2005 Dates to Note

- **November 17-18**
  Georgia Instructor Training Workshop (GIT) Metro South Assoc. of Realtors (770-477-7579) (Registration Closed)
- **November 18**
  Trust Account Class
  North East Atlanta Metro Association of REALTORS (800) 633-3583
- **December 8, 2005**
  Trust Account Class
  Central Georgia Board of REALTORS (478) 922-0099
- **December 1-2**
  GREC Annual Schools Meeting

Checklist for Licensees Acting as a Principal in a Real Estate Transaction

Understanding the value and durability of real estate as an asset is part of the real estate brokerage business. Many Licensees take advantage of their knowledge and training in order to invest in real property themselves. A Licensee is considered an expert in the field of real estate and is held to a higher standard than the average consumer when dealing in real estate transactions. For example, a Licensee is prohibited from acting “in the dual capacity of agent and undisclosed principal in any transaction” O.C.G.A. 43-40-25 (b)(9).

Therefore, the Licensee must fully disclose his/her licensure and must fully comply with all License Laws and rules when dealing in their own real estate.

Brokers should make a checklist of procedures for their affiliated Licensees who act as principals in a real estate transaction to follow. The checklist should begin with the following:

When selling real estate that **is** under a brokerage engagement: (e.g. listing)

- Advertisements cannot be in the Licensee’s own name.
- Advertisements must be in the name of the broker/firm holding the Licensee’s license.
- Licensure must be disclosed in any contract or other documents.

Whether the property **is or is not** under a brokerage engagement:

- The Licensee’s broker must be advised in writing of the specific property to be advertised.
- The Licensee’s broker must give written consent to any advertising of the Licensee’s own property.
- The advertising must be clear that the party advertising holds a real estate license.

Monies coming into the Licensee’s possession (Earnest Money, Deposits, OPM) must be placed in the Broker’s Trust Account or one approved by the Broker and Registered with the Commission.

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Disclosure of License Numbers

Remember to include the following information in all brokerage engagements, offers to purchase, sell, lease, or exchange real property:

- The 6-digit license number issued by the Commission of each firm participating in the transaction
- The 6-digit license number issued by the Commission of each licensee participating in the transaction

- Rule 520-1.10 Handling Real Estate Transactions Amended January 2005
Checklist for Licensees Acting as a Principal in a Real Estate Transaction

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Specific Violations in reference to Licensees acting as principals are listed as unfair trade practices in O.C.G.A. 43-40-25 and include, but are not limited to, the following:

(b)(4) “Commingling money of the Licensee’s principals with the Licensee’s own money.”
(b)(3) “Failing to account for and remit any money coming into the Licensee’s possession which belongs to others.”

Compliance with the License Law is imperative. Yet, it is also to the Licensee’s best interest to address the handling of trust funds and disclosure issues in order to deal with the public ethically and fairly.

Remember that these rules apply to the Inactive Licensee as well as the Active Licensee. Sanctions that the Commission may impose against a Licensee acting as an agent may also be imposed if the Licensee is acting as a principal or an officer, employee, or member of any entity acting as a principal in a real estate transaction. O.C.G.A. 43-40-25.43(d)

Focus on Terminology: “Impact fees”

Impact fees are fees to be charged objectively based on the specific impact a development will have on specific public services. Impact fees are intended to give local governments the ability to provide and maintain certain public services at a level necessary to support current and future growth requirements. Counties and local governments usually charge these fees, but they can also be imposed by state government. In Georgia, DIFA (Development Impact Fee Act) empowered local governments to design and impose their own impact fees. The basis of charging impact fees is predicated upon the theory that the new development should pay a fee based upon the impact that development will have on the existing services it will be using.

Review and Reminder

BRRETA can be used as a blueprint for developing a brokerage engagement and maintaining that agency relationship in a professional manner. BRRETA lists the Duties and Obligations expected of licensees in various agency relationships.

10-6A-5. (a) A broker engaged by a seller ...
10-6A-6. (a) A broker engaged by a landlord ...
10-6A-7. (a) A broker engaged by a buyer ...
10-6A-8. (a) A broker engaged by a tenant ...
10-6A-10. All brokerage engagements must...
10-6A-12. (a) A broker may act as a dual agent only ...
10-6A-13. (a) A broker may assign …designated agents...
10-6A-14. (a) A broker acting as a transaction broker...

Click here to Print or Review BRRETA