



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



RANKS OF NEW LICENSEES ON THE REBOUND?

In what we all hope is a positive harbinger of things to come, the number of fresh, new licensees is on the rise in 2012. From the heady days of 2007, when over 2,400 individuals embarked on their real estate careers, the number of new licensees steadily declined to roughly half that number in 2011.

No matter what business or profession one might look at, a 50 percent decline in four years in the number of people entering the field is not good news. With the steady diet of negative economic news regarding jobs, declining home values, tight mortgage markets, foreclosures, etc., perhaps we should be surprised that any brave soul would think it a great idea to commit themselves to the

real estate industry.

Times may be changing. For the first time since 2007, LREC is now seeing an increase in new licensees through July 2012, as compared to the same period last year. Through July 2011, a total of 705 new licensees were registered, while through July of this year LREC has issued 850 new licenses. A whopping 21 percent more people decided it is now a good time to start their real estate career.

To be sure, many challenges remain ahead as our industry continues to deal with foreclosures,

21 PERCENT MORE INDIVIDUALS HAVE CHOSEN 2012 AS THE YEAR TO INVEST THEIR MONEY AND TIME IN OUR PROFESSION

short sales, and tight mortgage markets. There are still pockets in Louisiana lagging behind areas that have stabilized, and even a few hot spots where demand is now outstripping supply.

Whatever the immediate future holds for our Louisiana Real Estate industry, we can say for certain that 21 percent more individuals have chosen 2012 as the year to invest their money and time in our profession. Seems to me, this type of commitment is a better indicator of renewed enthusiasm for real estate growth than the naysayers we sometimes hear around the water cooler. Is it time for you to see the real estate glass half full vs. half empty? Here's to a solid rebound for the rest of 2012!

