



COMMISSION COMMENT

Winter

1995

Governor Appoints Fred A. Fletcher, Jr. to the Real Estate Commission

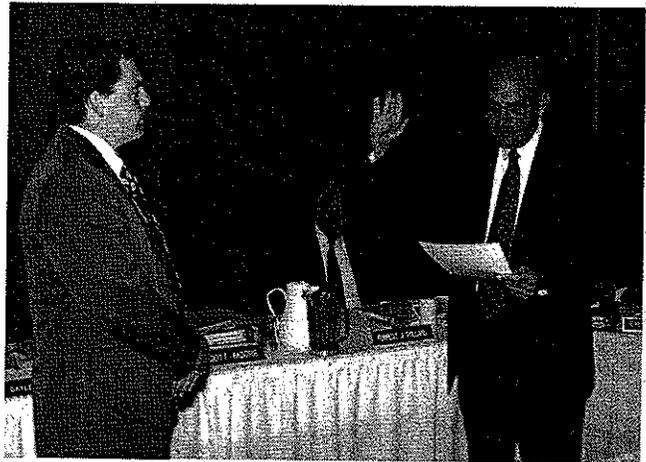
Governor E. Benjamin Nelson appointed Fred A. Fletcher, Jr. to a six-year term on the Real Estate Commission. Fred is broker and co-owner of Century 21 Ringer Partners, a Real Estate Brokerage and Insurance Agency in Norfolk. He has been active in both the real estate and insurance business for the last 22 years. Fred is also a registered Real Estate Appraiser.

Fred is a graduate of Creighton Prep High School in Omaha. He attended the University of Nebraska in Omaha. He served two years in the United States Army with a one year tour of duty in Vietnam where he was decorated for heroism and received the Bronze Star and the Army Commendation Medal with "V" Device for Valor.

Fred has actively served his community through his involvement on a number of civic boards and committees. He is a past President of the Norfolk Board of Realtors, Realtor of the Year in 1979 for

the Norfolk Board, and presently serves on the Board of Directors. Fred has also been active in the Nebraska Realtors Association having served as a Director, a District Vice-President, Dean of the Nebraska Realtors Institute in 1984, CRS Chapter President in 1983, as well as CRS of the Year for the Nebraska Chapter in 1985.

Fred has been a resident of Norfolk for 22 years. He and his wife, Phyllis, have two children; Melissa, 19, a Sophomore at the University of Nebraska, Omaha, and Eric, 17, a Senior at Norfolk High School.



Chairperson, Scott Moore, gives oath of office to Fred A. Fletcher, Jr.

On The Inside:

- Lead and the Real Estate Transactionpage 4
- EMFs: An Introduction to Real Estate Professionalspage 5
- Formaldehyde: An Introduction for Agents and Brokerspage 6
- Let's Talk Trust Accounts.....page 7
- Commission to Propose Legislative Amendments.....page 8
- Disciplinary Actions Taken by The Real Estate Commissionpage 8
- Housing Discriminationpage 9

Tentative Commission Meeting Schedule

- January 16-17 Omaha
- February 20-21 Lincoln
- March 19-20 TBA



From left to right; Back row: John Hansen, Scott Moore, Jerry Schleich, Forrest Pollard; Front row: Kathleen Fahey, Fred Fletcher, Jr., Gayle Stock

COMMISSION COMMENT

Official Publication of the
Nebraska Real Estate Commission
1200 "N" Street
P.O. Box 94667
Lincoln, Nebraska 68509-4667
(402) 471-2004

EDITOR: Teresa Hoffman

COMMISSION MEMBERS

CHAIRPERSON
Scott Moore
Secretary of State
State Capitol
Lincoln, NE 68509
(402) 471-2554

PUBLIC Member At Large
Kathleen A. Fahey
1236 South 113th Plaza
Omaha, NE 68144
(402) 330-6646

SALESPERSON Member At Large
Gayle L. Stock
11213 Davenport Street
Omaha, NE 68154
(402) 334-5500

BROKER MEMBERS

Forrest J. Pollard
1515 North Webb Road
Grand Island, NE 68803
(308) 384-4200

Gerald L. Schleich
3901 Normal Blvd., Suite 203
Lincoln, NE 68506-5250
(402)436-3112

John F. Hansen
2200 Harvell Dr.
Bellevue, NE 68005
(402) 291-4800

Fred A. Fletcher, Jr.
Century-21 Ringer Partners
1105 Norfolk Ave., P.O. Box 1166
Norfolk, NE 68701
(402) 371-1480

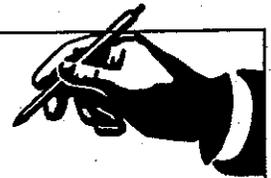
DIRECTOR

Les Tyrrell
1200 "N" Street, Suite 402
Lincoln, NE 68508
(402) 471-2004

The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the Nebraska Commission Comment also appears with the article.

