



COMMISSION COMMENT

Winter | 2015

On the Inside

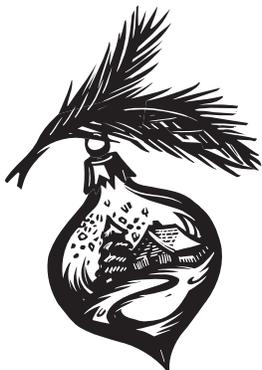
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Commission Meeting Schedule

- January 21-22Lincoln
- February 18-19Lincoln
- March 17-18Lincoln
- April 21-22Lincoln
- May 19-20Lincoln
- June 16-17Lincoln

Errors and Omissions Insurance Reminder

Although the Commission has gone to a two-year license renewal cycle, licensees are still required to renew their errors and omissions insurance annually, you can check the status of your errors and omissions insurance on the licensee portal: <https://www.nebraska.gov/apps-LicenseePortal/login/auth> 



Jim R. Titus Appointed to the Commission

Governor Pete Ricketts has appointed Lincoln attorney Jim R. Titus as the public member of the Nebraska Real Estate Commission. Titus was sworn in at the September meeting of the Commission. Mr. Titus's experience includes serving as a prehearing conference officer as well as providing general legal counsel services for the Commission in the past. Titus has been appointed to a six year term and replaces public member David Ptak.

Titus is a Lincoln, NE native, graduate of UNL College of Business

Administration and College of Law. He also passed the CPA exam, but has been practicing law since 1979 in a general business and estate planning practice. For the last 15 years he has been a hearing officer for several state agencies and an arbitrator for the American Arbitration Association, American Health Lawyers Association, and other forums. He is married with 3 children, and enjoys travel, teaching home Bible studies and 4th grade Sunday School, some golf, and especially time with his family. 



Chairperson Gale Swears in New Commissioner Jim Titus.

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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.

Printed with soy ink

Season's Greetings

On behalf of the Real Estate Commission and the Commission staff, we want to wish all of you a very Merry Christmas, Happy Hanukah, and a Happy New Year!

2015 has been exciting year not only for realtors but for the economy as well. 2015 has been a "barn burner" of a year for residential real estate and our realtors have been grateful for it. Reports have indicated home sales in many communities have been on a record pace through the summer and didn't slow down much in the fall.

Inventories have been tight, and bidding wars more common. Market valuations have greatly improved, interest rates are attractive, and foreclosures in Lincoln in September hit the lowest level ever recorded in a monthly survey. After the real estate crash of 2009-2012, residential real estate has been steadily climbing back out of that hole. Fortunately, by 2015 both sellers and buyers are feeling confident about home ownership. Let's hope for another exceptional year in 2016!

As Chair of the Commission, I remain committed to key long-term goals for the Nebraska Real Estate Commission, including: 1) Sound and sensible personal and educational standards for applicants seeking to be licensed; 2) Treating licensees subject to complaint with high standards of fairness and justice; 3) Promoting and supporting legislation that advances high professional standards; and 4) Maintaining high public trust and confidence in the professionalism of the industry.

The Commission has accomplished many of its 2015-16 Objectives. The biggest challenge has been the public bidding on the new real estate licensee database to replace an exceptionally worn-out system. The bid standards were approved and the process is moving forward. The development of a Nebraska specific pre-license education class is in the final stages of design. A policy on "Coming Soon" listings has been adopted. A joint task force with the Nebraska REALTORS on "Teams" has a draft report now being reviewed. Processing complaints to final disposition within a year has again been achieved.

Director Lemon's hires of Alane Roubal, Deputy for Education; Duran Cell, Deputy for Enforcement; and Monica Rut, Deputy for Licensing, have been great hires, they have proven very competent, dedicated and easy to work with. I appreciate the quality of our staff, as well as the level of experience and distinction of our Commissioners.

We continued that trend of excellence this year when Governor Ricketts appointed attorney Jim Titus of Lincoln to the Commission in August to replace attorney Dave Ptak of Hastings as the public representative on the NREC. Jim reviewed time share, retirement homes, campgrounds and other special registration applications for the NREC for 16 years, and served as a pre-hearing officer for the Commission for several years. We appreciate Jim's willingness to serve.

