

2013 Calendar

GREC Brokerage Course & Trust Accounts Class Dates:

- May 22 & 23, 2013
Lake Country Board
<http://www.lakecountryrealtors.com/>
- June 19 & 20, 2013
Cherokee Board
[Cherokee Association of REALTORS](http://www.cherokeeassociationofrealtors.com/)
- July 24 & 25, 2013
Habersham White
Stephens REALTORS
- August 21 & 22, 2013
West Metro Board
<http://www.westmetroboard.com>

Common Violations Class Dates:

- May 23, 2013
Valdosta BOR
229-242-2085
- June 3, 2013
Athens BOR
706-353-1126

[Click here to
see GREC
Disciplinary
Sanctions](#)

Georgia Real Estate
Commission
Suite 1000
International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916



This Issue:

Lease v. License	P.1 - 2
Focus on Terminology	P.2
The Appraisers Page	P.3

Lease versus License

The need for office space is changing drastically. Whether it is telecommuting a few days per week or dropping into a shared workspace at the real estate firm, professionals in all industries are experiencing changes in work habits for a variety of reasons such as:

- Smaller work spaces
- New Technology
- Increased Mobility and Mobile Applications
- Non-location based access to information

It is about the work that is done,
not where it is done.

A term that describes this type of office usage is Flexible Working Environment (FWE) that has been popular in Europe for many years. It focuses on the work that is done, not where it is done.

The concept of making a reservation for an office as you would a hotel room is quite common and may be referred to as a Virtual Office (VO). This nomadic style of utilizing multiple office spaces illustrates the difference between the terms "lease" and "license". (In this discussion the term "licensee" refers to the party signing an agreement to use space, time, services, etc. from the owner of that item; it is not referring to a real estate licensee.)

The bundle of rights a tenant has in a lease is greatly different than the licensee in a license agreement. Consider this review of the terms "lease" and "license":

.....continued on page 2

On a Positive Note...

- ♪ Interest Rates are still at historically low rates favorable for buyers.
- ♪ Housing Inventory has declined in many markets and Demand has increased.
- ♪ Commercial Transactions are on the rise and Sources for Lending are improving.
- ♪ Prelicensing activity in Georgia has increased to about 300 new license applications per month which is up from 200 per month last year. Source GREC

The National Association of Realtors (NAR®) continually researches many issues that affect real estate professionals, such as market information, commercial, international, home buying and selling, and technology. Many of their reports are accessible without membership and are there to assist licensees in growing and managing their real estate business. A list of reports is available on the NAR web site at www.realtor.org in [alphabetical order by report title](http://www.realtor.org/reports/expectation-and-market-realities-in-real-estate-2013). One report focuses on 2013 market conditions at <http://www.realtor.org/reports/expectation-and-market-realities-in-real-estate-2013>

(Source: Real Estate Research Corporation (RERC), Deloitte, and the National Association of REALTORS® (NAR) <http://www.realtor.org/research-and-statistics/research-reports>)

Lease versus License

.....continued from page 1

Lease

- A lease provides a bundle of rights for the tenant (lessee): the landlord temporarily transfers some of the landlord's rights to the tenant: to use, possess, enjoy the property
- The tenant in a lease pays rent in return for exclusive, temporary possession of the property. The tenant, or lessee, is considered to have a leasehold interest or leasehold estate.
- The landlord, or lessor, has a reversionary interest.
- Like any contract there must be consideration to validate the agreement. In a lease, it is the promise to pay rent in exchange for the landlord's promise to provide temporary, exclusive use of the property.

License

- A license gives permission for a specific use or action. A license does not create any interest in real property. It does not provide a transfer of the landlord's bundle of rights to the user of the property like a lease does.
- A license is usually personal and cannot be assigned to another party.
- A license merely grants a license (permission) to the user for the purposes identified in the agreement.
- A license is usually revocable by the owner (licensor).
- The license agreement may provide the option to use additional services for additional fees.
- A license can be terminated without the same ramifications as a lease agreement. Eviction and notice provisions are less protective of the licensee. However, any contract can have very specific consequences in the event of default.

Whether it is a lease or a license agreement, there are typically Rules and Regulations that must be accepted and followed by the tenant or the licensee. If signing an agreement to lease space or to use it under the terms of a license, be sure to read the agreement carefully, including the Rules and Regulations that go with it.

When acting as a principal in a transaction, remember to provide yourself with the same conscientious review and service as you would your client, and remember to disclose your real estate license status in the document.



Focus on Terminology: "estate"

Estate is defined as follows: "The degree, quantity, nature and extent of ownership interest that a person has in real property. It refers to one's legal interest or rights, not to the physical quantity of land. To be an estate, an interest must be one that is (or may become) possessory and whose ownership is measured in terms of duration. A *freehold estate* (a fee simple or a life estate) is an interest in land for an uncertain duration. All other interests are less than freehold and include leasehold interests, such as an estate for years or an estate at will.

Not all interests in land are estates For example, a mortgage is a lien or charge on land, but it is not a part of ownership and thus is not an estate..."

"The word **estate** has its origin in the historic feudal system in which a person's '**status**' was determined primarily by the extent of that person's land ownership."

