

2016 Calendar

GREC Brokerage Course & Trust Accounts Class Dates:

March 30-31, 2016
Bartow Area BOR
www.bartowrealtors.com

April 27-28, 2016
Central Georgia BOR
www.centralgairealtors.com

Common Violations Class Dates:

- April 21, 2016
Columbus BOR
706-323-1701
- May 19, 2016
Warner Robbins, GA
478-922-0099

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

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

Georgia Real Estate Infobase

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Trust Account Requirements for Non-Broker Licensee Owned Property

If a non-broker licensee (Associate Broker, Salesperson, or Community Association Manager) owns real property as defined below, his or her broker under certain circumstances can allow the non-broker licensee to open a trust/real estate escrow account to handle trust funds received on that property.

The Georgia Real Estate Commission considers a property owned by a non-broker licensee if the deed for the property reflects either of the following:

- only the name of the non-broker licensee or
- only the name of a business entity of which the non-broker licensee is the sole owner, member, or stockholder.

In sum, the non-broker licensee must own 100% of the property.

If the non-broker licensee meets these conditions and the broker allows, regular accounting reports must be given to the broker and the trust account opened must meet the requirements stipulated in [Rule 520-1-.08 Managing Trust Accounts and Trust Funds](#).

In addition, the broker must assure that the bank has designated the non-broker licensee's account as a trust account and notify the Commission of the name of the bank, the number of the account and the name of the non-broker licensee who owns the account.

Whenever a non-broker licensee:

- owns **any** interest in a property that is less than 100% and
- receives any trust funds on such property

The non-broker licensee must deposit those trust funds into a trust account of a firm licensed by the Georgia Real Estate Commission and a non-broker licensee trust account is not permitted.



If a licensee owns all or part – trust funds must still be placed in a designated trust account.

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

Do You Know Who You Are Dealing With?

Sometimes a little research can give insight into the experience and even the motivations of the parties involved in a real estate transaction. For example, if a buyer of commercial property makes an offer and is somewhat vague about the intended use of the property, a quick search on the [Secretary of State](#) website may provide information on the names of the officers of a corporation who may be linked to other known interests or perhaps other information that leads to the real purpose of the purchase.

Most sellers and licensees like to know who they are really dealing with in a transaction. Using a straw purchaser is allowed in Georgia, but the mystery may be solved with a little research. For example, some large commercial retailers purchase properties through different companies so that their (well known) identity is not known during the negotiations for fear that they will be charged a higher purchase price. It may be helpful to the licensee to become familiar with the search tools available on the Corporations Division of the [Secretary of State](#) website at <https://ecorp.sos.ga.gov/BusinessSearch>.

By performing a quick business search, the following information can be revealed...and perhaps enlightening.

1. Business information such as the name of the entity and mailing address.
2. Status as to currency in filing showing the number of years of filing indicating the longevity of the corporation.
3. Registered Agent on file and the mailing address.
4. Information on the corporate officers including names, titles and mailing addresses.
5. Business formation date the entity was created and a scan of the original filing papers

The corporation search service is free and accessible on the Georgia Secretary of State site. <https://ecorp.sos.ga.gov/BusinessSearch>



Focus on Terminology: Corporation, Business, Company, Firm

The following definition is quoted from the Georgia Code § 43-40-1. Definitions (4.4) "**Firm**" means any business entity, including, but not limited to, a corporation, partnership, limited liability company, or sole proprietorship.

The following definition is quoted from the Georgia License Law, Rules, and Regulations 520-1-.02 Definitions

(k) "**Firm**" means a sole proprietorship, partnership, limited liability company, or corporation licensed by the Commission as a broker;

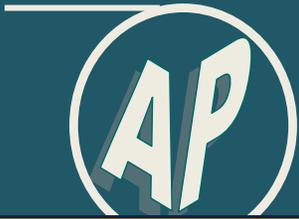
From a practical perspective, in common real estate brokerage the firm is considered the broker. Each firm must submit an application to the Georgia Real Estate Commission to obtain a firm license and meet all renewal requirements.

It is easy to understand why the following terms are used interchangeably in common conversation. (*Merriam-Webster* provides some simple definitions that are useful in understanding the relationship and distinction of different terms: <http://www.merriam-webster.com/dictionary/corporation>)

Business: a purposeful activity, [such as] the activity of making, buying, or selling goods or providing services in exchange for money.

Company: a business organization that makes, buys, or sells goods or provides services in exchange for money.

Corporation: a large business or organization that under the law has the rights and duties of an individual and follows a specific purpose.



The Appraisers Page

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB Disciplinary Sanctions](#)

Fannie Mae FAQs

By: D. Scott Murphy, SRA

Many of the questions I receive are related to lender or Fannie Mae requirements, as opposed to overall appraisal rules. Appraisers are required to follow USPAP (Uniform Standards of Professional Appraisal Practice) when completing any appraisal but there are added required guidelines for appraisals done for Fannie Mae loans. Keep in mind as you read these and as other questions regarding Fannie Mae arise, the “rules” you may often hear about are not requirements but guidelines. It is very rare for an appraiser to complete an appraisal report which does not violate at least one guideline. All that is required is that the appraiser provide adequate support or commentary as to why he deviated from the guideline.

This month and next month I thought I would take some FAQ’s directly from the most recent Fannie Mae directive, 02/12/2016. I will give you the question, Fannie’s Mae’s answer and then in italics my perspective or some additional information where necessary.

Why does Fannie Mae require the lender to provide the sales contract to the appraiser?