Serving as chair of the Real Estate Commission is a position which I take seriously and feel honored to hold. My wife Carol and I have enjoyed attending the installation of new officers and directors in both Omaha and Lincoln and we appreciate the invitations to other events throughout the year.



Secretary of State John Gale

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DIRECTOR'S DESK

License Renewal

Our two-year license renewal and online renewal service are no longer new by any means, having been in effect for a couple of license cycles now. There are a couple of issues which continue to slow the process for both licensees and the Commission, and these relate to the continuing education and errors and omissions insurance that we require with each license renewal.

As licensees know, we now rely on education providers to enter your continuing education, rather than the paper certificates that were once used for verification. While this is a more efficient process in many ways, there is a delay in getting that information into our system. Because we do once-a-day updates both to the education uploads, and then to the website, uploads from providers (who have ten days by law to enter the CE into our system) can be delayed anywhere from 24-48 hours before they are viewable on the licensee portal.

We also require, by law, verification that your errors and omissions insurance policy has been issued for the ensuing license year. Your receipt for payment is simply that, evidence that the insurance has been paid for. Separate verification that the policy has been issued by the E & O provider must be received before your license can be renewed. While these verifications are submitted by the major providers on a daily basis, once again, depending on timing, there can be a delay between a licensee's application and payment for the policy and our verification of the policy being issued by the provider.

If verification of CE or E&O does not display on your portal screen, you may contact the Commission's office to see if said verification has been received so that you may proceed with renewing your license.

So our best advice to ensure that your renewal is accepted and processed, before the November 30 and December 31 deadlines, continues to be that licensees complete all requirements for renewal well in advance of those deadlines.

Emphasis on Education

A little over a year ago we hired Alane Roubal as the Deputy Director for Education. For many years prior to that hire the Deputy for Education was essentially a part time position, with one person splitting time between the education duties and also serving as the licensing director. The restructuring of the position by the Commission has allowed more time to be devoted to educational services and standards. Alane has been auditing classes on a regular basis and providing feedback based on the Generally Accepted Principles of Education developed by the Real Estate Educator's Association (REEA). In addition we have been working with Mari Jo Friehe on the development of a Nebraska License Law pre-license education course which should be available early next year. The course will also be able to be parsed out into 3-hour continuing education modules.

Happy Holidays

To all reading this newsletter from everyone here at the Commission.

Greg Lemon, Director
Nebraska Real Estate Commission



Director Greg Lemon

MEET THE REAL ESTATE COMMISSION STAFF

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff, if you have comments or suggestions as to how we may better serve you, please contact our office.

COMMUNICATIONS GUIDE

Ask for person indicated if you have questions in the following areas.

Commission Meeting Information . . . *Alane Roubal*
alane.roubal@nebraska.gov

Complaint Procedures *Duran Cell*
duran.cell@nebraska.gov

Continuing Education History or
Inquiries *Tawny Snider*
tawny.snider@nebraska.gov

Curriculum Design (Education &
Instructor Approval) *Alane Roubal*
alane.roubal@nebraska.gov

Errors and Omissions Insurance
Inquiries *Monica Rut*
monica.rut@nebraska.gov

Financial Officer *Erin Blankers*
erin.blankers@nebraska.gov

License Applications Packet
Requests *General Staff*
realestate.commission@nebraska.gov

License Applications Process *Marilyn Masters*
marilyn.masters@nebraska.gov

Licensing Requirements *Monica Rut*
monica.rut@nebraska.gov

New Licenses in Process *Patricia Menousek*
patricia.menousek@nebraska.gov

Specialized Registrations *Monica Rut*
monica.rut@nebraska.gov

Transfer of License *Patricia Menousek*
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Trust Account Matters *John Clark*
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New Commission Policy and Interpretation— Coming Soon Listings

At the September 17th, 2015, meeting of the Nebraska Real Estate Commission a new policy was adopted on the use of “coming soon” advertising for real estate listings.