- Tim Flavin

THIS ISSUE

Chairman's Corner

Investigator's Desk

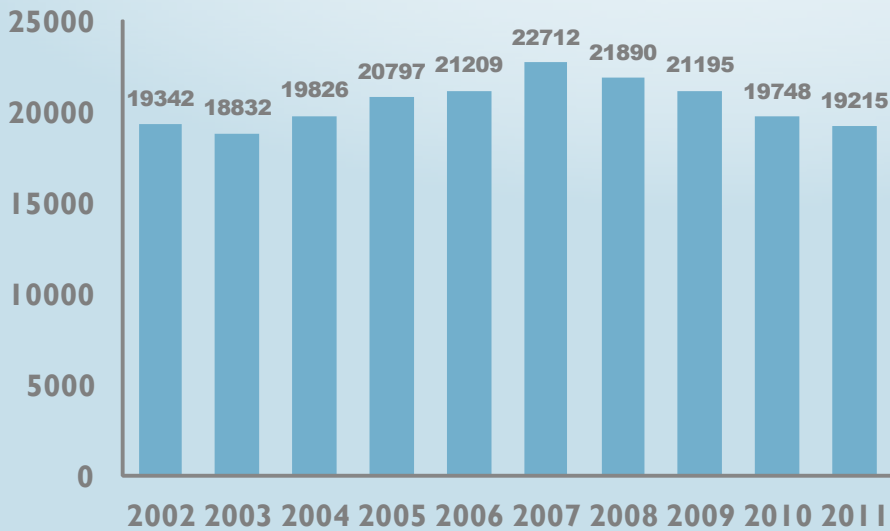
Active vs. Inactive

ANSI Answers





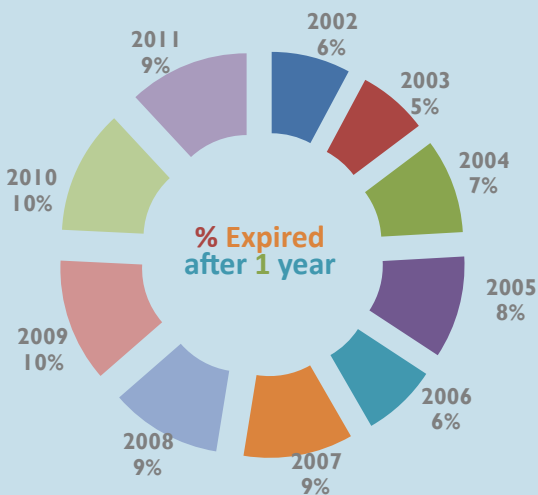
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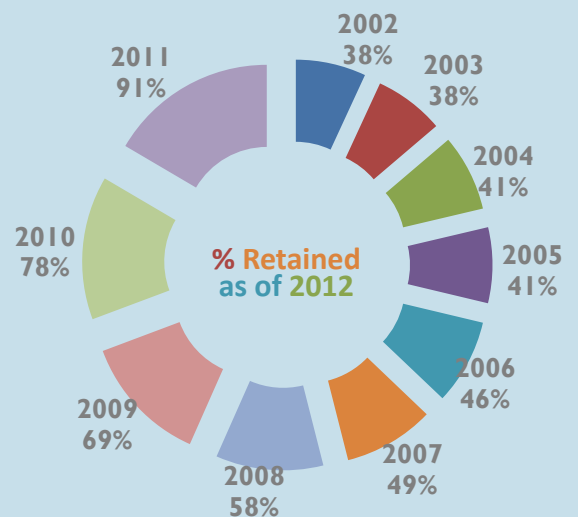
annual licensee count

Represented in Fiscal Years (i.e.
2011 = June 2011 - June 2012)

rate of attrition of New Licensees



rate of retention of New Licensees



ACTIVE VS. INACTIVE

DO YOU KNOW THE DIFFERENCE?

The recent Education Audit conducted by the LREC has brought to light a trend with some licensees misunderstanding the differences between an active and an inactive license status.

Some licensees believe if they are only handling referrals or not conducting real estate activities for a given period of time, they are inactive. Some licensees also believe that they are transferred to an inactive status when their association with a sponsoring broker is terminated by either party for any reason. This is not the case. While a licensee may not be actively participating in real estate transactions, this does not mean his/her license is registered as inactive with the Commission.

In order for a licensee to have his/her license placed in an inactive status, he or she must complete and submit a transfer form to the LREC. Whether a licensee is practicing real estate or not, he/she should know the status of his/her license as it is registered with the Commission.

If a licensee is not practicing real estate, yet he/she is registered as active with the Commission, he/she is required to complete the twelve (12) hours of mandatory education per year. The LREC does not automatically transfer licenses to inactive status. The responsibility belongs to the licensee to ensure his/her license is under the correct status. If you are uncertain as to your status, please refer to the LREC website and follow the prompts for a licensee search. This will let you know your status.

- Debbie DeFrates
with Les Patin

Investigator's Desk

July Citations

Citations issued July 1, 2012 through July 31, 2012:

The Investigation Division issued 7 advertising citations in the month of July. The following list details the citations that were issued:

- 1
2501.B. - Failure To Place Broker's Phone Number in Advertisement
- 1
2501.D - Failure to Advertise as Licensed (Name or Brokerage)
- 2
2501.G.3 - Team Advertisement
- 1
2505.A - Misleading or Inaccurate Advertising
- 1
2509 - Advertising Violations by Franchisees
- 1
2515.C.4 - No Jurisdiction Shown in Website Advertisement

Each party was cited and fined \$75 for first-time offenses. The Cite & Fine system was created in 2011 to expedite the minor claims process through the Louisiana Real Estate Commission. Violators have the option of paying the fine via online, by mail or in person and avoid an informal hearing, or they can dispute the claim if they feel necessary. If they choose the former of the two, their name and information will not appear in the Boundary Lines publication for the violation.

- Robert Maynor



Case Study

THE SNOWBALL EFFECT

As illustrated in the following case, a licensee's ignorance of the licensing law and the rules and regulations led him down a slippery road, and his actions snowballed into multiple violations.

A couple had made two, unsuccessful offers on a residential property. Later, they learned that the property sold for substantially less than the price that they offered. The couple filed a complaint with the Commission alleging that their offer was never submitted to the seller for his consideration. Their agent had returned both offers to them without the seller's signature rejecting the offers. The respondent, acting as the listing agent, had written the words: "Rejected by seller per telephone call" across the first page of their offer. The complainants suspected that the agent failed to present their offer because he had not wanted to share the commission with the agent representing them. A complaint was filed, and a formal investigation ensued.

During an investigation all documentation is collected. It was determined that the agent had presented both of the complainants' offers and the buyer who purchased the property had been represented by an agent from another real estate company. Offers had been tendered by 4 different buyers and the seller had made different "verbal" offers through their listing agent. The sellers then verbally rejected the offers.