The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.

From the
DIRECTOR'S DESK



Licensees will note that the majority of this issue of Commission Comment deals with environmental issues. As a part of a relationship which is being formed between the Environmental Protection Agency (EPA) and the Association of Real Estate License Law Officials (ARELLO), the EPA & the Environmental Law Institute (ELI) have made available various associates of theirs to author these articles for the "Commission Comment." I think you will find the articles informative and of interest. They are not intended to make Nebraska real estate licensees experts but to make you aware, thereby assisting the buyers and sellers of real property in Nebraska to be aware of important environmental issues.

I would like to thank each of the authors, the EPA and ELI for their assistance, cooperation and expertise in this project which, as I said before, is hoped to make each of you a more informed licensee.



Over the next few months the Commission will be reviewing the "Seller Property Condition Disclosure Statement" and the "Brokerage Relationships in Real Estate Transactions" brochure. The purpose of the review will be to determine if changes are needed in these documents.

Therefore, we are asking licensees to send us any written suggestions for changes to either or both of these documents. All suggestions will be considered.

If you have any suggestions, please forward them to our office so that they will arrive by January 1, 1996. Your assistance is appreciated.



Les Tyrrell, Director Nebraska Real Estate Commission

Greetings,

As the Chairperson of the Nebraska Real Estate Commission, I want to take this opportunity to convey "Season's Greetings" to my friends and all the licensees of the Nebraska Real Estate Commission.

As we prepare for the Holiday Season, we reflect on the year which has been completed. For me, personally, 1995 was a year of experiences and education as I completed my first year as the Nebraska Secretary of State. Whether I was leading a trade delegation to China or sitting on one of the many Boards or Commissions of which I am a member, the year was an eye opening experience for me.

Serving as the Chair of the Nebraska Real Estate Commission is one of the many honors of serving in this office. 1995 was certainly an active year for the Commission and Staff. You will remember that the New Year brought us the advent of the seller property condition disclosure law and on July 1, 1995 the new agency disclosure law also went into effect. Both of these new laws brought with them all the challenges of implementing something new to both the industry and the Commission.

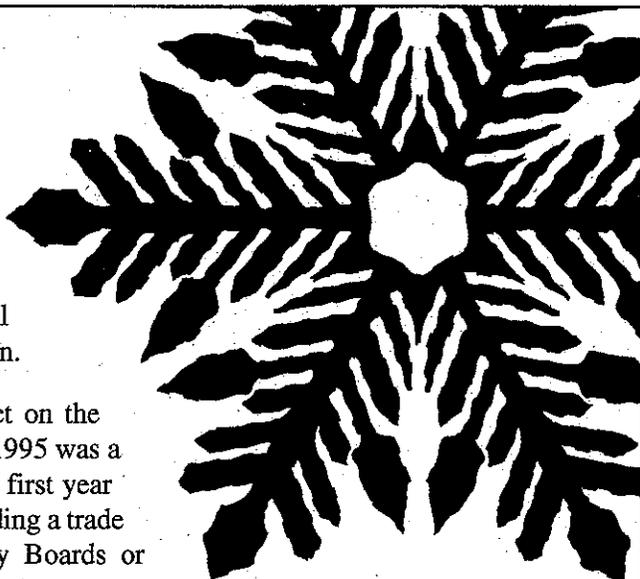
1996 will be an exciting year as well as the Commission continues to move forward with the computerization of the license data bank which will allow us to better serve the demands of the licensees here in Nebraska. This upcoming July, the Nebraska Real Estate Commission will host the regional Association of Real Estate License Law Officials conference in Omaha. This meeting will give us the opportunity to showcase our great State as we learn from our neighbors how to address concerns of the ever-changing real estate industry.

