

WORDS
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2017Calendar
Common Violations
Class Dates:

- August 29, 2017
Columbus BOR
Columbus, GA
706-323-1701
- September 21, 2017
Albany BOR
Albany, GA
229-883-6664
- August 29, 2017
Central GA BOR
Warner Robins, GA
478-922-0099
- September 21, 2017
Albany BOR
Albany, GA
229-883-6664

Words Can Be Misleading

Words can definitely be misleading. The Georgia License Law, Rules, and Regulations are quite clear regarding advertising inaccurate or misleading information. It is an unfair trade practice and a violation of the License Law, Rules, and Regulations in addition to being unethical and confusing to clients and customers and the general public to use words or phrases that are misleading. The following words and phrases are often used in the practice of real estate brokerage and care must be taken to use them appropriately as the examples demonstrate.

Under Contract, Pending, Sold, Closed

If a sign is posted on the property stating “under contract” or “pending”, it is understood that a signed contract has conditions that are not yet satisfied and is not yet gone to closing. If the sign states “sold” it is understood that the property has “closed” meaning the funds have been paid to the seller and the title was transferred to the buyer. Any signage or advertising must only be posted in accordance with the situation. Per Rule 43-40-25 (11) any sign placed on the property must be removed no later than 10 days after the expiration of the listing.

Net to the Seller

Net is a term often used by sellers stating that he/she wants to receive sale proceeds no less than a certain amount, and the broker could receive any excess over that amount. It is a violation to take a Net listing, so the licensee must convert the listing price to a firm number or one that can be calculated without dispute. The commission must also be clearly defined. The formula to convert a net listing to an acceptable one can be determined by taking the price the seller wants to net and divide it by 1.0 minus the negotiated commission amount. Example: the commission is agreed to be 8% and the seller wants to net \$600,000. $\$600,000 / .92 = \$652,179.91$. It is critical to explain to the seller that there will be other costs involved in the sale of the property such as prorated taxes, legal fees, survey, etc. Net can also refer to a type of lease where the landlord/owner wants to receive rental that is net of expenses, ...Continued on page 2

July 2017 Meeting - Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	3
Cease & Desist Orders Issued	1
Citations Issued	8
Letter of Findings Issued	1
Consent Orders Entered Into	2
Final Orders of Revocation of Licensure	2
Cases Closed for Insufficient Evidence or No Apparent Violation	26
Licensing Cases - Applicant has a Criminal Conviction - License Issued	5
Licensing Cases - Applicant has a Criminal Conviction - License Denied	1
Total	49

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

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

[Link to Proposed Rule Changes](#)

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&
Suggestions**

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**Georgia Real Estate
Commission**

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International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916

Words Can Be Misleading

meaning the tenant pays the expenses of the property as defined in the lease agreement.

Listed, Just Listed, For Sale

If a property is subject to a signed listing contract, it is considered listed, perhaps recently just listed. If there is not a written listing agreement including written permission to advertise the property, it is not a listing. In fact, most listing services have very specific policies that require the listing agreement to be in the form of an Exclusive Right to Sell Listing in order to be eligible to be posted in the service. It is important to check the Terms of Agreement for the specific listing service being used.

Exclusive, Exclusive Agency, Listing

Most brokers insist that the firm listings be Exclusive Right to Sell listings which provide the most protection for the broker and the firm. The Exclusive Agency listing allows the owner to market and sell the property while the broker also markets the property, so the broker runs the risk of not being entitled to a commission if the seller sells the property. However, these types of listings can be negotiated offering other alternatives. When a sign on a property says “Exclusive” what does it mean?...probably an Exclusive Right to Sell, but maybe not? As stated before, the terms of the listing service should be verified before posting the advertisement.

Profit, Guaranteed Profit

It is an unfair trade practice to “guarantee a profit.” In fact, the term profit can be interpreted by different means based on the financial circumstances and the assumptions made in the calculation. It is best that a licensee does not calculate profit numbers for a client, but refer that analysis to an expert in financial matters.

Real estate licensees are held to a higher standard and are considered trained professionals in real estate matters. The public relies on information presented by licensees, therefore it is critical to be as clear and accurate as possible in all real estate brokerage practices activities.

Some of the unfair trade practices applicable to this article are listed below. To review the UTP in the Georgia License Law, Rules, and Regulations [Click O.C.G.A. 43-40-25 \(b\)](#).

(b) Licensees shall not engage in any of the following unfair trade practices:

(2) Intentionally advertising material which is misleading or inaccurate or which in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(21) Making any substantial misrepresentations;

(28) Being or becoming a party to any falsification of any portion of any contract or other document involved in any real estate transaction;

(11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or the owner's authorized agent and failing to remove such sign within ten days after the expiration of listing...



Focus: “Unfair Trade Practices”

[Webster's Dictionary](#) provides a “Legal Definition of unfair trade practice as: any of various deceptive, fraudulent, or otherwise injurious (as to a consumer) practices or acts that are declared unlawful by statute (as a consumer protection act) or recognized as actionable at common law.”

Unfair trade practices include unethical or deceptive methods to obtain business. An example would be a condition placed on a listing, such as providing a comparable sales report or opinion of value only if the consumer lists with the agent providing the information. Specific unfair trade practices are stipulated in the Rules and Regulations of the License Law. A violation of any of these practices can result in a citation, fines, suspension, required educational training, or other disciplinary actions imposed by the Georgia Real Estate Commission. [See O.C.G.A. 43-40-25 \(b\)](#).