After interviewing the sellers, the investigator determined that the offers had been presented to the sellers; however, a review of the documents revealed several other violations:

The property was owned by a husband and wife and yet the respondent had obtained only the husband's signature on the listing contract, in violation of LSA-R.S. 37:1455. A. (11).

When representing the sellers and two of the buyers who made offers, the agent failed to provide the parties with an agency disclosure informational pamphlet and a dual agency disclosure form, in violation of LSA-R.S. 37:1455.A. (21).

The agent received several written offers and failed to annotate the offers to indicate the time of day and date the offers were received, in violation of 3905. A. of the Rules and Regulations and LSA-R.S. 37: 1455. A. (2).

The respondent failed to ensure the time of day and date the offers were rejected, in violation of 3901. C. of the Rules and Regulations & LSA-R.S. 37: 1455. A. (2).

Although several offers were presented to the seller, the offers were not rejected with the seller's signature affixed to the document, in violation of 3907 A. of the Rules and Regulations and LSA-R.S. 37: 1455. A. (2).

Note: This rule, 3907. A., states that if the seller refuses to sign a rejected offer, the licensee shall annotate this fact, indicate the time and date of the rejection, and provide a copy of the rejected offer bearing the annotation to the buyer within five days after the signature or annotation is affixed.

If the respondent had been aware of another rule, Section 3909. A., he may have avoided the complaint being filed. This rule states that if the seller is not available and grants authority to the listing broker to reject an offer on his behalf, the broker or his designated agent should mark the offer as rejected and sign the offer in lieu of the seller. The rule also directs the agent to forward a copy of the rejected written offer to the seller for his signature acknowledging the rejection of the offer. The copy of the rejected offer signed by the seller must be retained in the listing broker's files. If the transaction is a cooperative transaction, the listing broker shall provide a copy of the rejected offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the seller.

The complaint was adjudicated by a formal hearing wherein the respondent's salesperson's license was censured, and he was ordered to pay a fine of \$500 with a \$358 administrative cost.

- Marsha Stafford

HOUSE MEASURING: SQUARE FOOTAGE RESPONSE

MUCH TALK HAS GENERATED FROM LAST MONTH'S CHAIRMAN'S CORNER ARTICLE ON HOUSE MEASUREMENT STANDARDS. WE THOUGHT IT'D BE GREAT TO PROVIDE YOU WITH THE ANSWERS THIS MONTH. SO, OUR RESIDENT APPRAISAL INVESTIGATOR CONTACTED MS. CHERYL BELLA, AND SHE HAS CONSTRUCTED THE FOLLOWING ARTICLE. TAKE A LOOK. IF YOU HAVE ANY QUESTIONS, FEEL FREE TO CONTACT US HERE AT THE COMMISSION AT INFO@LREC.STATE.LA.US. AS ALWAYS, WE'RE LISTENING!

- Les Patin

To begin, we need to understand that no national measurement standards for single family houses existed before the 1996 ANSI Standards (revision 2003). Prior to the ANSI Standards, a professional was expected to perform single family measurement and structural identification to the level of one's peers for their market area. In other words, if you measured consistently with the majority of your peers in the market, you were in compliance. Your responsibility was further clarified by professional organization membership and their requirements. For instance, some local realtor boards provided indoctrination training for its membership, thus members were expected to follow the measurement guidelines of that organization. With the broadening of the market due to the internet and the demand for consistent terminology between markets and professions, a national standard was needed.

The ANSI standard was created in 2003, revised in 2006. It is actually called "Square Footage-Method For Calculating: ANSI Z765-2003." It is a voluntary standard created through a consensus process that involves more than just appraisers and realtors. Actually, the group that initiated the development of the national standards was the New Orleans National Association of Home Builders! The acceptance of this as the measurement standard is evidenced by the groups that participated in its creation, including

BOMA, NAR, American Association of Certified Appraisers, U.S. Department of Commerce, Bureau of Census, National Institute of Standards and Technology, along with other professional, governmental and quasi-governmental agencies.

