property, leaving the electrician, plumber and Buyer there alone. Upon my return I discovered that the Plumbing Inspection had become quite invasive, without my receiving permission from the Seller or Seller's agent and contrary to the Paragraph 15b of the Real Estate Contract. Due to the nature of the damage resulting from the plumbing inspection, the tub and shower unit had to be replaced. I did not inform the Seller or the Seller's agent of this new construction.

Not only by my absence from the scene during the plumbing inspection did I fail to protect the customer's property, but I also violated my fiduciary duty to my Client by allowing a possible breach of the accepted Contract per Paragraph 15b. Further, I did not notify the Seller and obtain written permission to do the necessary repairs to the Seller's property.

Although the Contract closed successfully, I learned I could not afford to take my eye off the process for one minute. I also learned to get everything in writing, no matter if the course of action seems logical at the time. Having to wait an extra day in the process would have been much less uncomfortable than the surprise that met the Seller when he entered his bathroom that day.

Helping Out...the Wrong Way

By Kevin Marsh

All agents have their clients' best interest at heart (at least they are supposed to), and we even like to go out of our way to help them when we can. Nearly two years ago, I had that chance. I prospected a FSBO in West Little Rock and after several contacts, I got the listing. The seller was moving to California and the home soon became vacant. After a few weeks of showings with no offers, I mentioned that a price decrease should be in order. The client reluctantly agreed.

After a few more weeks on the market, the seller let it be known that living in the Golden State was much more expensive than they had wished and they really needed to get rid of two house payments. They said that renting was an additional alternative.

Days later, I got a call on another listing, and the caller asked if the home was for rent. I told her that it was not, but that I did have a listing that might be available to lease. The renter saw the house and loved it. The sellers were ecstatic, as well. All was well so far.

Now for the lease. I don't do property management, so my goal was to set the renter and seller up together and then sell the house once the lease had expired and the market had improved. That's when things got messy. I met the renter at the house to get the deposit and rent to forward to California.

Mistake Number 1. All funds go directly to the principal broker, who disburses the funds as per the agreement of the parties.

Mistake Number 2, coming up. The renter gave me cash for the deposit and a check made out to me for the first month's rent. Not what I wanted. I can't send cash to California so I wrote the seller a check for the deposit and the rent. Everybody is whole, correct? Not so fast. Again, mistake number 2 is the same as mistake number 1: All funds go directly to the principal broker to disburse.

To make matters worse, the renter's check to me was returned by the bank for insufficient funds! So my seller was whole, but I was out \$1400.00. By then the two parties were connected and I was out of the situation, but the story wasn't over yet. After one month, the renter decided to stop making payments and had to be evicted from the home.

Moral of the story...while helping a client is our duty and a wonderful idea, it must be done in the correct manner, with the knowledge of your broker, and any funds received must immediately be delivered to said broker. That protects everyone: the seller or lessor, the buyer or lessee, the broker, and the agent, as I wouldn't be out \$1400.00!



FORMAL HEARING DECISIONS



The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from January 2013 through October 2013.

Respondent: Janice Walker, Principal Broker, Walker Realty, Hope, AR, Formal Hearing # 3262

Violations: A.C.A. 17-42-311(a)(2) and AREC Commission Regulations 9.2(b), 10.8(g)(3), 10.9(a) and 10.9(d).

Sanctions: Letter of Reprimand, Additional 30 hours of post-license broker education, and \$500 fine

Respondent Walker did not file a written answer to a complaint within 20 days after receiving notice of the complaint, did not permit AREC investigative staff open inspection to Respondent's trust fund records and bank reconciliations, dispersed funds from Respondent's designated trust account contrary to the terms of the contract, and made a disbursement to which all parties to the contract had not expressly agreed in writing nor did Respondent notify all parties in writing of the disbursement.

Respondent: R. Chadwick Kumpe, Principal Broker, Chad Kumpe Real Estate, Rogers, AR, Formal Hearings # 3338

Violations: A.C.A. 17-42-311(a)(2) and 17-42-311(a)(13) and AREC Commission Regulation 8.5(a).