On behalf of the Nebraska Real Estate Commission and Staff, I would like to wish everyone "Happy Holidays" and hope that the New Year finds you in good health.

With appreciation and good wishes,



Scott Moore
Secretary of State - Chairperson
Nebraska Real Estate Commission



Lead and the Real Estate Transaction

By: M. Sindy Felin, Environmental Law Institute

(Editor's Note: M. Sindy Felin is a research associate at the Environmental Law Institute (ELI), an international, not-for-profit, research, training and education organization in Washington, D.C. Ms. Felin received her B.A. degree from Wesleyan University. At ELI she is actively engaged in a number of projects, including the examination and analysis of indoor air legislation and regulation.)

What is lead and where is it found?

Lead is a naturally occurring element that does not decay. Although its toxic nature has long been known, lead has been used for centuries in many products, including gasoline, dishware, plumbing, and paint. As a result lead residue can be found in soil, air, water, and household dust. The most prevalent and troubling source of lead exposure today is deteriorating paint on the inside and outside of homes. Although the use of lead-based paints for homes was banned in 1978, half of all homes still contain some lead painted surfaces. The hazard of lead exposure is most dangerous when the paint is not well maintained.

How is lead harmful?

Lead is very harmful to the human body and is especially dangerous for children whose normal hand-to-mouth activities and growing bodies allow easier absorption of large concentrations of the toxin. Dangerous levels of lead exposure can result from breathing in contaminated dust and air, eating paint chips and soil, and placing hands or other contaminated objects into the mouth. Children with high levels of lead in their bodies can suffer from brain damage, learning disabilities, slowed growth, hearing problems and headaches. Such effects of lead poisoning are largely irreversible. It is estimated that 15% of children in the United States have elevated levels of lead in their blood. Adults, too, can be poisoned by lead. Symptoms can

include: reproductive problems, digestive problems, nerve disorders, memory problems, and muscle and joint pains.

How is lead exposure measured?

Exposure to lead can be detected through a blood test. The Centers for Disease Control and Prevention (CDC) defines 10 micrograms of lead per deciliter (ug/dl) of blood and above as "levels of concern".

Testing homes for lead can be done with do-it-yourself test kits but these can not always detect low levels of lead. The Environmental Protection Agency (EPA) recommends using trained inspectors, who can be found by calling the National Lead Information Center Clearinghouse at 1-800-424-LEAD. Trained inspectors may take samples of paint, soil, and water for laboratory testing or may conduct tests on the spot using a portable X-ray fluorescence (XRF) machine. Removal of lead should also be done by professionals. Home renovation and remodeling can 'kick-up' lead-contaminated dust and paint. By 1996, professional renovators will be legally required to inform homeowners of how projects may affect their lead exposure risks.

What federal lead law affects real estate professionals?

In 1992, Congress passed the Lead-Based Paint Hazard Reduction Act. One of its primary objectives is to control the dangers of childhood exposure to lead-based paint. To carry out its goal of lead poisoning prevention, this law requires disclosure of lead hazard information during certain real estate sales and leases. For residential sales and leases of "target housing" (defined as housing constructed prior to 1978, except for housing that is intended for the elderly, or the disabled, or zero bedroom housing, unless a child younger than six years of age is expected to live there), the law

commands that sellers and lessors provide to buyers and lessees:

- a "Lead Hazard Information Pamphlet" prepared by the EPA, the Department of Housing and Urban Development (HUD) and the Department of Health and Human Services (HHS); and
- any information known about lead-based paint or paint hazards or any lead hazard evaluation report.

In addition, every contract for the purchase and sale of any interest in target housing must include this lead warning statement:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

This statement must be presented in large type on a separate sheet of paper attached to the contract.

The law also provides for a 10 day "waiting period" for purchase and sale contracts to allow for lead testing or assessment if it is desired. The buyer and seller can mutually agree to a longer or shorter period.

The Lead-Based Paint Hazard Reduction Act of 1992 also states that

(Continued on page 7)

EMFs: An Introduction for Real Estate Professionals

By: M. Sindy Felin, Environmental Law Institute

(Editor's note: M. Sindy Felin is a research associate at the Environmental Law Institute, an international, not-for-profit, research, training and educational organization located in Washington, D.C. Ms. Felin received her B.A. degree from Wesleyan University. At the Environmental Law Institute, she is actively involved in a number of projects, including the examination and analysis of indoor air legislation and regulation.)

