

2016 Calendar

GREC Brokerage Course & Trust
Accounts Class Dates:

August 3-4 2016
Rabun County BOR
www.rcbor.org

October 26-27, 2016
Empire Board of Realist
<http://www.empireboard.com/>

Common Violations Class Dates:

August 3, 2016
Albany BOR
229-883-6664

August 18, 2016
Valdosta BOR
229-242-2085

[Link to GREC
Disciplinary Actions](#)
View Current
Suspensions and
Revocations

[Link to the Georgia
Real Estate License
Laws, Rules, and
Regulations](#)

[Link to
Proposed Rule
Changes](#)

Georgia Real Estate Infobase

[Click Here](#)



This Issue:

| | |
|---------------------------|-------|
| Confidential...Really? | P.1-2 |
| Disciplinary Actions June | P. 2 |
| Focus on Terminology | P. 2 |
| The Appraisers Page | P. 3 |

Confidential...Really?

The licensee is hired to assist the owner in following the client's instructions and objectives and must adjust the services he/she provides to meet the client's goals.

Some licensees are sending out broadcast emails advertising income properties with existing tenants, and noting in the email ***"This is confidential, do not notify employees"***. Really??? Another email flyer says ***"Confidential Offering..."*** Really???

Clearly, in this internet universe, the main purpose of putting something online is exposure. When advertising properties confidentially, consider the following:

- Obtain the seller's prior written permission before advertising.
- Obtain the seller's prior written permission for the specific advertising, especially if it involves confidential information, information he/she does not want the existing tenants to know, financial information that is proprietary, specific terms, etc.
- A common solution is to have the buyer or buyer representative sign a confidentiality agreement before the listing broker provides more specific information on the property.
- Limit the details included in the initial advertising: limit the property location; do not include photos or financial data so that interested prospects can request to receive more information after signing a confidentiality form.

...Continued on page 2

June 2016 Meeting - Commission Actions Taken

| | |
|--|------|
| Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing | None |
| Cease & Desist Orders Issued | 1 |
| Citations Issued | 2 |
| Letter of Findings Issued | None |
| Consent Orders Entered Into | 1 |
| Final Orders of Revocation Issued | 3 |
| Cases Closed for Insufficient Evidence or No Apparent Violation | 22 |
| Licensing Cases - Applicant has a Criminal Conviction - License Issued | 22 |
| Licensing Cases - Applicant has a Criminal Conviction - License Denied | None |
| Total | 51 |

[Click here to review a legend of the disciplinary actions the Commission may impose.](#)

Online Courses from GREC

**\$10 each
3 Hour CE
Course**

**Total of 9 Hours
CE Available**

(Also Approved as Instructor CE, not approved as License Law CE)

“Avoiding Trust Account Trouble”

“Practicing Real Estate & Staying Out of Trouble”

“Being a Broker and Staying Out of Trouble”

[Click Here](#)

To sign up to receive the GREC RENEWSletter
[Click Here](#)

SUBMIT

Comments & Suggestions

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

Confidential...Really?

Continued from page 1...

The licensee marketing income properties, existing businesses, or other properties that require confidentiality must customize the marketing strategy to accommodate the situation and be sure not to disclose anything that could harm the negotiations for the client. BRRETA discusses confidentiality as explained in the **Focus on Terminology** section below.

Letting existing tenants, business owners, etc. learn of an offer to sell or a pending sale by accident, such as a buyer touring the property without notice, can seriously damage the landlord's relationship with his/her tenants. Communication between the landlord and tenant is up to the landlord, but the licensee must be careful not to interfere with the landlord/owner's requirements by implementing poorly planned advertising techniques and boilerplate/pre-packaged marketing systems.

Real estate brokerage is a relationship business and consideration for the needs and protection of the client is inherently understood to be included in the services provided. The professional licensee will customize services to maintain and build a continuing relationship with the client.

Brokerage Engagements: How long does the obligation of confidentiality continue?

- ✓ Listings must have a definite date of expiration.
- ✓ Buyer engagements must have a definite date of expiration.