The next item to understand is that because the ANSI standard crosses a variety of professions interested in measuring and labeling the area of single family residential dwellings, the terminology is not consistent with that utilized in most multi-listing services, or that utilized often by realtors and appraisers. The primary difference is in the term "Living Area." Because Living Area is a market derived term, the definition of which varied from Louisiana and various other parts of the nation, the ANSI standard defined the area of the house in terms applicable across the nation and across professional affiliations. In teaching the ANSI standards to real estate licensees and appraisers in Louisiana, I often begin by asking the question, "Can You Define Living Area?" The first response is most often "heated and cooled area." Immediately, you can see the limitations of our market defined living area standards. Just recently returning from an Appraisal Institute trip to San Diego, I can tell you that they do not agree that "cooled area" is a requirement for living area. Thus, it is not surprising that the ANSI Standard does not use the typical terminology utilized in MLS systems.

The terms utilized to define the area of a house in the ANSI Standard include FINISHED and UNFINISHED AREA. Yes, the term "Living Area" is not specifically defined in the ANSI Standard. The term Finished Area, however, is considered by many professional organizations and governmental agencies to be consistent with Living Area. Per ANSI, Finished Area is defined as "an enclosed area in a house that is suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the house." ANSI requires that Finished Area is measured at floor level to the exterior finished surface of the outside walls for detached structures, from



the centerlines for attached structures and to the exterior edge of unfinished surface of any partitioned area when finished adjoins unfinished areas. ANSI requires that Finished Areas be distinguished from Unfinished Areas above and below grade.

Note that the “Living Area” computation is often guided by the client. For realtors, it is a responsibility to the professional organizations of membership. For appraisers it is defined by the guidelines of the intended use or user of the appraisal assignment. The user will often publish their measurement and definition expectations, such as Fannie Mae, Freddie Mac, etc.

This brings us to the specific questions asked regarding living area. The following answers are based upon the ANSI requirements for “Finished Area” as an equivalent to “Living Area” and my professional experience in the Greater Baton Rouge market area:

Do you measure inside or outside dimensions?

Outside. Per ANSI, the finished square footage of each level is the sum of the finished areas on that level measured at floor level to the exterior finished surface of the outside wall or from the centerlines between houses, where appropriate. Thus, finished area must equate to an exterior dimension. This also applies to a “loft” area.

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

No. Finished areas that are not connected to the house by other finished areas cannot be included in the finished square footage at any level. Thus, unless the “craft room” is accessible from a finished area, it does not appear to be included as finished or living area.

How is wall depth calculated when measuring inside dimensions?

Per ANSI, when finished area adjoins unfinished area, the finished square footage is calculated by measuring to the exterior edge or unfinished surface of any interior partition between the areas. In actuality, sometimes this dividing wall cannot physically be determined. I can tell you in our market, we use the exterior wall thickness as a means of consistently relating

interior to exterior dimensions. Remember, the requirement is exterior dimensions at the floor area. Note that ANSI requires an average ceiling height of 7 feet and to stop measuring at a vertical ceiling height of 5 feet.

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

No. This is not addressed in the ANSI standards; however, unless your parish tax collector is part of your contract to determine “most probable price” or “market value,” your liability does not appear to be protected. Personally, I would measure myself.

Should I use original blueprints to calculate area?

No. Actually, ANSI requires a statement if plans are used in the calculation – “Finished square footage calculations for this house were made based on measured dimensions only and may include unfinished areas, openings in floors not associated with stairs, or openings in floors exceeding the area of associated stairs.” Any calculation based upon the property “as is” as of the date of listing or appraisal should reflect measurement as of that status. The existing structure does not always reflect the “proposed” structure, thus, measurement is prudent to prove compliance with professional and regulatory standards.

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

The emphasis in the ANSI standards is consistent quality throughout the house. Per ANSI, wall and ceiling finishes include but are not limited to painted gypsum wall board, wallpaper-covered plaster board, and wood paneling. Floor finishes include but are not limited to carpeting, vinyl sheeting, hardwood flooring, and concrete floors with decorative finishes but do not include bare or painted concrete. Note that porches, balconies, decks and similar areas that are not enclosed or not suitable for year-round occupancy cannot be included in the finished square footage per ANSI.

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

Yes, provided they meet the consistent quality



of finish requirement, are at the same level as the main body of the house and meet the minimum ceiling height requirement (Average 7', sloping 5').

Am I safe to take the seller's word for total footage? When can I "clone" measurements from a previous listing?

No. As a licensee, you agree to conclude probable sales price. Our market price bears a strong relationship to living area/finished area calculations. Thus, it would be prudent to confirm living area/finished area in every listing agreement. Appraisers are also required to determine "as is" area calculation unless the scope of the assignment determines otherwise.

- Cheryl B. Bella

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