What is EMF?

EMF (or EMFs) is an acronym for electric and magnetic (or electromagnetic) fields. EMFs are invisible lines of force that surround any electrical device. Electric and magnetic fields have different properties and possibly different ways of causing biological effects. Electric fields, for example, are easily shielded by conducting objects such as trees and buildings. On the other hand, magnetic fields are not. Both electric and magnetic fields weaken with increasing distance from the source. Power lines and electricity generating facilities are sources of EMF that may be of concern to those involved in real estate transactions.

Are EMFs harmful?

Whether or not exposure to EMFs is linked to the development of cancer has been studied by scientists over the past few years. At this point, there is no scientific consensus about the EMF issue. The health studies that are being done are focusing on the possible biological effects of magnetic fields, not electric fields.

Several epidemiological studies — studies that look at the pattern and possible causes of diseases in human populations — have found statistically significant correlations between the location of high-voltage power lines and the increased rates of certain cancers such as childhood leukemia. Other epidemiological studies have found slight or no statistical significance. Biological studies — studies of cells carried out in laborato-

ries — have shown that EMF energy can effect cellular function, but have not shown that EMFs can initiate cancer. Scientists generally agree that more studies should be conducted to reduce the uncertainty about EMFs' health effects.

How can magnetic field levels be measured in homes?

Magnetic field levels can be measured using a relatively simple device called a gaussmeter, which measures field strength in units called gauss. Most utilities will conduct measurements for customers free of charge and provide information about the field levels surrounding their power facilities. A 1993 survey of average magnetic field levels in homes found that 75% registered below 1.1 milligauss (a milligauss is one-one thousandth of a gauss) while fewer than 1% registered above 6.6 milligauss. Scientists have not pinpointed a "safe" threshold for human exposure to magnetic fields because of the lack of conclusive studies.

It is important to note though, that the strongest sources of magnetic fields inside homes are often household appliances. Magnetic fields very close to appliances are often stronger than fields directly beneath power lines. However, appliance fields decrease in strength with distance more quickly than do power line fields.

How can EMFs effect real estate transactions?

There are no federal laws setting standards for EMF levels and only a few states have set standards by which owners of electric generating facilities are expected to comply. However, the location of power lines and other electric generating facilities still may be of concern to potential home buyers worried about possible detrimental health effects. Thus it is important for real estate agents to be aware of EMFs and understand the

basic information about them, such as the information contained in this article and in publications such as the ones listed below.

Real estate professionals can assist buyers and sellers to learn about EMFs so that they can address any potential EMF issues in an informed manner. The sooner that the buyer and seller are empowered to discuss and resolve EMF problems, the faster the transaction will be completed.

Where can more information on EMF be obtained?

The Environmental Protection Agency (EPA) maintains an EMF Infoline which can be reached at 1-800-363-2383. The National Institute for Occupational Safety and Health also maintains a toll free hotline which can be reached at 1-800-356-4674.

The National Institute of Environmental Health Sciences and the Department of Energy recently published "Questions and Answers About Electric and Magnetic Fields Associated with the Use of Electric Power." This booklet may be obtained by calling EPA's EMF Infoline. It provides a thorough introduction to EMF including an overview of recent health studies, the status of government EMF programs, and an explanation of EMF levels found around various technologies and the natural environment. An extensive list of resources and references is also provided.

How are radiofrequency fields (RF) related to EMF?

Radiofrequency fields (RF) are emitted by telecommunications devices such as cellular telephones. RF are stronger energy sources than EMFs and are also being studied for their possible connection to diseases such as cancer. So far, these studies have been inconclusive. The location of cellular

(Continued on page 9)

Formaldehyde: An Introduction for Agents and Brokers

By: Adam D. Kaye, Environmental Law Institute

(Editor's note: Adam D. Kaye is a research associate at the Environmental Law Institute, an international, not-for-profit, research, training and educational organization located in Washington, DC. Mr. Kaye received his B.A. degree from the University of Rochester and is currently involved in research on international emissions reduction issues.)

While many agents and brokers are well aware of the health hazards associated with radon and asbestos levels in buildings, uncertainty still arises over the lesser known problems and effects of formaldehyde. This article provides general information about the nature of formaldehyde, its presence in homes, its potential harmful effects, and the various mitigating techniques available.

