



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



HOW DO YOU MEASURE UP?

There may be no better way to “blow up” a real estate transaction than for a licensee to be inaccurate in stating the square footage of the living area in a residence. Complaint files have grown in recent years with allegations that the licensee inaccurately reported square footage totals on multiple listing sheets, in ads and within other advertising materials. Most square footage errors are not the result of an agent’s desire to be untruthful; they occur because agents do not know how to take measurements and do the calculations.

Regardless of the circumstances, miss the square footage, and you will have a disgruntled seller who rightfully comes to believe you are incompetent. The buyer becomes furious and decides he/she is being cheated. This will likely result in formal complaints (and perhaps even legal action) against you.

THIS ISSUE

Chairman's
Corner

Investigator's
Desk

Knowing Your
License Number

A License
Revocation

Test your house-measuring skills by making sure you know the answers to the following questions:

[Do you measure inside or outside dimensions?]

How do you measure 2nd floor lofts?

[Is a heated and cooled craft room accessed through the garage part of living area?]

How is wall depth calculated when measuring inside dimensions?

[Am I safe by using information from the parish tax collector?]

Should I use original blueprints to calculate area?

[How “finished” must a room be to qualify as living area?]

Do bay windows add additional square feet to the living area?

[What wall height factors should be considered?]

Am I safe to take the seller’s word for total footage?

[When can I “clone” measurements from a previous listing?]

If you have any doubts in answering the above questions, you may save yourself a lot of heartache, time and money by brushing up on your house measuring skills. The American National Standards Institute (ANSI) publishes guidelines used by most appraisers in defining what is and is not living area, and how to properly measure a property. When in doubt, follow the ANSI standards and both the consumer and you will be protected!

- Tim Flavin



KNOW YOUR NUMBER

MANY ISSUES DEVELOP FROM
LICENSEES NOT KNOWING THEIR
LICENSE NUMBER

The LREC receives many forms/request/communications in which a licensee's real estate license number is referenced when in fact the number is wrong. The LREC issued new numbers to all licensees in 2007.

**Not Your Social
Security Number**

**Not Your REALTOR®
Number**

**Not Your 2007
Assigned LREC
Number**

Check to see if you really know your real estate license number. Look at your 2012 wallet card or search yourself on the Commission web site. Knowing the correct license number is very important for proper continuing education credit and for other licensing functions when dealing with the LREC.

- Mark Gremillion

Investigator's Desk

June Citations

The Investigation Division issued 35 advertising citations in the month of June. The following list details the citations that were issued (most citations were issued with multiple violations):

12

2501.D - Failure to Advertise as Licensed Name or Brokerage

11

2501.F - Failure to have Broker's Name/Phone No. in Advertisement

3

2501.G.3 - Team Advertisement

2

2507 - Failure to Indicate Dates in Printed Advertisement

10

2509 - Advertising Violations by Franchises

12

2515 - Failure to Include Data in Internet Advertisement

16

2515.B/C.3 - No City, State, Country in Website Advertisement

10

2515.B/C.4 - No Jurisdiction Shown in Website Advertisement

Before advertising in print or online, licensees should view the advertising check list located on the Commission's website.

- Robert Maynor



Records Inspections

Throughout the course of a year, the Investigation Division conducts numerous records inspections. While most records inspections are conducted in conjunction with an active investigation, the Commission, under the authority of R.S. 37:1435.D., may inspect a broker's records during normal business hours (Monday - Friday from 9:30am to 4:30pm).

Often, the Investigation Division will conduct a records inspection on recently licensed brokers. This inspection is generally scheduled to verify the broker has set up the proper escrow accounts and is retaining the proper documentation in his or her files. Records inspections are also a good time for brokers to ask any questions they may have.

When an inspection is conducted at a broker's office the following documents are examined by an investigator:

Closed sales files for the last 6-12 months

Pending sales files (Listing and Selling)

Listing agreements on properties that did not sell and purchase agreements on properties that did not close

12 months of bank statements for the Sales Escrow Account (if applicable, also the Rental Trust Account and Security Deposit Account)

12 months of deposit slips for the Sales Escrow Account (if applicable the Rental Trust Account and Security Deposit Account)

Copy of the escrow deposit check (from buyer to broker)/Copy of the escrow disbursement check (broker to buyer/seller/closing attorney)

Copies of current printed advertising for the brokerage and licensees under the brokerage

Property management files if the broker manages property

An investigator is looking for the following information when they review a real estate file:

Does the file contain the current mandatory purchase agreement and the current property condition disclosure form?

