

2017Calendar

Class Dates
To Be Announced

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

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

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Rule
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Georgia Real Estate Infobase

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Review a Few FAQs

Q. May I pay a referral fee to an unlicensed person?

A. No. See [License Law 43-40-25 \(b\)\(17\)](#).

It is an unfair trade practice "to pay "a commission or compensation to any person for performing the services of a real estate licensee who has not first secured the appropriate license under this chapter or is not cooperating as a nonresident who is licensed in such nonresident's state or foreign country of residence, provided that nothing contained in this subsection or any other provision of this Code section shall be construed so as to prohibit the payment of earned commissions"

Q. Can the Commission call my broker and get my commission check corrected (or paid)?

A. No. Payment of commissions between licensees is a matter of contract law, not license law. Such issues are generally controlled by **company policies and independent contractor agreements** between the licensees. If disputes arise and cannot be resolved by direct negotiations, licensees may resort to arbitration or the courts for

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Opportunity for Instructor Training in Alabama

On March 31, 2017, the Alabama Real Estate Educators Association is offering an Instructor Continuing Education course as the first of a three part series of a Real Estate Instruction Certification program. The subject matter of the course is focused on Content Creation. This course will be held at the Alabama Real Estate Commission offices in Montgomery, Alabama. For further information and to obtain a registration form, please email alabamareea@gmail.com.

February 2017 Meeting - Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	None
Cease & Desist Orders Issued	None
Citations Issued	4
Letter of Findings Issued	None
Consent Orders Entered Into	None
Final Orders of Revocation of Licensure	1
Cases Closed for Insufficient Evidence or No Apparent Violation	30
Licensing Cases - Applicant has a Criminal Conviction - License Issued	20
Licensing Cases - Applicant has a Criminal Conviction - License Denied	1
Total	56

[Click here to review a legend of the disciplinary actions the Commission may impose.](#)

SUBMIT**Comments
&
Suggestions**

To sign up to receive
the GREC
RENewsletter
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**Online
Courses
from GREC**

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

(Also Approved
as Instructor CE,
not approved as
License Law CE)

**“Avoiding
Trust
Account
Trouble”**

**“Practicing
Real Estate &
Staying Out
of Trouble”**

**“Being a
Broker and
Staying Out
of Trouble”**

**Georgia Real Estate
Commission**

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

Review a Few FAQ

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settlement. See [Rule 520-1-.07 \(5\)](#).

“Any broker seeking to have a licensee affiliate with the broker's firm shall enter into a written agreement specifying the terms under which the licensee will be compensated for work during the time of their affiliation and specifying how the licensee will be compensated for work begun but not completed prior to the termination of their affiliation. Other than to determine that such agreements are entered into by licensees and their broker, the Commission shall not regulate the content of such agreements or enforce the provisions of such agreements. A dispute between licensees as to whether the terms of this agreement have been met shall not be grounds for the broker's refusal to sign a release and to forward the wall certificate of licensure to the Commission nor for either party to file a complaint with the Commission.”

Q. Can I file a complaint with the Commission against another company in order to collect my share of a commission?

A. No. The license law does not permit the Commission to intervene in disputes between licensees about fees. See [Rule 520-1-.07 \(5\)](#).

Q. Do I need a special form to make the agency disclosure or can I make the required disclosure in a written offer?

A. Either way. The license law requires that licensees make the disclosure at the time of or before any written offer. The earlier the written disclosure is made, the greater the protection for the agent. You should use the disclosure language which appears in [Rule 520-1-.06](#) or language prepared by your firm's attorney.

“A licensee shall make or cause to be made a written disclosure to both buyer and seller or to both lessor and lessee, as the case may be, revealing the party or parties for whom that licensee's firm is acting as agent or dual agent and from whom that licensee's firm will receive any valuable consideration for its efforts as agent in the transaction. If the licensee's firm is not acting as an agent for either party, then the licensee shall make a written disclosure revealing from whom the licensee's firm will receive any valuable consideration for its efforts in the transaction. The written disclosures required by this paragraph must be made in a timely manner, but in any event not later than the time that any party first makes an offer to purchase, to sell, to lease, or to exchange real property.”

Q. May we hire unlicensed hostesses to sit in open houses and pass out brochures with information on the houses?

A. No. See [Rule 520-1-.07 \(6\)](#) Utilizing Unlicensed Support Personnel – Task Guidelines. “The Commission has identified the following tasks that support personnel shall not perform:2. host open houses, kiosks, home show booths, or fairs; “

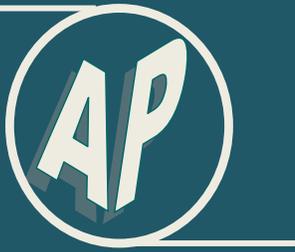
<http://www.grec.state.ga.us/faq/faqreindv.html>



Focus on Terminology: “Hyperlocal”

Terms evolve with development trends, consumer demands, changes in cultural patterns, and other environmental and societal influences. The term **hyperlocal** basically refers to what is going on in your own backyard. There is hyperlocal marketing, hyperlocal weather forecasts, hyperlocal advertising, and hyperlocal e-commerce, etc.