What is formaldehyde?

Formaldehyde, one of the simplest man-made organic compounds, is a colorless, highly water-soluble, toxic gas with a distinctively pungent odor. It is commonly used in a variety of household products and building materials, including hardwood, plywood and particleboard. Another common occurrence of formaldehyde is in urea-formaldehyde foam insulation (UFFI). During the 1970s, urea-formaldehyde foam was widely used as an energy saving insulation material pumped into walls of homes during construction. As with all formaldehyde-based substances, problems arise when the gas leaks out of the building materials, a process known as outgassing, and diffuses in the air of a house.

What are the hazards of formaldehyde exposure?

Formaldehyde may have both acute effects in the form of irritation and possible chronic effects as a carcinogen. Formaldehyde acts as an irritant on mucous membranes and the eyes. Several discomforting effects have been correlated with the regular exposure of

formaldehyde in concentrations of as low as 0.07 parts per million (ppm). Symptoms can include nausea, coughing, and eye and nasal irritation. Although some studies have correlated the appearance of certain symptoms with formaldehyde concentrations of as low as 0.07 ppm, the maximum level of continual exposure recommended by the American Society of Heating, Refrigeration and Air-conditioning Engineers is 0.10 ppm.

In 1987, the Environmental Protection Agency (EPA) issued a health risk assessment of formaldehyde, classifying it as a probable human carcinogen based on evidence that showed statistically significant correlations between formaldehyde exposure and respiratory-specific cancers. Nevertheless, some scientists argue that exposure to low doses of formaldehyde do not cause cancer.

How can formaldehyde levels be measured?

The process of determining household formaldehyde levels is a simple one that can be performed without professional assistance. Formaldehyde concentration monitoring kits are commercially available and relatively inexpensive. The monitor consists of a chemically treated filter, designed to capture airborne formaldehyde, in a glass vial. The vial is left in an area exposed to ambient air conditions for a designated amount of time. The vial and filter is then sealed and sent to a laboratory for testing. Although not certified or approved by the EPA, these home monitoring kits are frequently used by EPA technicians to ascertain formaldehyde concentrations.

How can formaldehyde exposure be reduced?

Given the widespread use of formaldehyde in a variety of construction and furnishing materials, it is fairly difficult to fully eliminate its presence in homes. Several mitigating measures can

be taken by concerned homeowners. Homes constructed with solid wood materials pose less of a risk than those incorporating particleboard. Urea-formaldehyde foam insulation can be replaced with fiberglass batting. It must be noted, however, that the process of removing this material is complex and expensive. One recommended strategy is to keep humidity levels low where urea-formaldehyde foam insulation is used. Studies have shown that the process of outgassing is more rapid in warm and humid conditions. It must be noted, however, that the older the insulation, the less likely that outgassing will occur.

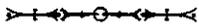
Agents and brokers can help their clients and customers understand formaldehyde and its potential health effects by providing them with information and materials prepared by national organizations, and governmental entities. Such information is often available from state environmental or health departments. It can also be obtained from the EPA Indoor Air Quality Information Clearinghouse at 1-800-438-4318.

The views expressed in this article are those of the authors, and may not necessarily represent the views of the Environmental Law Institute or the Environmental Protection Agency.



Let's Talk Trust Accounts

This section of the "Commission Comment" provides a vast array of educational information which pertains to the License Act, Rules and Regulations and the Trust Account Manual. All licensees are encouraged to discuss this information at office meetings and share this information with the non-licensed personnel within the office so that any questions concerning policy or procedure can be eliminated prior to a visit by the trust account examiner. If there are questions or concerns, please feel free to contact the Commission Office at (402) 471-2004.



Effective January 1, 1995, Neb. Rev. Stat. 76-2,120 requires each seller of residential real property with no fewer than one or more than four dwelling units, to complete a "Seller Property Condition Disclosure Statement" which is a written disclosure statement of the real property's condition. This "Statement" must be completed by the seller to the best of the seller's belief and knowledge as of the date the disclosure statement is completed and signed by the seller. If any information required by the disclosure statement is unknown to the seller, the seller may indicate that fact on the disclosure statement and remain in compliance with this section.

