



# BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

## Chairman's corner



working with his fellow Commissioners, staff and all stakeholders in striving to make the LREC the best we can be will be an enduring legacy.

Joe Ory was no stranger to serving his fellow real estate professionals in leadership positions within the New Orleans Metropolitan Association of Realtors, serving as a Director from 2004-2013,

## IN MEMORY

### STERLING JOE ORY

On March 23, 2013, the Louisiana Real Estate Commission lost a true industry leader with the passing of Commissioner Sterling "Joe" Ory of New Orleans. Appointed by Governor Jindal to the LREC in 2011, Joe Ory jumped right into the issues of licensee education, consumer protection and stakeholder communication.

In leading the way on improving course and instructor approval guidelines, Joe remained committed to the promise that continuing education for real estate licensees should stop being viewed as "punishment," but be elevated to a level that would help all licensees improve their knowledge and skills in meeting the growing challenges of our industry. Joe's vision, passion and energy in

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and rising to become their elected President in 2010. Joe also served as a Director for the National Association of REALTORS for 2009-2010, as well as Director of Louisiana REALTORS from 2007-2013.

Ever the wordsmith, with an unmatched sense of humor and love of life, Commissioner Joe Ory made us all better people. Never one to just show up for meetings, Joe would come prepared to argue his point of view in a professional manner, occasionally engaging his fellow Commissioners into the parking lot, long after a formal meeting had concluded.

Most of us have been fortunate to encounter a few people in our life's journey that we remember as special, people who actually make a positive difference in the lives of those they meet along the way. Sterling "Joe" Ory was such a person. He will be missed.

- Pat Caffery

### HIGHLIGHTS: THIS ISSUE

Chairman's Corner

Case Study

Buy/Sell Form Changes

Social Media Survey





April 8, 2013

## **RESIDENTIAL AGREEMENT TO BUY OR SELL AMENDED EFFECTIVE 06-01-13**

### **Why amend the Agreement?**

Based on input from licensees and lenders alike, the Louisiana Real Estate Commission concluded that the rapidly changing mortgage lending environment has rendered the current finance contingency language ineffective. As a result of two (2) public meetings, and receiving input from practicing lenders, real estate licensees, real estate attorneys, and other stakeholders, the Commission adopted language to provide an agreement that is fair for both good faith buyers and sellers in moving transactions to closing.

### **What are the changes?**

**First**, the finance contingency language in lines 73-88 has been amended to clarify both the buyer's and seller's obligation with regards to this paragraph and the contract itself. The buyer's primary responsibility, as per this paragraph, is to make a good faith effort to secure financing by obtaining a written "Verification of Loan Application" from their chosen lender. This verification is to be obtained within specific time periods, and agreed to by the buyer and seller as per the contract.

The amended language allows the buyer a period of time to make good faith application and to obtain the written "Verification of Loan Application". If the buyer is unable to obtain and or meet the "Verification of Loan Application" criteria as described in lines 78-81 within the agreed upon time frame, the seller has the option of terminating the contract.

The seller also has specific obligations as to how to notify the buyer of his/her intent to terminate. The seller's notification to the buyer of his/her intent to terminate must be in writing. Both parties now have specific contractual obligations as per the amended language. If you are the buyer's or seller's agent, it may be your responsibility to aid and encourage the performance of the party you represent.

**Second**, a technical change on Line 285 of the Agreement has been made to clarify that the end of any calendar day referred to in the agreement ends at 11:59 PM versus the current 12:00 midnight language.

### **What are the time periods allotted for a buyer to obtain a "Written Verification of Loan Application" from the lender?**

There are three (3) time periods that are identified in the new language.

- 1) The first time period to be identified is the number of CALENDER DAYS allowed for the buyer to make written loan application. That time period must be inserted in Line 74.



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- 2) The second time period is the number of CALENDAR DAYS that the buyer is allotted to meet the criteria for "Verification of Loan Application" and to provide the seller with written evidence, from the lender, that all of the criteria described in this paragraph (lines 78-81) have been completed by the buyer.
- 3) The third time period is the number of additional CALANDER DAYS a buyer may have to obtain any missing criteria as described on lines 78-81. The additional CALANDER DAYS are inserted on line 84 and act as an extension, should the buyer not provide written verification of loan application within the deadline set in line 82.

### **When and how does a seller terminate an Agreement if the buyer fails to perform?**

The new financing language in the Louisiana Residential Agreement to Buy & Sell provides the Seller with options to terminate the contract in the event the buyer is unable to provide written Verification of Loan Application. The Buyer is required to make written loan application within the number of days specified in the contract. If he/she fails to provide the seller with the required Verification of Loan Application within the time specified in the contract, the Seller must send the Buyer written notification of intent to terminate the contract. That written termination notice must specify that the Seller intends to terminate the contract if the Verification of Loan Application is not provided to Seller within the additional number of days specified in the contract. No other notice is required after that date, and the contract is then null and void.

### **When can I use the revised Agreement and how do I obtain a copy of it?**

You *may* begin using the revised Agreement now; however, you are not required to do so until **June 1, 2013**, when mandatory use becomes effective. Visit [www.lrec.state.la.us/mandatory-forms](http://www.lrec.state.la.us/mandatory-forms) to view the amended language and to download the form.

### **Who should I contact if I have any questions?**

You may email any question to [info@lrec.state.la.us](mailto:info@lrec.state.la.us) for a response within 24 hours. You may also call the Louisiana Real Estate Commission toll free at 800-821-4529 for a personal response.