Does the licensee properly annotate when the offer was delivered to the listing agent?

Does the licensee properly annotate when the offer was present to the seller?

Does the licensee provide rejected offers to the selling or listing broker?

Is the licensee marking through portions of the mandatory form?

If a licensee is acting in the capacity of dual agent, do they have Consent To Dual Agency Form signed by both parties?

Does the licensee have the owner's authorization in writing to list and sell the property (for listing brokers)?

Does the contract state there is a deposit check? If so, what party is holding it and did that party receive a deposit check?

Are the broker's Sales Escrow Account, Rental Trust Account, and Security Deposit Account titled properly and are they non-interest bearing?

Did the broker properly disburse the escrow deposit? If there was a dispute, were the parties properly notified?

The Investigation Division has the authority to issue citations during a records inspection. Please remember that it is important that all files are documented properly.

- Robert Maynor

Case Study

UNLICENSED PROPERTY MANAGEMENT

Property management issues continue to be at the forefront of investigations conducted by the Louisiana Real Estate Commission. The following is a short summary of a formal investigation that resulted in sanctions against this qualifying broker and his sponsored licensee:

For a year, an individual conducted property management activities without a real estate license. She then determined that she needed to obtain a real estate license in order to operate legally. Upon receiving her license, she explained to her broker that she had an ongoing company that managed several properties. The broker and his agent consulted with an attorney who (incorrectly) advised them to execute a contract that allowed the agent to continue functioning as a property manager under a separate, unlicensed entity. The contract directed the agent to pay a portion of the unlicensed company's profits to her broker.

The matter was referred for adjudication. The broker was charged with violations as he had knowingly allowed a sponsored licensee to violate the licensing law (LSA-R.S. 37: 1455. A. (19) and had knowingly permitted a sponsored licensee to operate as a broker (LSA-R.S. 37: 1455. A. (20). His license was censured, and he was fined \$500.

The sponsored licensee was also charged

with violations as she failed to place funds received in a real estate transaction into the custody of her licensed broker (LSA-R.S. 37:1455.A.(17) and because she conducted real estate activity without a license (LSA-R.S. 37:1436. B). Her license was censured, and she was fined \$800.

Some agents look to property management as an alternative source of income. However, it still requires a license, and all those activities must be done under the broker holding the agent's license.

- Marsha Stafford

Informal Adjudication: REVOCATION

At an informal hearing held June 7, 2012 the Inactive Broker's license issued to Latasha H. Fields was revoked for collecting rental payments as an active licensee and failing to place these funds into the custody of her sponsoring broker, in violation of LSA-R.S. 37: 1455.A. (17); for failing to disclose her status as a licensee in writing to all other principals in a real estate transaction, in violation of Section 3501. A of the Rules and Regulations of the Commission and LSA-R.S. 1455. A. (2); and for advertising real estate services as a property manager, negotiating management agreements and rental agreements, and collecting rental payments on behalf of owners for a fee or commission while her license was inactive, in violation of LSA – R. S. 37: 1437. 3. C. and LSA-R. S. 1455. A. (1).

The Stipulations and Consent Order was approved by the Commission on June 21, 2012 at the regular business meeting.

- Marsha Stafford



thank you

A LETTER FROM THE EDITOR

Hello Louisiana!

I wanted to take a moment to say thank you to all those who responded to last month's survey concerning this publication. Here at the Commission, we are working diligently to ensure the communication materials we send out are streamlined, informative and easy to navigate. We are taking your comments seriously, and I'd like to highlight a few of the changes we have made this issue:

You'll notice that the articles stay on the same page, so there's no scrolling down to find

the remainder of an article. Chairman's Corner, for example, is contained on the first page.

Also, we've added a case study section. This section involves past cases that the LREC's Investigation Division has handled, and it explains how the cases were handled. Hopefully, this information will educate licensees further about what we do, and what kinds of violations we see at the Commission.

If you have any other questions, concerns or comments, feel free to email me at lpatin@lrec.state.la.us. As always, we're listening!

- Les Patin

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