The disclosure statement shall be delivered by the seller to the purchaser or the agent of the purchaser on or before the effective date of any contract entered into on or after January 1, 1995, which binds the purchaser to purchase the real property. The purchaser must acknowledge, in writing, receipt of the disclosure statement. Refer to the "Nebraska Real

Estate License Manual", Section "Slr Prop Discl", pages SPCD - 1 through 3 and 302/Ch 1-1 through 6; and Section "Title 299", subsections 003.23 through 003.25, page 299/Ch.5-4.

Brokers need to establish procedures whereby the "statement" is completed, all applicable signatures are acquired, copies are delivered in a timely manner and copies are maintained in the transaction file.



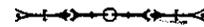
Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal are unfair trade practices. Refer to the Nebraska Real Estate License Manual, Section "License Act", pages LA - 9 and 10, State Statute 81-885.24(19). Brokers are reminded to have review procedures in place to assure violations do not occur.



At the request of many licensees we are reprinting the following list. As you are aware the trust account examiners have requested the cooperation of each designated broker in reviewing the pending and closed transaction files and placing the pertinent documents listed below toward the top of each transaction file. Your assistance is appreciated.

1. Listing Agreement (listing company)
2. Dual Agency Agreement if representing both seller and buyer in the same real estate transaction (listing company)
3. Seller Property Condition Disclosure Statement (listing company)

4. Purchase Agreement (listing and selling company)
5. Addendas or counter-offers which affect the final acceptance of the offer (listing and selling company)
6. Seller "Estimated" Closing Cost Statement (listing company)
7. Buyer "Estimated" Closing Cost Statement (selling company)
8. Seller "Final" Closing Cost Statement (listing company)
9. Buyer "Final" Closing Cost Statement (listing company and selling company)
10. Seller Acknowledgment of Disclosure pamphlet (listing company)
11. Buyer Acknowledgment of Disclosure pamphlet (selling company)



The Trust Account Examiners will be asking each designated broker to produce a copy of his or her "Agency Policy" at the time of the trust account examination. The "Agency Policy", as adopted by each designated broker, must be maintained by the designated broker at the broker's business address of record. The business address of record is that address as filed with the Nebraska Real Estate Commission where the broker conducts his or her real estate business. Each designated broker, whose license is on active status, regardless of his or her level of activity in the real estate business, is required to adopt the "Agency Policy" as set out in Neb. Rev. Stat. 76-2420 which became effective July 1, 1995 and to maintain a copy on file at the business location.

(Continued from page 4)

the seller's agent must "ensure compliance" with the disclosure requirements of the law. EPA and HUD must promulgate regulations regarding this compliance assurance. In other words, an agent may be required to make sure that the disclosure provisions are carried out, and keep records that provide evidence of compliance.

EPA expects that the final regulations will be promulgated by early 1996. The

Agency will probably grant real estate professionals a 6 to 12 month "grace period" before the regulations are effective.

Where can more information on lead be obtained?

The National Lead Information Center Hotline provides information about lead to the general public. It can be

reached at 1-800-LEAD-FYI. The National Lead Information Center Clearinghouse also provides information at 1-800-424-LEAD. In addition, HUD and CDC publish many technical lead-related publications.

The views expressed in this article are those of the authors, and may not necessarily represent the views of the Environmental Law Institute or the Environmental Protection Agency.

Commission to Propose Legislative Amendments

The Commission will be having legislation introduced in the 1996 Session of the Legislature. This legislation is generally "housekeeping" in nature.

One change will be to change the definition of designated broker as set out in Neb.Rev.Stat. § 81-885.01(4) to have the definition reflect how the term is now being used in the industry. This amendment is proposed as follows:

- 1) **81-885.01(4)** - Designated broker shall mean an individual holding a broker's license ~~appointed by a partnership, limited liability company, or corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, limited liability company, or corporation and to whom the partners, members, or board of directors has subordinated full authority to conduct the real estate activities of the partnership, limited liability company, or corporation~~ who shall have full authority to conduct the real estate activities of a real estate business. In a sole proprietorship, the owner shall be the designated broker. In a partnership, limited liability company, or corporation, the partners, members, or board of directors must identify a designated

broker for its real estate business and shall identify that broker by filing with the Commission a statement subordinating to the broker the full authority to conduct the business' real estate activities. The designated broker shall also be responsible for supervising the real estate activities of any associate brokers or salespersons;

The other three amendments will deal with changes in Neb.Rev.Stat. § 81-885.24. This is the section that deals with those violations which are considered "unfair trade practices."