Otherwise, it is a violation of the License Law, Rules, and Regulations 43-40-25 Unfair Trade Practices as stated in “(18) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of said agreement with the principal.” <http://www.grec.state.ga.us/about/relaw.html>



Focus on Terminology: “Confidential”

The term **confidential** indicates a level of trust to withhold and not disclose certain information. The licensee must determine what information must be held in confidence, and when it can be disclosed. The broad dictionary definition is quoted below. Note the highlighted words referencing trust and unauthorized disclosure.

[Confidential | Definition of Confidential by Merriam-Webster](#)

“1: marked by intimacy or willingness to confide <a confidential tone> 2: private, secret <confidential information> 3: **entrusted with confidences** <a confidential clerk> 4: containing information whose **unauthorized disclosure** could be prejudicial to the national interest — compare secret, top secret.” www.merriam-webster.com/dictionary/confidential

The Brokerage Relationships in Real Estate Transactions ACT (BRRETA) discusses the disclosure of confidential information. BRRETA states the following...

“confidential information shall be deemed to be any information the disclosure of which has not been consented to by the client that could harm the negotiating position of the client.”

Once the terms of a brokerage engagement is fully performed, or it is terminated, withdrawn, expired, a broker has not other obligations to the client EXCEPT regarding maintaining confidentiality of information that was identified as confidential by an express request or instruction before the agency relationship was created. The broker and the broker's affiliated licensees must maintain that confidentiality UNLESS:

- (A) The client later permits the disclosure by word or conduct;
- (B) If the disclosure of the information is required by law; or
- (C) The information becomes public from a source other than the broker.

<http://www.grec.state.ga.us/about/relaw.html>



The Appraisers Page

Useful Links:

[GREAB Web Site](#)



[Appraisal Act](#)



[GREAB Disciplinary Sanctions](#)



Multiple offers, DOM less than a week and the property still doesn't appraise?

By: D. Scott Murphy, SRA

We are seeing multiple offers on homes in Metro Atlanta, many parts of Georgia and cities around the country. They are regular arm's length listings. Most are selling within days of being listed. I recently heard of a property which was listed on a Friday and by Sunday had 14 legitimate offers, all at or above the list price.

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

There is no question the market is growing in many areas, and we are seeing steady appreciation in value. Some of this, however, may be artificial as unrealistic sales prices are resulting from extremely competitive bidding. It's important that agents caution their clients when in these situations. Given these conditions, it may be necessary to call upon consultation from an unbiased, professional appraiser.

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

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

Appraisers have always been required to determine the direction of the market. In 2008, Fannie Mae introduced the form 1004MC, which assists appraisers in determining the state of the market. It analyzes comparable properties in the subject market area and displays the values in an easy-to-read table. The problem is that since its introduction, appraisers have argued about its proper use. One group says that it should consider all of the sales and listings in the appraiser's defined neighborhood, while others, including me, feel it should include only "comparable" properties in the subject neighborhood. The difference is that the first group will use sales in both the \$100k's and \$2M's in the same analysis. These properties are clearly not comparable, and while homes in the \$100k's may be appreciating, homes in the \$1M-\$2M range may be depreciating.

Regardless of which side of that argument you are on, the form and the required method of analysis are flawed.



The Appraisers Page

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB Disciplinary Sanctions](#)

Multiple offers, DOM less than a week and the property still doesn't appraise?

By: D. Scott Murphy, SRA

First, the form reports the *median* sales price. While this may be the more preferable method by statisticians, it can give an inadequate view of the true direction of values in the area. Another unintended consequence and unavoidable pitfall is that the form does not truly analyze market value; it analyzes sales price.

Let's take four homes in a given subdivision. All are the same model, same square footage, same lot size, same age; the only difference is condition and maintenance. Let's say that two are in very good condition and sold three months ago. The other two are in average condition with no recent improvements – clearly inferior in condition and overall market value. It comes as no surprise that they sell \$20,000 lower than the two homes in better condition. They sold just 30 days ago. By using Fannie Mae's form, the appraiser is forced to conclude that the market is declining, as sales prices have dropped \$20,000 over the past three months. However, let's say that the appraiser was able to prove that the two homes in better condition required an adjustment of \$40,000 compared to the two properties in inferior condition. Then, the adjusted "values" of the two recent comparables would actually be \$20,000 higher than the older sales; therefore, the market would actually be improving and values are appreciating, despite what the 1004MC Form is incorrectly concluding.

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

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