Sanctions: Respondent Kumpe shall write and submit an article regarding his activities to the Executive Director for possible publication and pay a \$500 fine. (See article on page 2.)

Respondent Kumpe provided his buyer-client and buyer's plumber unsupervised access to the subject property, and failed to timely notify the seller or the seller's agent that repairs had begun on the property without the seller's permission.

Respondent: Kevin Marsh, Salesperson, Re/Max Affiliates, Little Rock, AR, Formal Hearings # 3261

Violations: The Commission found Respondent Marsh guilty of violating A.C.A. § 17-42-311(a)(2) and AREC Regulations 10.7(a)(1) and 10.1(b).

Sanctions: Respondent Marsh was ordered to have a Letter of Reprimand placed in his file for one year and pay a fine of \$500.00. Respondent Marsh was also ordered to successfully complete eighteen (18) hours of post-license salesperson education, in addition to the required six (6) hours of continuing education and submit an article to AREC suitable for possible publication. (See article on page 2.)

Respondent Marsh engaged in rental activity and accepted funds for a property listed by his Principal Broker's firm, but failed to inform his Principal Broker of his activities and receipt of monies.

Respondent: John Self, Salesperson, Colonial Real Estate, Inc., Mountain Home, AR, Formal Hearing # 3345

Violations: A.C.A. § 17-42-501(a)(2)(A)(i).

Sanctions: Respondent Self must pay a \$75.00 fine and before his license can be reactivated, he must come back and appear before the Commission.

Respondent did not complete CE before December 31, 2012.



Consent Orders



The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from August 2013 through October 2013.

The following Brokers renewed their licenses as active for 2013 without having completed the required continuing education. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$50 payable to the AREC:

- Kelsey Bailey, Associate Broker, Crye-Leike Realtors NLR, North Little Rock, AR, Consent Order, Formal Hearing # 3297
- Mike Adams, Associate Broker, Gilbert Realty Co., Mountain Home, AR, Consent Order, Formal Hearing # 3294
- John Bailey, Principal Broker, Bailey Properties LLC, Little Rock, AR, Consent Order, Formal Hearing # 3296
- Wallace Colbert III, Principal Broker, Colbert Auctions, Osceola, AR, Consent Order, Formal Hearing # 3302
- Keli L. Guess, Principal Broker, Guess and Associates Real Estate, Fayetteville, AR, Consent Order, Formal Hearing # 3312
- Michael Summar, Executive Broker, Crye-Leike Realtors Maumelle, Maumelle, AR, Consent Order, Formal Hearing # 3332

The following Brokers were late renewing their real estate licenses and, therefore, practiced real estate with expired licenses. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$250 payable to the AREC:

- Everett Hall, Associate Broker, Metropolitan Realty & Dev LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3277
- Kelley Weir, Principal Broker, Platinum Properties Of NWA, Springdale, AR, Consent Order, Formal Hearing # 3291
- William Barton, Principal Broker, Management Realty, Fayetteville, AR, Consent Order, Formal Hearing # 3266
- John Hall, Principal Broker, The Ozark Realty Group, Springdale, AR, Consent Order, Formal Hearing # 3278

The following Sales Agents were late renewing their real estate licenses and, therefore, practiced real estate with expired licenses. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$250 payable to the AREC:

- Michael Adams, Salesperson, Morrison Wanger Adams, Rogers, AR, Consent Order, Formal Hearing # 3265
- Myra Bolton, Salesperson, Century 21 Exclamation Realty, Bentonville, AR, Consent Order, Formal Hearing # 3269
- James Carter, Salesperson, Deaton Group Realty, North Little Rock, AR, Consent Order, Formal Hearing # 3272
- Michael Friedrichsmeyer, Metropolitan Realty & Dev LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3275
- Louise Griffin, Salesperson, Morrison Wanger Adams, Rogers, AR, Consent Order, Formal Hearing # 3276
- Karen Mashburn, Salesperson, Metropolitan Realty & Dev LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3282
- Clifton Stewart, Salesperson, 501 Professional Realty & Investments, LLC, Conway, AR, Consent Order, Formal Hearing # 3289
- Kelly Thompson, Salesperson, Metropolitan Realty & Dev LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3290