We are proposing two new sections which deal with written buyer or tenant agency agreements and which are the corollary of two current sections which relate to written listing agreements, i.e. the corollary to Neb.Rev.Stat. § 81-885.24(14) & (15).

The proposed language for each is as follows:

- 2) **New -** Negotiating to represent or attempting to represent a buyer or tenant, if he or she knows that such buyer or tenant has granted, in writing, an exclusive buyer or tenant agency to another broker or breaking or attempting to break such

exclusive agency for the purpose of substituting in lieu thereof a new buyer or tenant agency relationship;

- 3) **New -** Discussing with a buyer or tenant, who has a written exclusive buyer or tenant agency relationship with another broker, or soliciting a discussion of with such person, the terms upon which the licensee would accept a future exclusive buyer or tenant agency upon the expiration of the present written agreement, unless the buyer or tenant initiates the discussion;

The other amendment proposed is to Neb.Rev.Stat. § 81-885.24(19) in which we propose to include a reference to written buyer or tenant agreements. In the following the underlined wording is the amendment being proposed to the subsection.

- 3) **81-885.24(19)** - Failing to include a fixed date of expiration in any written listing agreement or written buyer or tenant agency agreement in which the licensee agrees to perform brokerage services for which a license is required and failing to leave a copy of the agreement with the principal;

Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

Real Estate Commission vs. Richard Lee Svoboda, broker. Stipulation and Consent Order with 2-years probation from October 25, 1995 through October 24, 1997 during which time he may not manage real estate owned exclusively by others; plus an additional 12 hours continuing education completed within 9 months; and trust account records shall be kept current and accurate and will be subject to examination by the Commission at any time. (Violated Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which will accurately and clearly disclose full compliance with the law relating to the maintenance of trust accounts; Section 81-885.24(6) by accepting or charging any undisclosed direct profit on expenses made for a principal; and Section 81-885.24(3) by failing to account for and remit any money coming into his possession belonging to others.) October 24, 1995

Robert R. Kennedy and Mary A. Kennedy vs. Arthur Hysell, broker. Stipulation and Consent Order of Censure. (Violated Title 299 N.A.C. 5-003.18 by refusing to reduce an offer to writing because the verbal offer had been previously rejected.) October 24, 1995

Housing Discrimination

(Editor's Note: This article is reprinted with permission from the November/December, 1995 issue of the "Nebraska Equal Opportunity Commission Update".)

Several states have laws which protect individuals, families and disabled persons from discrimination in the acquisition, ownership and enjoyment of housing. Indeed, there is a federal law which protects people in the same fashion. Yet, amazingly enough, we find that discrimination in housing is still rampant in 1995!

The New York City Human Rights Commission had the occasion to fine a firm in excess of \$30,000 and accused it of "racist behavior" when it discovered that the firm was using a secret coding system to help owners screen out Black and Hispanic apartment hunters. The firm was using a system wherein they would accept the owner's desire to not have Black or Hispanic tenants, and would code the applications of those individuals. On the surface, the applicants were led to believe they were being accepted and rejected for some valid reasons. In fact, the code permitted the firm to exhaust their efforts to find

reasons to reject the applicants in what would be a neutral manner.

In every situation that prevails today and historically, the best kept secrets will ultimately be revealed. Such was the case in this gross discriminator practice that no doubt affected persons who never even knew they were victims of unlawful discrimination in housing. To put an end to what was thought to be a fail-proof method of violating the law, a fair minded individual within the firm came forward and exposed the practice.

A White female confronted her boss and informed him of the unlawful practice, assuming that the boss may not have been aware of what some of the sales staff were doing. However, she was unabashedly told by the broker that if she didn't like the practice of keeping Blacks and Hispanics out, that she could quit. She did quit. But, she also took the coded records and turned them over to the city Human Rights Commission. Following an investigation into the practice by the Commission, not only was the firm found in violation of the anti-discrimination laws for housing, but two of its sales staff and the

landlord who had rejected a Black applicant were fined as well. This brought the total fines up to \$36,000.