The Appraisers Page

Georgia Real Estate Appraisers Board

August 2017

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB
Disciplinary
Sanctions](#)

What influences a real estate appraisal?

By: D. Scott Murphy, SRA & E. Grant Murphy

Last month I posted an article about radon. I had some feedback questioning “what does radon have to do with appraising?”. So, I thought this month I would discuss the various things that impact an appraisal of real estate. The short answer is everything, or at least everything a typical buyer would consider when buying the subject property.

It is imperative to remember that an appraiser is to be an outside observer. We don't determine market value, we interpret market value. An appraiser closely analyzes the actions of buyers and sellers, verifies the data related to the property to be appraised and the comparables to be considered and then renders an unbiased opinion of market value.

I think there is a misconception that appraisers only consider a limited number of factors when valuing a piece of property or that it is the square footage of the property times the price per square foot. I wish it were that simple. Unfortunately, residential appraisals are completed on standardized forms which only display ten

or twelve lines of information for the subject and the comparables. In our appraisal software those lines are each broken out into two to four additional lines for further analysis of key factors. Beyond that, the appraiser must take any additional factors into consideration and combine those adjustments with a similar factor or use one of the blank lines at the bottom of the sales comparison grid. For instance, topography is very important and can have a big impact on the value of the site. There is not a line for topography so it must be considered with the overall site value. Landscaping also impacts the site value and would be considered with the overall site value as well.

Land value is a very important part of the appraisal process. The appraiser needs to complete what essentially amounts to a separate land appraisal with every appraisal of an improved property. We seek out comparable land sales, make adjustments and offer our opinion of the value of the subject site. All too often I see appraisers not giving proper consideration to the overall value of the subject site. This is reflected in the cost approach, where we report the value of the subject site, as well as the sales comparison approach where we adjusted the value of the subject site against that of the comparables. Take a look at an appraisal report and see if proper consideration was given to the variance in value between the subject and the comparable site. If the subject site is say 0.25 acre and the comparables range from 0.20 acre to 0.30 acre then there may not be a discernable difference in value. But if one comparable is 0.16 acre and another is 0.75 acre, more than likely a typical buy will pay more of less for those comparables. I see a lot of appraisers taking the cop-out and stating the one subdivision lot is not different in value than another subdivision lot – this simply is not true. Every new subdivision has a list of premiums for the lots and every lot value is different.

Another factor that influences market value in an appraisal is condition. Every home is slightly different in condition than the next. It is impossible for the appraiser to physically inspect each comparable but we do spend considerable time looking at the photos and weighing the condition of one property against the next. The challenge is that one property may have a new kitchen but original baths, another new baths and new appliances in the kitchen but original countertops, another new paint throughout but soiled carpets. It gets really complicated! We often revisit the condition adjustment when we have completed the rest of the report

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in an effort to explain wide gaps in value. Professional photos versus iPhone photos shot at night make a bit of a difference.

Quality is another complicated factor to properly compensate for. Are granite countertops a quality item or a condition item – listing says “brand new granite countertops”. The granite countertop itself is a quality item but if its new that could be a condition item as well – as opposed to older worn or damaged granite countertops. Ceiling heights, extents of molding and trim, hardwood floors, tile or marble in baths are all other items to be considered under quality. How about a house, which has tumbled marble floors throughout the entire house? Tumbled marble is certainly higher quality to carpet in the bedrooms but is there a marketability issue? Would marble floors throughout appeal to the typical buyer in your market? If we were in Florida the answer might be yes.

How about maintenance items like roofs, HVAC, hot water heaters, etc? These are items, which are to be updated, repaired and replaced on a regular basis. Every

house comes with a roof, HVAC system and hot water heater. All are presumably in good working order, or will be based on inspection. Buyers don't really care so much. Clear your mind of any preconceived idea of the answer to the question and put yourself in the shoes of a typical buyer. You are shown 5 homes in a given day and they all have roofs which appear to be in reasonably good condition, one is 1 year old and the rest are 15-18 years old, is there any impact on value? Now factor in the condition of the kitchen, baths, carpets, flooring, interior/exterior paint, etc. Maintenance items fall towards the bottom of the list. You certainly need to maintain your home and repair or replace these items when necessary, but if you were planning to put your house on the market and had \$20,000 to spend getting the house ready I would not recommend investing in any of these items if yours are in normal working condition.

Well I already hinted at it: kitchens and baths seem to have some of the biggest impact on market value. It's important to be abreast of current trends in color and material. Preview other homes for sale in your market, particularly new construction and see what everyone is doing. Adapt what you can and try to make improvements which will appeal to the largest buyer pool. Also, consider the typical demographic for your area; does your home appeal to the millennial, young family buyer or empty nester? Each may sway your decision in a slightly different direction. Remember, cost does not equal value. Make wise choices and do not overspend. When remodeling a kitchen, I would make one set of choices for a \$200,000 home and a completely different set of choices for a \$1,000,000 home.

I could go on outlining dozens of other features we consider. Even smell can impact market value. Just remember, if it makes a difference to a typical buyer it should make a difference to the appraiser. You may not see that item detailed in the sales comparison approach but it should be given weight somewhere in the overall value.

I welcome your comments and feedback. If you have an idea for a topic you'd like covered, suggest it to me!

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