The following Brokers allowed agents of their firms to represent themselves as agents and practice real estate while the agents' licenses were expired. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$250 payable to the AREC:

- Gregory Baugh, Principal Broker, Prudential 1st Realty - Wynne Branch, Wynne, AR, Consent Order, Formal Hearing # 3267
- William R. Bone, Principal Broker, The National Auction Group Inc, Gadsden, AL, Consent Order, Formal Hearing # 3270
- Denny Brown, Principal Broker, Connection Real Estate, Inc., Siloam Springs, AR, Consent Order, Formal Hearing # 3271



Consent Orders



The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from August 2013 through October 2013.

The following Brokers allowed agents of their firms to represent themselves as agents and practice real estate while the agents' licenses were expired. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$250 payable to the AREC:

- Neal Carter, Principal Broker, NAC Real Estate, Bella Vista, AR, Consent Order, Formal Hearing # 3273
- Daniel Hein, Principal Broker, Daniel Hein Homes Realty, Bentonville, AR, Consent Order, Formal Hearing # 3279
- Glen Hill, Principal Broker, Century 21, Manchester Real Estate, Arkadelphia, AR, Consent Order, Formal Hearing # 3280
- Jeremy Hudson, Principal Broker, Specialized Real Estate Group, Springdale, AR, Consent Order, Formal Hearing # 3281
- Daniel Morrison, Principal Broker, Park Place Realty, Gainesville, MO, Consent Order, Formal Hearing # 3283
- Terry Paff, Principal Broker, Metropolitan Realty & Dev LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3284
- Stephen W. Plunkett, Principal Broker, PBA Realty, Little Rock, AR, Consent Order, Formal Hearing # 3285
- Larry Robbins, Principal Broker, Robbins Realty, Farmington, AR, Consent Order, Formal Hearing # 3286
- Gilbert Robinson, Principal Broker, G A Robinson Land Co., Memphis, TN, Consent Order, Formal Hearing # 3286
- Donald Smiley, Principal Broker, Sierra Ozark Corp. Real Estate, Theodosia, MO, Consent Order, Formal Hearing # 3288
- Jason Williams, Principal Broker, Williams Properties Real Estate, Berryville, AR, Consent Order, Formal Hearing # 3292
- Fred Wood, Principal Broker, Cornerstone Commercial Realty, Little Rock, AR, Consent Order, Formal Hearing # 3293
- J. H. Abel, Principal Broker, J. H. Abel Realty, Jonesboro, AR, Consent Order, Formal Hearing # 3264
- Bryan Richards, Principal Broker, Richards Commercial Real Estate, Fort Smith, AR, Consent Order, Formal Hearing # 3347
- Sim Wilson III, Principal Broker, CB Richard Ellis, Inc., Chattanooga, TN, Consent Order, Formal Hearing # 3346

The following Sales Agents renewed their licenses as active for 2013 without having completed the required continuing education. A Letter of Reprimand was placed in each of their files for one year, and they were each fined \$50 payable to the AREC:

- James Butler, Salesperson, Legacy Group Commercial R.E., Texarkana, AR, Consent Order, Formal Hearing # 3299
- G.D. Cunningham, Salesperson, Coldwell Banker RPM-NLR, North Little Rock, AR, Consent Order, Formal Hearing # 3306
- Timothy Davis, Salesperson, Weichert Realtors- Griffin Co, Springdale, AR, Consent Order, Formal Hearing # 3308
- Sharla Emory, Salesperson, Remax Affiliates, Little Rock, AR, Consent Order, Formal Hearing # 3309
- Solita Johnson, Salesperson, Pulaski Heights Realty, Little Rock, AR, Consent Order, Formal Hearing # 3316
- Mary M. Kidd, Salesperson, Truman Ball & Assoc, Benton, AR, Consent Order, Formal Hearing # 3318
- Jason A. Ryles, Salesperson, Whitwell & Ryles R.E. Investments LLC, North Little Rock, AR, Consent Order, Formal Hearing # 3327
- Jennifer Adkins, Salesperson, Irealty Arkansas, Little Rock, AR, Consent Order, Formal Hearing # 3295
- Antionette Conley, Salesperson, Keller Williams Realty-Little Rock, Little Rock, AR, Consent Order, Formal Hearing # 3304
- Sergio Convers, Salesperson, Network Real Estate, Inc, Little Rock, AR, Consent Order, Formal Hearing # 3305
- Bamby Dadula, Salesperson, Bridges Realty and Property Mgmt, Bentonville, AR, Consent Order, Formal Hearing # 3316
- Jim B. Horne, Salesperson, Lunsford and Associates Realty, White Hall, AR, Consent Order, Formal Hearing # 3315
- John Jordan, Salesperson, Legacy Realty Inc., Conway, AR, Consent Order, Formal Hearing # 3317
- John Malone, Salesperson, Tasabah and Associates, Paragould, AR, Consent Order, Formal Hearing # 3321
- James S. Stepp, Salesperson, Real Estate Referral, Conway, AR, Consent Order, Formal Hearing # 3330
- Stephen E. Whitwell, Salesperson, Whitwell and Ryles Real Estate Investments, North Little Rock, AR, Consent Order, Formal Hearing # 3334
- Marsha Womack, Salesperson, Cochran and Davis Investment, Little Rock, AR, Consent Order, Formal Hearing # 3335

Steering Clear of Fair Housing Violations

By Carol Johnson, J.D., M.A.
Executive Director
Arkansas Fair Housing Commission

Steering is a form of housing discrimination in which prospective buyers or tenants are guided toward or away from a particular neighborhood or living area due to race, color, national origin, sex, religion, familial status or disability.

While most often the practice of steering occurs based on race, national origin and familial status, steering may be manifested in each of the protected classes listed above and happens in both purchasing and rental scenarios.

Source definitions of steering include: “a piece of advice”, “to take over”, “to run things”, “to guide”, “to take the reins”, “to direct on a course”.

Since the whole reason fair housing/fair lending laws were passed and implemented was to open access to housing based on the buyers’ or tenants’ intent, one can easily see why steering presents an affront to the principle of open housing access and runs contrary to fair housing and fair lending laws and regulations.

Steering is one method by which housing segregation is perpetuated because it creates “pockets” of housing designed by the person steering the particular market and removes from the renter or buyer the opportunity of choice.

For example, an agent may steer families with children to a certain part of an apartment complex or to a certain neighborhood under the guise that the designated location is more suitable for the family’s need, i.e., more children are in that neighborhood, etc. The effect is that families with children may be isolated within a certain area and less likely to have contact with others outside of their class.

The same may be true if the steering is based on, say, race. Perhaps the motive here is to generate certain market conditions or to perpetuate racial bigotry and segregation. The effect, however, is to rob all families (regardless of race) of the ability to learn and to grow from living in and experiencing a diverse housing environment.

Steering for the real estate professional may come in the form of advising a prospective buyer to purchase a home in a certain neighborhood or in failing to advise that prospective buyer of available properties. It could also come in the form of an outright refusal to show certain properties.

An effective real estate professional will focus on matching buyers with the desired property characteristics with-

out regard to the buyer’s (or anyone else’s) race, color, national origin, sex, religion, familial status or disability.

Real estate agents should refrain from providing demographic information regarding a neighborhood. Additionally, agents should refrain from providing information about neighborhood crime or information regarding religious or cultural institutions which may exist in the area. Instead, agents should inform homebuyers with such questions that they may obtain this information by contacting municipal agencies or the police department. The digital age in which we live provides a wealth of such information with relative ease and expediency eliminating the need for the agent to be involved in this particular process and protecting the agent from legal liability.

A serious impediment to fair housing, steering demoralizes the rental and home buying process because it infers that the prospective tenant and/or buyer does not have the right to live in the housing of his/her choosing.

Professionals who deviate from the practice of eliminating the factors of race, color, national origin, sex, religion, familial status or disability from the real estate related transaction are operating illegally and may be subject to severe penalties, loss of licensure and liability for civil lawsuits.