Fannie Mae’s policy is intended to help ensure that the appraiser is aware of all relevant aspects of the transaction. The sales contract provides important sales and financing data, including whether there are any concessions as part of the transaction. If the contract is amended, the lender must provide the updated contract to the

appraiser to ensure that the appraiser has been given the opportunity to consider any changes and their effect on value. If the appraiser determines that there is no impact to value, then no additional commentary is required from the appraiser.

While the majority of the time the subject property is being sold as-is, there are situations where repairs are being done, carpet is being replaced, painting has been agreed upon – items the appraiser may not be aware of which may have an impact on market value.

Is there a required number of comparables that must be of similar design or appeal as the unique or non-traditional home that is being appraised?

No. There is no requirement that one or more of the comparables be of the same design and appeal as the property that is being appraised. However, appraisal accuracy is enhanced by the use of comparables that are the most similar in design and appeal.

I get this question a lot regarding log homes. While it is good appraisal practice to include at least one log home comparable, Fannie Mae does not specifically require it.

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What type of properties are to be analyzed for the data reported in the One-Unit Housing Trends portion of the Neighborhood section of the appraisal report form?

The data regarding trends to be reported in the One-Unit Housing Trends section must be reflective of those properties deemed to be competitive to the property being appraised. Additional commentary should be provided on the other segment(s) of the neighborhood when segmentation is present to aid in understanding the overall neighborhood dynamics.

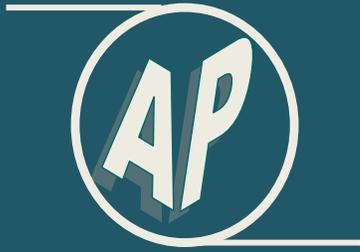
Are the trends that are reported on the Market Conditions Addendum to the Appraisal Report (Form 1004MC) the same trends that are to be reported in the One-Unit Housing Trends section of the appraisal report (Form 1004)?

Yes. The conclusions regarding trends that are obtained from the Form 1004MC must be the same trends reported in the Neighborhood trends section of the Form 1004. The information reported on both forms must be consistent to provide the lender with a clear and accurate understanding of the market trends and conditions present in the subject neighborhood, based on properties that are considered competitive with the subject being appraised.

This question and the one before may be slightly over most agent's heads. I included them because in most appraisals I review, the appraiser does this very important analysis incorrectly and this can have a significant impact on the results of the appraisal. We all understand the concept of appreciation and depreciation. Values are constantly increasing and decreasing, depending on supply & demand, interest rates, the overall economy, foreign economies, etc. Appraisers use a form called the Market Conditions Addendum (Fannie Mae form 1004MC) in order to determine market trends. The appraisal process is inherently flawed in that it primarily focuses on closed sales – things that have happened in the past. The only way for an appraiser to accurately value the subject property in "real-time" is to analyze current sales and listing data in order to determine the current rate of appreciation or depreciation. This is done by properly extracting data from the multiple listing service and populating the 1004MC form.

What these two questions are specifically relating to and the problem that I see in most appraisals, is that the appraiser is not using the correct data set. Is it not true that in a given area, say an elementary school district, that there is most often a large range in property values. Is it also not true that the values of say homes in the \$200,000-300,000 many change at a rate significantly different than that of homes in the \$1,000,000-1,500,000 range? Absolutely, one could be increasing and the other decreasing. So if you were going to try and calculate the rate of change in value, would you not want to separate the data and consider only data from COMPARABLE properties? Of course so, but nine out of ten times I see appraisers taking ALL the sales and listing data in a given area when doing these calculations. Fannie Mae wants the appraiser to report the trends for only the COMPARABLE properties in the neighborhood section, top of page 2 and the 1004MC addendum. All three areas of the report must match and all must be based only on comparable properties.

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Georgia Real Estate Appraisers Board

March 2016

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By: D. Scott Murphy, SRA

If the appraiser does not use the correct data set, he will calculate the rate of appreciation/depreciation incorrectly, which will result in an incorrect estimate of market value.

What is expected with regard to the appraiser's inspection of a property?

Fannie Mae requires that the appraiser conduct a complete visual inspection of the accessible areas of the interior and exterior of the property. The appraiser is responsible for noting in his/her report any adverse conditions (such as, but not limited to, needed repairs; deterioration; or the presence of hazardous wastes, toxic substances, or adverse environmental conditions) that were apparent during the inspection of the property or that he/she became aware of during the research involved in performing the appraisal. The appraiser is expected to consider and describe the overall condition and quality of the property and identify items that require immediate repair as well as items where maintenance may have been deferred and which may not require immediate repair. On the other hand, an appraiser is not responsible for hidden or unapparent conditions. In addition, Fannie Mae does not consider the appraiser to be an expert in all fields, such as environmental hazards. In situations where an adverse property condition may be observed by the appraiser but the appraiser is not qualified to decide whether that condition requires immediate repair (such as the presence of mold, an active roof leak, settlement in the foundation, etc.), the property must be appraised subject to an

inspection by a qualified professional. In such cases, the lender may need to ask the appraiser to update his or her appraisal based on the results of the inspection, in which case the appraiser would incorporate the results of the inspection and measure the impact, if any, on his or her final opinion of market value.

There is a distinction here between items which require immediate repair and items where maintenance may have been deferred which may not require immediate repair. For example, if there is a hole in the roof – that must be repaired regardless of how the contract is written. However, soiled carpet, peeling paint (to the extent that the siding is still adequate protected), and moderate dry rot commonly found around the base of exterior doors are examples of deferred maintenance which will be considered in the value but are not required by the appraiser to be repaired (unless stipulated in the contract).

I welcome your comments and feedback. Please send me ideas for future articles.

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