## CASE STUDY

### on Net Listings

**T**he LREC received a complaint from a first-time home buyer who claimed he had purchased property owned by a licensed broker with the broker promising to return \$10,000 from the proceeds to him after the closing. When the broker failed to turn over the promised \$10,000, the buyer filed a complaint.

The investigation revealed that the broker misrepresented to the buyer that he was the owner. Actually, the broker had a “net” listing agreement (which was only signed by one of the three family members who had an ownership interest in the property). The broker’s compensation would be any amount in excess of the net listing’s price of \$185,000. The buyer agreed to a sales price of \$199,000 which would have provided the broker with a \$14,000 commission. The buyer did not have the required \$10,000 to bring to the closing and the broker agreed to “loan” him the funds. The broker then increased the sales price on the contract from \$199,000 to \$209,000.

When the loan process fell through with the first mortgage company, the buyer made application through another program and he was not required to have a \$10,000 down payment. The \$209,000 sales price on the purchase agreement remained, which effectively raised the broker’s compensation/profit to \$24,000. The property appraised for \$210,000 and the transaction closed. After the closing, the broker refused to return the \$10,000 that had been built into the sales price. When the buyer realized that he paid \$10,000 more than his original agreement, he filed a complaint with our office.

The broker was charged with the following violations:

***Representing to a lender through preparation of false documents, an amount in excess of the true and actual sales price of the real estate (LSA-R.S. 37: 1455. A. (18));***

***Failure to obtain written authorization from all owners before representing property for sale (LSA-R.S. 37: 1455. (11));***

***Knowingly making false representations to a party to a real estate transaction LSA-R.S. 37: 1455. A. (15).***

During a formal adjudicatory proceeding, the individual real estate broker’s license was revoked, and he was ordered to pay the cost of the hearing in the amount of \$1,800.

- Marsha Stafford

## [ RENEWAL UPDATE ]

As of April 14, 2013, 91 percent of 2012 real estate licensees (19,583 professionals) have renewed their licenses. When divided between active and inactive licenses, statistics show that 95 percent of active licensees have renewed and 78 percent of inactive licensees have renewed. As far as renewals, this puts us in line with last year’s numbers around this time. Last year reported a final number of 91 percent of licensees renewed their licenses, which is 2 percentage points lower than the number of licenses renewed in 2011.

- Les Patin

## MARCH citations

### *Citations issued from March 1, 2013 to March 31, 2013:*

The Investigation Division issued ten advertising citations during the month of March. The following list details the citations that were issued (most citations were issued with multiple violations):

5

**2501.B.** - Failure to Place Broker's Phone Number in Advertising

4

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

1

**2505.A** - Misleading or Inaccurate Advertising

5

**2509** - Advertising Violations by Franchises

4

**2515.C.3** - No City, State, Country in Website Advertising

7

**2515.C.4** - No Jurisdiction Shown in Website Advertising



### *Additional Citations issued in March:*

A salesperson was issued a citation and ordered to pay a fine in the amount of \$75.00 for violating Section **1455.A. (21)** of the Louisiana Real Estate License Law. The licensee failed to provide the parties to a real estate transaction with a Dual Agency Disclosure Form.

A salesperson was issued a citation and ordered to pay a fine in the amount of \$75.00 for violating Section **3905.A.** of the Commission's Rules and Regulations. The salesperson, as the designated listing agent, failed to annotate when an offer was received and presented to the seller.

A salesperson was issued a citation and ordered to pay a fine in the amount of \$75.00 for violating Section **3907.A.** of the Commission's Rules and Regulations. The salesperson failed to annotate when an offer was presented to and rejected by a seller.

Three brokers were issued citations and ordered to pay fines in the amount of \$75.00 each for violating Section **2701.A.** of the Commission's Rules and Regulations. The brokers either failed to include the words "Sales Escrow Account" as part of the account title, failed to have the account titled in the identical wording as stated on the broker's license, or failed to have "Sales Escrow Account" imprinted on all checks and bank statements.

A broker in the state was issued a citation and ordered to pay a fine in the amount of \$325.00 for violating Section **2901** of the Commission's Rules and Regulations. The broker improperly disbursed an escrow deposit.

- Robert Maynor



# SOCIAL TALK

## Tell us how we're doing on social media

Great news: we are nearing 1,000 fans on Facebook! Also, we've recently joined the LinkedIn community. At the LREC, we realize that more followers brings greater responsibility. Every week, we strive to bring the most relevant information to you, the licensee, as well as the general public, and we've added another social media platform for a chance to reach more of you online.

This survey attempts to explore what you think of the information and updates we share on social media. Are they relevant? Are they interesting?

- Les Patin

### LET US KNOW! AS ALWAYS, WE'RE LISTENING!



Follow us for all the latest updates!



## Commissioners & Contributors

**Bobby Jindal**  
Governor

**Patrick T. Caffery, Jr. (New Iberia)**  
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**Paul Burns (Baton Rouge)**  
Vice Chairman

**James Gosslee (Shreveport)**  
Secretary

**Mike Bono (Lake Charles)**  
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**Cynthia Stafford (Gonzales)**  
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**Bruce Unangst**  
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**Lynda Nugent Smith (New Orleans)**  
Commissioner

**Timothy J. Flavin (Lake Charles)**  
Commissioner

**Archie Carraway (Oak Grove)**  
Commissioner

**Frank Trapani (New Orleans)**  
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**Rod Noles (Alexandria)**  
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