While permissible, the use of “coming soon” advertising has potential to give rise to violations of the act. The proper use of “coming soon” advertising would be a situation where a listing agreement has been entered into but the property or owner is not yet ready for showings, perhaps due to needed clean up or repairs, or personal matters or events that keep the owner from wanting to show the property immediately.

The improper use would be using the “coming soon” advertising to

limit the showing of the property to preferred buyers, or the exclusion of certain buyers, this could lead to various violations of the license act, which would include but not be limited to:

1. A violation of Neb. Rev. Stat. §81-884.24(2) “intentionally using advertising which is misleading or inaccurate” if the property is represented as “coming soon” and is in fact being marketed to a limited pool of buyers.

2. A violation of Neb. Rev. Stat. §76-2417(c) “promote the interests of the client with the utmost good faith” if the coming soon listing is used to secure a transaction which places the interest of the licensee

over that of the client.

3. A violation of §76-2417(c)(i) “seeking a price which is acceptable to the client” if the licensee only offers or exposes the property to a limited number of potential buyers through a coming soon listing, limiting market exposure and potential offers on the property.

4. A violation of the Federal Fair Housing Act if the coming soon listing is used to limit or exclude certain people or classes of people from the marketing of the property based on race, color, national origin, religion, sex, familial status, or handicap.

The full text of the policy can be found at: <http://www.nrec.ne.gov/legal/policyinterpretation.html>. 

The “Professional” Movement: Its Importance and a Discussion About What Makes a Real Estate Practitioner a Professional

BY WAYNE S. BELL, REAL ESTATE COMMISSIONER

The following article was reprinted with permission of the California Bureau of Real Estate. Although written from a state of California perspective, the message regarding professionalism transcends jurisdictional boundaries. The article was edited for brevity.

In my last message, I talked about the evolution of the California real estate license law, and the noble and forward-thinking efforts of organized real estate to promote the elevation of the character and *professionalism* of the licensed practice and business of real estate, in all its forms, in this State.

In The Realty Blue Book of California (The Keystone Publishing Co. – 1924), there is an entire section devoted to “The Professional

Movement.” In that segment, the authors wrote about their perspectives on what constituted the pieces which made for “professionalism” in the real estate business.

The prominent points discussed were the passage of the real estate law, real estate education and coursework, the creation of ethical standards and the national code of ethics (“founded on the Golden Rule and the Square Deal”¹), the dissemination of authoritative articles on real estate matters through the industry’s California Real Estate Magazine, a “new development of professional consciousness,” and a call for real estate industry boards “to develop new and higher standards of professional service.”²

In the ninety (90) years since those ideas, concepts, and perspectives were written and shared, the ethics rules and license laws have been expanded and enhanced, educational offerings and articles on real estate and related matters have flourished, discussions about “professionalism” have occurred statewide (including at the California Department and now Bureau of Real Estate), and real estate boards and associations have been actively involved in elevating the practices of their members.

Nevertheless, when I do outreach throughout California, I am told by real estate practitioners and consumers that some real estate licensees do not meet minimum standards of

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Professionalism (Cont'd)

professional and ethical practice, are not qualified, and/or are *unprofessional*. In that context, I am frequently asked what I can do, as the Real Estate Commissioner, to make licensed real estate practitioners more professional.

In talking with myriad individuals involved in all aspects of the real estate business in California, I have concluded that professionalism is crucial to the real estate industry.

To be sure, professionalism is what is expected by real estate consumers, and it is foremost in protecting the public in real estate matters.

But What Makes a Real Estate Licensee a Professional, and What Adds Up to Professionalism?

In considering answers to the foregoing questions, I have posed those queries to real estate licensees involved in various licensed activities, consumers, family members, and colleagues. The responses I have gotten are numerous and include the notion that professionalism is:

1. A combination of appearance and attitude (or presenting oneself “professionally”), and excellent and reliable client service.
2. Understanding and following the important fiduciary duties imposed on real estate licensees (including placing the clients’ interests ahead of those of the licensees). Fiduciary duties impose the highest standard of care, and real estate agents must be committed to scrupulously fulfilling those obligations.
3. Being organized, disciplined, prepared, credible, trustworthy, honest, and respectful.
4. Being civil, kind, ethical and responsive (including communicating with clients and

parties on the other side) in business dealings.

