June 2017
Volume 13 Issue 6

Monthly Newsletter of the Georgia Real Estate Commission

GREC RENews

This Issue

2017Calendar

Common Violations Class Dates:

- June 20, 2017
  GAMLS
  Tucker, GA
  770-493-9000
- August 22, 2017
  Golden Isles AOR
  Brunswick, GA
  912-264-2915

Link to the Georgia Real Estate License Laws, Rules, and Regulations

Link to GREC Disciplinary Actions
View Current Suspensions and Revocations

Link to Proposed Rule Changes

Real Estate Investing Trends

Whether it is due to the continuing trend of low interest rates, the economic climate, or a growing population, investor groups are actively promoting investor strategies and marketing their investment "systems". This article discusses some of the common elements of these "systems". Many of these investors are making real estate investments as principals in the transaction and are not real estate licensees. However, if a real estate licensee does invest by buying or selling properties for his/her own personal business, the licensee must make all appropriate disclosures, this includes clearly disclosing that the individual is licensed and whether his/her real estate license is active or inactive.

Many companies provide data mining services that produce a customized list of sellers in distress and cash buyers. There are usually upfront and/or monthly fees to access these data systems or other tools that evaluate properties.

Other companies or organizations profit by providing investors various support services to facilitate the transactions and may even participate in some transactions. Some of these organizations or groups lend the investor funds at lower-than-market interest rate (a virtual line of credit) to enable an investor with little or no credit to purchase and flip homes. Using the companies' funding program, an investor may have access to fast cash for quick transactions and can avoid some of the restrictions associated with FHA insured loans or loans requiring owner occupancy. Every investor should be familiar with the laws regarding flipping properties.

The investor organization may benefit from each investment transaction by charging fees for services such as title review, access to contract forms, databases, property repair services, and research sources, in addition to receiving a fee per transaction. If the investor is a real estate licensee, disclosures may be required regarding the source and any affiliation to the service providers used to facilitate the transaction.

Terminology used in the investor community is briefly described below and is subject to variation by common usage. *continued on page 2…*

May 2017 Meeting - Commission Actions Taken	
Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	2
Cease & Desist Orders Issued	2
Citations Issued	12
Letter of Findings Issued	1
Consent Orders Entered Into	None
Final Orders of Revocation of Licensure	1
Cases Closed for Insufficient Evidence or No Apparent Violation	22
Licensing Cases - Applicant has a Criminal Conviction - License Issued	9
Licensing Cases - Applicant has a Criminal Conviction - License Denied	4
Total	53

Click here to review a legend of the disciplinary actions the Commission may impose.

Investing Trends ...

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- The concept of “Wholesaling” real estate involves the quick sale of property to a middle man, or one who is usually not the End User. In other words, after purchasing the distressed property, the investor does little to no improvement on the property and sells it as soon as possible to minimize carrying costs. The concept requires a quick turnaround and not being greedy on the final sales price. Investors buy property to generate profit, whether it is from rental income or appreciation in value.
- The “End User” is the party who plans to keep the property for his/her own use. Typically the End User/ End Buyer will pay more than an investor because he/she plans to keep the property for his/her own use. The investor plans to sell the property for more money than he/she paid so he/she typically must either buy the property at a price below market or improve the property to justify selling for a higher price.
- A “Distressed” seller refers to a seller who is motivated because of various situations including foreclosure, relocation, property in disrepair, upside down mortgages, or other personal circumstances that may affect sales price.
- “Transactional funding” basically refers to a short term loan arrangement. Investors that have a virtual line of credit from an investment organization are expected to pay off the loan very quickly. Having access to these funds enables a cash purchase at a lower than market interest rate with a quick closing. The investor must close quickly to minimize carrying cost on the line of credit in addition to the fees he/she pays for other services to facilitate the transaction.
- “ARV” is After Repair Value. Many investors choose to improve the distressed property and must factor the estimated ARV into the potential profit analysis.
- A “Cash Buyer”, in investor terms, refers to a buyer that does not require any contingency for a conventional, FHA, or other loan approval.
- “POF” or Proof of Funds is usually in the form of a letter attached to a purchase offer that states that the buyer has already obtained funding for the purchase price being offered. Determining the validity of the POF is part of the buyer’s due diligence.
- A “Passive Income property” usually refers to a situation involving rental properties where the owner is an absentee landlord that basically collects rental income and has little or no interaction with the tenants and may not have even visited the property.

Investors’ strategies are often based on multiple transactions, and one of the deciding factors is the cost to fund and carry purchases. So the proverbial buy low sell high is modified to: buy low and sell fast, but not necessarily at the highest price.

Focus: “Probate Real Estate Investing”

Probate real estate investing is and has been a common practice in the real estate investor industry. The investor or his assistant contacts the heirs or personal representatives (PREP) or administrators of the estate of a recently deceased property owner. The information of recent decedents can be obtained from the probate court at the county courthouse or even by reading the obituaries.

Whether it is a postcard, a letter, or a direct contact, the investor is usually a “Cash Buyer” and offers to make a quick close, but at lower than market price because they believe the party inheriting the property wants to dispose of it with as little trouble as possible. Some investors even offer to clean out the house and take all the contents and personal items and dispose/sell them. This investor’s strategy is to make the offer as attractive as possible by offering a quick, cash closing, eliminating all the hassles for the seller, and thereby convincing the seller to sell at a lower price. These investors compete with End User home buyers when making offers on properties. The circumstances of a quick probate real estate sale should be considered in the licensee’s analysis when doing comparable sales evaluations to determine appropriate listing prices.

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Comments & Suggestions

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“Being a Broker and Staying Out of Trouble”

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The Appraisers Page

Georgia Real Estate Appraisers Board June 2017

Useful Links:

[GREAB Web Site]

[Appraisal Act]

[GREAB Disciplinary Sanctions]

Competent professional or Jack-of-all trades? You can't be both.