Quoted from [The Language of Real Estate](#), by John W. Reilly, 5th Edition, page 147

Online
Courses from
GREC

\$10 each
3 Hour CE
Course
Total of 9 Hours
CE Available

"Avoiding Trust
Account
Trouble"

"Practicing Real
Estate & Staying
Out of Trouble"

"Being a Broker
and Staying Out
of Trouble"

[Click Here](#)

Comments or
Suggestions
[Click Here.](#)



To sign up to
receive the
GREC
RENewsletter
[Click Here](#)

Georgia Real Estate
Commission
Suite 1000
International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916



The Appraisers Page

Useful Links:

[GREAB
Web Site](#)

[Appraisal Act](#)

[GREAB
Disciplinary
Sanctions](#)

Appraisals – an Art or Science? By: D. Scott Murphy, SRA

There certainly are more than enough appraisal books out there that will teach you **how** to complete an appraisal report. You can sign up for pre-licensing courses and be taught about appraisal theory, comparable selection and paired sales analysis. Appraisal courses spend weeks dissecting the income approach and the cost approach. Without question appraising is a science.

One could easily be taught how to research comparables and collect physical data. There are countless resources for demographics and market statistics. Much of the appraisal report can be completed by a non-licensed appraiser or even clerical staff. There are even companies where you can send your information off to them over the internet and they will complete a large portion of the form for you overnight.

When I started in the business 30 years ago, many people cautioned me that appraisers would be replaced with computers. This was the beginning of the computer age and AVM's (automated valuation models), such as Zillow, which could take large amounts of data and return a "value" of a property within seconds. I was not intimidated or discouraged at that time because I could see the limited use of these products and the large margins of error. I remain convinced that none of these automated products will ever replace a human being.

A few years ago, I was hired as a consultant for a software company that wanted to build a better AVM. They felt that if they could get inside my head and add more analysis to the AVM process they could produce a product which would render significantly more accurate values. I was intrigued and participated in the process which went on for almost a year. I was impressed with the in-depth nature of their software design (science), but saw from the beginning the short comings which would not be able to be overcome without some human intervention. Their approach was to allow the user to answer certain specific questions about condition, location, improvements, and renovations,. all items which typically takes the appraiser's unbiased opinion to complete a competent appraisal report.

The fact that they were gathering this specific information would make their AVM more reliable, but it would limit its use as a lender would not accept a report which does not rely upon input from an unbiased source. Their planned use was for tax abatement and seller assistance. After nearly a year they launched their product. It was very easy to use, but its results were only marginally better than its other AVM competitors. I was not nearly as surprised as they were. Appraising is not just a science but an art.

You cannot wake up one day, take some classes, and complete a competent appraisal report. It takes years of experience to develop the art of appraising. I will often say, if you have not been appraising full time for at least five years you are still probably not a truly competent appraiser.

continued on page 4....



The Appraisers Page

Georgia Real Estate Appraisers Board

May 2013

Useful Links:

[GREAB
Web Site](#)

[Appraisal Act](#)

[GREAB
Disciplinary
Sanctions](#)

Appraisals – an Art or Science? By: D. Scott Murphy, SRA

.....continued from page 3

Of course, many will say that there are appraisers out there who have been doing it for decades that still don't know what they are doing – and they are definitely correct. My point is you need a minimum of 4-5 years to have seen enough different properties types, unique homes or commercial buildings, been in challenging situations and consistently applied sound appraisal theory to tackle appraisals with confidence.

Like any art, some have natural talent and some, no matter how many classes you take just never get it. We do not have a magic book of adjustments. Students leave my classes frustrated that I cannot tell them, for instance, what the adjustment is for a bathroom. They are put off when I answer "it depends". The fact of the matter is that every home is different. Adjustments are extracted from the market based on the actions of buyers and sellers. Buyers in a \$100,000 neighborhood might pay \$2000 for a full bathroom while buyers in the \$900,000 neighborhood down the street might be paying \$10,000 for a full bathroom. Furthermore, buyers of a \$100,000 home on the other side of town might be paying \$4000 for a full bathroom and \$15,000 for a full bathroom in a \$900,000 home.

I often like to expand an idea to a macro level to better understand a concept. Wouldn't you agree that inground pools are more valuable in Florida than in Georgia? I think most would say so and likewise buyers value certain features more or less from one area to another. The appraiser needs to be familiar with the actions of buyers and sellers in the subject market and

use learned skills to extract the adjustments for the various differences between the subject and the comparables. So science helps the appraiser extract the adjustments, but art helps them apply and refine the results.

Items such as quality, condition, location, lot amenities, topography, and appeal are all features that only a personal inspection of the subject property can determine. The appraiser must be able to recognize and properly quantify these features and their impact on market value. Only an enormous amount of practice and proper guidance can help an appraiser properly value the subject property. Shear repetition and countless hours of careful study of market statistics prepare an appraiser to accurately estimate the value of a property.

Many people think that an appraiser's adjustments are completely subjective. This is not true. While I will agree that one appraiser may adjust \$1000 and another \$2000 for a given item, both must prove their adjustments and resulting value by using the theories of paired sales analysis and bracketing. These are the main foundations of proper appraisal technique. By using comparables which are otherwise similar with the exception of one item, they can **extract** the adjustment by subtracting the adjusted values of those two sales. Taking it a step further, if they use comparables which are superior to the subject in a given way and others which are inferior, they can refine that adjustment and prove their value to the reader of the report. Next month I will talk in depth about this practice and its importance to arriving at a defensible estimate of market value.