The Arkansas Fair Housing Act of 2011, as amended, provides substantially equivalent protection as the federal Fair Housing Act of 1968, as amended, and makes illegal any practice which seeks to segregate neighborhoods based on race, color, national origin, sex, religion, familial status or disability.

The Arkansas Fair Housing Commission is a quasi-judicial, regulatory enforcement agency that works in conjunction with the U.S. Department of Housing and Urban Development to ensure fair housing and fair lending protections statewide. The Commission acts as a neutral fact-finder in the investigative process and also is responsible for adjudicating cases where housing violations are found to have occurred.

The Commission also offers a variety of fair housing and fair lending training opportunities for housing professionals, lenders, developers, agents and the general public.

If you would like to learn more about fair housing and fair lending laws, please visit us at fairhousing.arkansas.gov or call us at 501.682.3247.

Recent Staff Changes

by Andrea S. Alford
Deputy Executive Director

It has indeed been a year full of change here at the Commission, and we're excited to tell you about some recent staff member promotions.

During her time with the Commission, Shonna Amos has done virtually every job in the Licensing Department, most recently serving as the Licensing Examiner. Those of you who were licensed in the last four years or have such licensees under your supervision are very likely to have spoken to Shonna during the application process. Her promotion to Executive Secretary came in August, and we are pleased to be working with her in this new role. She will be providing direct administrative support to Gary and me in our various functions as Executive and Deputy Executive Directors. Shonna says, "Within the last few months as Executive Secretary, I have learned so much more about AREC and real estate in general. The most important thing I have learned since holding this position is that you should never limit your learning because the learning never stops."

Much like Shonna, Joyce Foreman has been with the Commission for some time now and has filled many roles in the Licensing Department. Shonna's promotion to Executive Secretary left the role of Examiner open, to which Joyce Foreman was promoted in October. Joyce will now be processing applications for examination and working with new licensees and applicants alike in meeting the requirements for entrance to the profession. Joyce says she is very excited about her promotion and is looking forward to learning and developing new skills.

Heather Kilpatrick has been with AREC since 2011. Heather's former position placed her over license transfers, renewals, activations, inactivations, education compliance and new licensee score reports. In July, we promoted Heather to the position of Education and Instruction Specialist, where she will be helping to oversee AREC's regulation over real estate education. Heather is very excited to be a part of AREC as we plan for and implement this new jurisdiction. She says, "I look forward to working closely with the schools and instructors to improve real estate education in Arkansas."

No doubt many of you have been greeted by the friendly voice of Kortney Hinton when you've called the Commission during the last two years. Kortney has been our front desk receptionist and has worked hard to earn her promotion to Administrative Specialist III in Licensing, where she will be processing license changes and monitoring education compliance. Kortney says, "I'm so excited for the opportunity to better serve our local and non-resident licensees! I look forward to continuing my career with AREC and further contributing to the real estate community."

Of course, all of this internal promotion has left us with two open positions in the Licensing Department. Most recently, we hired Brittany John to fill one of those spots, and we've just wrapped up advertising for the other. We look forward to telling you about these new team members in our next newsletter.

Gary and I are very proud of the staff here at the Commission. They are a very hard-working group, and they truly care about serving the public and licensees alike. If you need assistance, I hope you won't hesitate to give us a call at 501.683.8010 or stop by the office anytime we're open.



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2013 Regulation Changes

After a busy but successful legislative session, AREC got to work on our regulations. The following is a list of recent regulation changes.

- Regulation 9.9: In accordance with Act 208 of 2013, this regulation sets specific dollar amounts for technical violations and clarifies processes by which AREC may issue citations. (Effective October 1, 2013)
- Regulations 10.18-10.24: These regulations create more detailed recordkeeping and accounting requirements for those brokers who manage residential properties. (Effective July 1, 2014)
- Section 13: These changes set fees and update terminology in existing timeshare regulations. (Effective April 1, 2014)
- Regulation 3.1 and Section 16: In accordance with Act 281 of 2013, these regulations set the fees for real estate school, association and instructor licenses. They also establish minimum licensing criteria and define the processes for qualifying for and maintaining educational licenses. (Effective Feb 1, 2014)

Full text versions of all of our regulations may be viewed at www.arec.arkansas.gov/news.