A professional real estate licensee has known for decades that he/she must be knowledgeable and familiar with his/her local market and be observant of growth patterns and trends that lead to opportunities for future business. A real estate agent is focused on a defined area or a community. Real estate professionals were hyperlocal before being hyperlocal was the trend.



The Appraisers Page

Georgia Real Estate Appraisers Board

March 2017

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB
Disciplinary
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Sometimes the right answer is “I don’t know”

By Ed Mitchell, MAI

As a commercial appraiser, the most common questions I hear from residential agents involve residential property located in an area experiencing a change to commercial uses, often referred to “in between” properties. This situation occurs in both urban and rural areas as growth causes commercial uses to creep in on residential areas. Often, agents want to know if it should be marketed as residential, commercial, or potential commercial? Is the land worth more than the property as improved? Is the land or building suitable for another use? All excellent questions that relate to the concept of Highest and Best Use.

The Dictionary of Real Estate Appraisal defines Highest and Best Use as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value.” Of course, the Seller wants the highest price possible and they are relying on their agent to market the property in such a way that the highest value is obtained. This is only possible if the agent can reasonably determine the highest and best use of the property.

A common problem with “in between” properties is that the Seller has an unrealistic opinion of value. The Seller has often not heard of, much less considered, the four tests of highest and best use. In addition, unlike a property within a subdivision where comparable sales are plentiful, there is usually limited data and most of it is not truly comparable. In my experience, the seller wants to point to a nearby property that sold “for commercial use” at a very high price and they base their opinion of value on that sale. They typically don’t understand the nuances of the sale and the impact those nuances have on value. For example, they may not have considered:

- What was the date of sale and are current market conditions similar?
- Was it already zoned commercial?
- Was it rezoned or was a variance obtained during the contract period?
- Was it part of an assemblage that resulted in a larger, more functional property?
- Did the house have a floorplan well suited for commercial use?
- Was it located on a corner or did it have superior visibility and access?
- Was it in the same local jurisdiction (the County may allow uses the City does not, and vice versa)?
- Did it have water and sewer (when the Subject may be on well and septic)?

All good questions and all factors that may affect value. Comparable sales of this nature often require significant research to determine the details of the sale and how they relate to the Subject property. In many cases, these sales are not in the local MLS system because they were handled by a commercial agent, many of whom do not use MLS. That leaves the typical residential agent in the position of having to perform all the research necessary to determine the likely highest and best use and resulting appropriate list price, or possibly referring the listing to a commercial agent who has the requisite market knowledge. I know some agents don’t like the idea of giving away business but keep in mind that, according to a recent Inman News article, three of the top ten reasons agents get sued are 1) breach of duty, 2) working in geographic areas or with property types in which they are not qualified, and 3) giving legal advice. Each of those things could easily happen when dealing with an “in between” property, and agents should be especially cautious about listing them.

¹ The Dictionary of Real Estate Appraisal - Fifth Edition, Appraisal Institute, Chicago, IL



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Sometimes the right answer is “I don’t know”

By Ed Mitchell, MAI

A third alternative also exists – recommend that your seller order a professionally prepared commercial appraisal based on the property’s highest and best use. This takes the highest and best use and pricing burden off you and deflects any disagreement about the value to a third party. This can alleviate many issues for both the Seller and the agent and can often keep you from having to refer a valuable listing to someone else.

Commercial appraisers are well-versed in zoning and land use matters and usually subscribe to commercial data services that will contain the relevant sales. In addition, commercial appraisals often uncover details unknown to the agent and even the owner such as the potential uses allowed by zoning, flood plain information, etc. While a typical commercial appraisal will cost a few thousand dollars, that is money well spent to get the data and analyses that will help establish proper pricing. For most sellers, the cost of an appraisal represents only a few months’ mortgage payments that will be made if the property is sitting on the market improperly priced or inadequately

marketed because the agent was unaware of potential uses for the property.

Pre-listing appraisals have become more and more common in the residential market and they almost always save the Seller and agent time, money, and frustration. The same is true, perhaps even more so, for “in between” and even traditional commercial properties. It makes sense to have an independent professional offer guidance on highest and best use and an appropriate value conclusion – after all, most agents don’t try to perform their own title searches, surveys, or environmental assessments. In addition, after several years of a rising market, an appraisal should be viewed as an investment, not an expense. Most of us would not sell any high value item without thoroughly researching the value and market conditions. By telling a potential seller up front that their situation warrants a professional appraisal, you’re likely to set yourself apart from the competition and offer a more professional listing presentation.

So as you plow ahead into what already looks to be a busy and prosperous new year, don’t be afraid to answer, “I don’t know” and call in an expert.

Ed Mitchell, MAI, is the Manager of the Commercial Appraisal Department for D.S. Murphy & Associates. He has over 20 years’ experience in commercial valuation and has consulted on many “in between” properties. He can be reached at (678) 636-4838 or at emitchell@dsmurphy.com