I am a licensed real estate agent and a Certified General Appraiser. In my work as an appraiser, I am bound by the Uniform Standards of Professional Appraisal Practice (USPAP). These standards protect the users of appraisals by requiring certain minimum standards.

One of the Rules found in USPAP requires competency by the appraiser as it relates to the property being appraised. An excerpt of the Competency Rule reads:

> The appraiser must determine, prior to accepting an assignment, that he or she can perform the assignment competently. Competency requires:
> 1. the ability to properly identify the problem to be addressed;
> 2. the knowledge and experience to complete the assignment competently; and
> 3. recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

In addition, if an appraiser does not have the requisite competence, he or she must disclose that to the client before accepting the assignment. You can imagine how excited a client would be if I said "I'm not really qualified to appraise this property but if you give me the assignment I'll figure it out!" Not exactly confidence-inspiring. Even if the client were to agree, it is unlikely the assignment would be profitable due to the time I would have to invest in learning about an unfamiliar property type or market area.

So what do I do? I refer the assignment to someone who already possesses the required competence. This week I referred the appraisal of several hundred acres of timber land to an appraiser who is also a Registered Forester who routinely values similar properties. Doing so provided better service to the client and allowed me to build my professional network with someone that may return the favor one day (I say favor because I've never known an appraiser to ask for a referral fee). I also employ this approach in my brokerage activities.

Relevance to Agents

At this point you may be asking "What relevance does this have to me as a real estate agent?" Let me explain. Almost every week I get a call from a residential agent asking me to appraise a bank, a car wash, a religious facility, an office-condo, etc. so that they can list it. They readily acknowledge that it's not their area of expertise and they are unsure how to price it. Yet they're convinced if I can provide the value, they will be able to professionally market and sell the property.

Notwithstanding the fact that I am happy to get the work, I often wonder why the agent doesn't refer the listing to someone that already has experience with that property type. It would almost certainly be a better service to the client, not to mention that it is a more efficient use of the agent's time and talent. Lastly, it significantly reduces the risk of an error or omission on the part of the agent, a common problem when dealing with unfamiliar property types.

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Georgia Real Estate Appraisers Board June 2017

Useful Links:

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The Ethical Argument

Perhaps you remember from your time studying for your license that most real estate agents have a similar competency requirement. Article 11 of the Standards of Practice and Code of Ethics of the National Association of Realtors reads, in part:

> Realtors® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

Are agents who are willing to list any property in any area really complying with this requirement? Probably not. Consider a scenario where a residential agent is asked to list a religious facility. It sounds simple enough – it's fairly small, it's located in a neighborhood, it sort of looks like a house… Now consider the questions that the agent should be asking of themselves:

- Do I know the market for this property type?
- Do I have access to the appropriate marketing tools (i.e., non-residential listing services)?
- Am I confident the highest and best use is continued use as a religious facility (hint: residential developers sometimes buy these properties to redevelop)?
- Do I know how to determine the zoning and research any possible deed restrictions (hint: land is sometimes donated for the construction of a religious facility but is then restricted to that use, sometimes forever)?
- Do I know the typical market metric for determining price (i.e., price per square foot, price per seat, price per acre plus contributory value of the improvements)?
- Do I know how to reach potential buyers of this property type?
- Do I know what typical due-diligence terms are so that I can advise the Seller on the terms of an offer?
- Do I have knowledge of the typical financing for this property type (hint: it's usually not bank financing)?

In addition, by taking such a listing, there is an increased likelihood of an error or omission on the agent's part that may prove to be quite costly. Clearly there is an ethical argument to consider before taking listings that do not fall under your normal area(s) of practice.

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The Economic Argument

Is it possible that referring business to someone else could ultimately be more profitable? Let's continue with the example of a residential agent being asked to list a religious facility. The following table compares what the agent would likely earn in each scenario:

	Agent Lists	Agent Refers
Sales Price	$200,000	$200,000
Commission Rate	6%	6%
Total Commission Paid	$12,000	$12,000
Assume Half to Selling Agent	-$6,000	-$6,000
Commission to Listing Side	$6,000	$6,000
Broker Percentage (25%)	-$1,500	-$1,500
Agent's Net Commission	$4,500	$4,500
Referral Fee @20%		$900

Of course $4,500 is significantly more than $900, and that is where most agents get hung up. Now consider the value of your most valuable resource – your time.

In the scenario where the agent takes the listing, they will easily spend a few hours working with the Seller learning about the property, taking photos, filling out listing paperwork, etc. Now add the time and expense of installing signage and a few more hours showing the property (often to buyers who will have difficulty obtaining financing – a well-known issue for not-for-profit entities). When an offer is made, a few more hours will be spent communicating with the parties and negotiating a deal. And finally, expect to spend a few hours attending a closing. I think most experienced agents would agree that it would be easy to invest ten to twenty hours in this process and it may be considerably more if the property is not close to your home or office. If you happen to live in the Atlanta area, traffic alone could add hours to the process.

Assuming the low end of the range of time invested, the $4,500 commission now equates to $450 per hour. Contrast that with the scenario where the listing is referred to an agent experienced with this property type. In that case, the referring agent may spend an hour speaking to the seller and making the "hand off" to the more experienced agent – that equates to making $900 per hour for the same transaction! Not to mention that you have reduced your potential liability and made yourself available to focus on properties that are in your area of expertise. That sounds like a win-win for everybody!

The next time you're asked about listing something outside your market area or your area of expertise, consider the time you'll invest working the transaction and the risk of working with an unfamiliar property type. You'll likely find that referring the business to an experienced agent will be less stressful, more profitable, and result in better service to the client.

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