A lesson to be learned from this reported item is that those who are in a position to commit unlawful discrimination should view it like speeding along on a highway. You may be watching your speedometer and know that you are speeding, but you must also remember that there are persons (police) hired specifically to watch for your kind and catch you in the act. The same is true with any violation of the Nebraska Housing law and the Nebraska Equal Opportunity Commission can be analogous to the police hired to watch for your kind and catch you. As speed limits are posted, so are anti-discrimination laws well established. Don't violate either and it will save you money and embarrassment. Indeed, compliance with the housing law by making properties available to persons without regards to race, color, religion, sex, national origin, familial status or disability can make money for you.



(Continued from page 5)

tower structures which are needed to make telecommunications devices function could be of concern to those involved in real estate transactions. In this way, RF and EMF are similar issues, and similar techniques — information disclosure and client empowerment — can be used to deal with them.

The views expressed in this article are those of the authors, and may not necessarily represent the views of the Environmental Law Institute or the Environmental Protection Agency.

Name/Address Changes?

When informing the Real Estate Commission of a name and/or address change, please be sure to indicate whether you currently receive information as any of the following:

- 1) a salesperson
- 2) a broker
- 3) an applicant for licensure
- 4) a subscriber of notices and agendas and/or proceedings from Commission Meetings
- 5) a subscriber of licensing examination candidate lists
- 6) an instructor of either pre-license or continuing education programs
- 7) a school administrator
- 8) a continuing education provider

Alerting us to the various capacities in which you serve allows us to more effectively note these changes and communicate with you.

Future Real Estate Examinations

The following is the schedule of the dates on which the real estate licensing examinations are administered in Nebraska, and the deadline dates for filing of broker and salesperson original applications, retake applications, proof of education and examination cancellation requests for the applicable Examination Date.

Examinations for both salesperson and broker applicants are administered eleven times a year as set out on this schedule. The examination is adminis-

tered in Lincoln, North Platte and Omaha on each Examination Date and in Scottsbluff on only the January, May and September Examination Dates. All applicants for a particular examination will receive notice of the time and place of the examination approximately one week prior to that Examination Date.

Applications, proof of education, and cancellation requests are due on the date of the deadline!

The Examination Date and the deadlines are subject to change by order of

the Nebraska Real Estate Commission. Affected applicants will be notified of any changes in a timely manner.

Applications and other pertinent information regarding the real estate licensing and examination process may be obtained from the Nebraska Real Estate Commission, P. O. Box 94667, Lincoln NE 68509-4667. Telephone Number: (402) 471-2004. TDD users may use the Nebraska Relay System at (800) 833-7352.

Real Estate Examination Schedule 1995 - 1996

<u>Examination Date</u>	<u>Broker Original Application</u>	<u>Salesperson Original Application</u>	<u>Education Deadline</u>	<u>All Retake Applications</u>	<u>Cancellation Deadline</u>
January 20, 1996	December 5, 1995	December 18, 1995	January 2, 1996	January 5, 1996	January 9, 1996
February 17, 1996	January 2, 1996	January 16, 1996	January 29, 1996	February 2, 1996	February 6, 1996
March 16, 1996	January 30, 1996	February 12, 1996	February 26, 1996	March 1, 1996	March 5, 1996
April 20, 1996	March 5, 1996	March 18, 1996	April 1, 1996	April 5, 1996	April 9, 1996
May 18, 1996	April 2, 1996	April 15, 1996	April 29, 1996	May 3, 1996	May 7, 1996
June 15, 1996	April 30, 1996	May 13, 1996	May 18, 1996	May 31, 1996	June 4, 1996
July 20, 1996	June 4, 1996	June 17, 1996	June 1, 1996	June 5, 1996	July 9, 1996
August 17, 1996	July 2, 1996	July 15, 1996	July 29, 1996	August 2, 1996	August 6, 1996
September 21, 1996	August 6, 1996	August 19, 1996	September 3, 1996	September 6, 1996	September 10, 1996
October 19, 1996	September 3, 1996	September 16, 1996	September 3, 1996	October 4, 1996	October 8, 1996
November 16, 1996	October 1, 1996	October 15, 1996	October 28, 1996	November 1, 1996	November 5, 1996

Nebraska Real Estate Commission
PO Box 94667
Lincoln, NE 68509-4667

<p>Bulk Rate U.S. Postage PAID Permit No. 212 Lincoln, NE</p>