5. Delivering consistently first-rate work and results.
6. Following the lawful instructions of clients.
7. Having the education, knowledge and experience necessary to achieve the results a client wants.

What I discovered in the answers offered by others, in reading commentaries about professionalism, and in gathering my thoughts for this message, is that professionalism is exceedingly difficult to define, but it certainly encompasses all of those factors above, as well as the qualities attached to trained, experienced, and skilled people, working at the level of excellence or competence that is expected of a professional in a given arena.

While it also necessarily includes a thorough and complete understanding of – and compliance with — the standards of ethics, I want to use Steve Brown’s salient ideas on professionalism (the need for and value of broker-based responsibility and efforts, and participation in training programs) as a jumping off point for the remainder of my message on what makes a real estate practitioner a professional.

Professionalism in Any Aspect of Licensed Real Estate Practice Requires that Practitioners Have Up-to-Date Knowledge, Skills, and Abilities — and Appropriate Preparation — Reasonably Necessary to Represent a Client Ethically and Well

While some can argue otherwise, my conclusion is that professionalism in performing real estate licensed services requires licensees to develop and have the current knowledge, skills and abilities (gained through education and/or practice and experi-

ence), and thoroughness and preparation (including organization and diligence), to well and ethically³ represent their clients.

Education, Training, Practice, Experience, and Mentoring Make Perfect

A real estate licensee’s education does not end with the passing of the real estate license examination. In fact, license examinations require minimum or “minimum-plus” competencies to practice. *Professionalism requires far more* in terms of education, training, actual practice, learning from other “professionals”, and germane experience, and the “more” can only be provided by those who have practiced, done the work, understand the work, and/or can educate others about the work. The “more” also includes staying current on the laws, regulations and rules of conduct applicable to licensed real estate practice codified in the State’s Real Estate Law, and making use of any pertinent resources provided by the California Bureau of Real Estate.

I would suggest that not many patients would go to a surgeon who only passed the medical boards (the minimum standards required for licensure), and who had no practical experience or mentoring. Rather, I would posit that patients go to a surgeon because of that doctor’s experience, skills, abilities, results, and reputation.

The same analysis is surely applicable to what makes a real estate licensee a professional. It is a combination of education, training, practice, experience and mentoring that helps to create a real estate professional in terms of customer care, positive outcomes, and qualitatively high client service.

These vital components of professionalism can be developed by and are found in:

1. Experiential learning

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Professionalism (Cont'd)

(learning from one's own experiences and the mistakes of others), and practice in the real world.

2. Careful and competent supervision of salespersons by experienced and "professional" real estate brokers.

3. Quality real estate education and study (including the study of applicable fiduciary duties, and ethical standards and canons), and "professional development" programs.

4. Mentoring, where a more experienced or seasoned real estate professional shares his or her time, skills, knowledge and wisdom with a newer or less experienced licensee in need of upbuilding and such mentoring.

5. Practical training programs on the "nuts-and-bolts" and the "how-tos" of the real

estate practice, and on managing a real estate business.

It is also important to note that real estate licensees – no matter their practice area – should always endeavor to recognize their own limitations as far as practice competencies, and refer clients where necessary, associate with practitioners with the requisite experience and abilities, or acquire the education and skills that are needed before performing real estate work.

The impartation and development of relevant and practical real estate knowledge and skills, together with ethical and high quality practice in full compliance with the fiduciary duties imposed by law, are the core foundations of professionalism. 

¹ The Realty Blue Book of California, page 315.

² Ibid., page 332.

³ Real estate professionals must always practice along the lines of the highest ethics possible.

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Season's Greetings (Cont'd)

On behalf of the Commissioners and the Commission staff, my best wishes to you and your families for a happy holiday season and a very successful 2016. We have appreciated the cooperation and input of the Nebraska REALTORS on various goals and policy issues this year, and we know that cooperation will continue in 2016.

Sincerely,
John A. Gale
Secretary of State



Happy New Year