

2019 Calendar

Annual Schools Meeting and GREEA Workshop

- December 5 & 6, 2019
UGA Continuing Ed Center
Atlanta, GA
www.greea.org

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

[Link to Proposed Rule Changes](#)

Georgia Real Estate Infobase

[Click Here](#)



This Issue

Can I Call or Not?	P. 1
Disciplinary Stats	P. 1
AMK Section	P. 2
Focus on Terminology	P. 2
The Appraisers Page	P. 3-4

Can I Call or Not?

Anyone with a telephone has likely received phone calls marketing all types of products and services. The use of automated robocalls and telemarketers have become standard advertising tools for many companies. Telephone solicitation by real estate licensees does fall into the category of telemarketing. As such, it is important to follow the following guidelines to ensure compliance with the Telephone Consumer Protection Act (TCPA) and avoid violating these federal guidelines or receiving any consumer complaints.

- **Check the Registry First.** Check the [Do-Not-Call Registry](#) before contacting a potential client/customer, unless the consumer has made a customer inquiry.
- **Every 31 days.** Access the National [Do-Not-Call Registry](#) and purge numbers from their marketing call lists every 31 days. The company must maintain records to document this process.
- **Request & Records.** Telemarketers are required to document a consumer's request not to receive further calls and must maintain a record of a consumer's request. A do-not-call request must be honored for 5 years from the time the request is made.
- **Referrals.** Telephone solicitations to persons based on referrals are also subject to the do-not-call rules.
- **Train.** All agents and office personnel in the brokerage firm should understand and be trained in the firm DNC policy and procedures.

...Continued on page 2

November 2019 Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	2
Cease & Desist Orders Issued	3
Citations Issued	10
Letter of Findings Issued	4
Consent Orders Entered Into	1
Final Orders of Revocation of Licensure	2
Cases Closed for Insufficient Evidence or No Apparent Violation	19
Licensing Cases - Applicant has a Criminal Conviction - License Issued	24
Licensing Cases - Applicant has a Criminal Conviction - License Denied	1
Total	66

[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 [Click Here](#)

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

Call or Not?...

- **FSBO.** The purpose of the call must be to discuss a potential sale. If a seller is a For Sale by Owner and his/her phone number is listed on the Do-Not-Call Registry an agent can only call the owner if he/she actually has a party interested in the property. Otherwise, it is a violation.

The National Association of Realtors™ has created an informative video explaining tips for real estate offices to manage and comply with the Telephone Consumer Protection Act Do Not Call requirements, and it can be viewed at the following link. [Window to the Law: Comply With The Do Not Call Registry](#). In addition, the entire FTC document stating describing the requirements can be accessed as a pdf file at the following link: <https://transition.fcc.gov/cgb/policy/Telemarketing-Rules.pdf>

There is no cost to register residential or cell phone numbers. Go to www.donotcall.gov. The phone numbers already registered on the previously maintained Georgia Do Not Call List were merged into the Federal Do Not Call Registry. (DNC).

Absolutely Must Know Section



The Brokerage firm’s Office Policies and Procedures should include practical policies to comply with the TSR (Telemarketing Sales Rule) including procedures to avoid calling numbers registered in the Do Not Call National Registry. There is a 31-day requirement to scrub and update call lists.

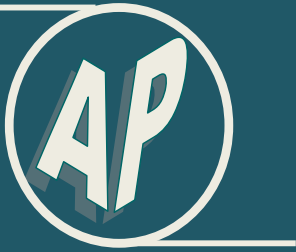
In addition to compliance with FTC rules, it is a violation of the License Law, Rules, and Regulations to negotiate a sale, exchange, or lease of real estate directly with an owner, a lessor, a purchaser, or a tenant if the licensee knows that such owner or lessor has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or that such purchaser or tenant has a written outstanding exclusive brokerage agreement with another broker, unless the outstanding listing or brokerage agreement provides that the licensee holding such agreement will not provide negotiation services to the client;
Reference: [§ 43-40-25](#). Violations by licensees, schools, and instructors; sanctions; unfair trade practices (b) (14).

Focus on Terminology: “Solicitation”

- The TCPA defines a telephone solicitation as: “the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person but does not include a call or message to any person with that person’s prior express invitation or permission; to any person with whom the caller has an established business relationship; or by a tax-exempt nonprofit organization.”
- The term telemarketer means the person or entity that initiates a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

Relevant Acronyms:

TCPA: Telephone Consumer Protection Act of 1991
FTC: Federal Trade Commission
TSR: Telemarketing Sales Registry



The Appraisers Page

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB Disciplinary Sanctions](#)

Calculating Time Adjustments

By: D. Scott Murphy, SRA & E. Grant Murphy

One of the most challenging tasks for an appraiser is to correctly analyze the current market and calculate the rate of depreciation or appreciation. It's a moving target and while hind sight is 20/20 confirming the most recent and pending sales is often a challenge. The method for calculating either depreciation or appreciation is to carefully research **comparable** sales in the subject market. Only sales and listings which would have been a valid alternative for the subject property can be used. A common error is to calculate market change using **all** sales and listings in the subject market.

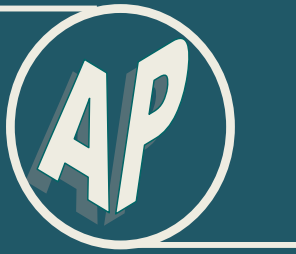
In 2008 the two GSE's (government sponsored entities) Fannie Mae and Freddie Mac released forms 1004MC and 71 respectively (a cosponsored form which is identical). This is the form which appraiser use to report their results.

Market Conditions Addendum to the Appraisal Report *The Market Conditions Addendum (Form 1004MC) is designed to enhance the transparency of the market trends and conditions conclusions made by the appraiser. The Market Conditions Addendum will be required with all one- to four-unit property appraisals performed on or after April 1, 2009. This requirement applies to loans delivered to Fannie Mae, whether the loans are underwritten manually or through Desktop Underwriter®. The Market Conditions Addendum is intended to provide the lender/client with a clear and accurate understanding of the market trends and conditions prevalent in the subject neighborhood. The form provides the appraiser with a structured format to report the data and to identify more easily current market trends and conditions. The appraiser's conclusions must be reported in the "Neighborhood" section of the appraisal report.*
*Source: Fannie Mae

Market Conditions Addendum to the Appraisal Report File No.

The purpose of this addendum is to provide the lender/client with a clear and accurate understanding of the market trends and conditions prevalent in the subject neighborhood. This is a required addendum for all appraisal reports with an effective date on or after April 1, 2009.					
Property Address		City		State	ZIP Code
Borrower					
Instructions: The appraiser must use the information required on this form as the basis for his/her conclusions, and must provide support for those conclusions, regarding housing trends and overall market conditions as reported in the Neighborhood section of the appraisal report form. The appraiser must fill in all the information to the extent it is available and reliable and must provide analysis as indicated below. If any required data is unavailable or is considered unreliable, the appraiser must provide an explanation. It is recognized that not all data sources will be able to provide data for the shaded areas below; if it is available, however, the appraiser must include the data in the analysis. If data sources provide the required information as an average instead of the median, the appraiser should report the available figure and identify it as an average. Sales and listings must be properties that compete with the subject property, determined by applying the criteria that would be used by a prospective buyer of the subject property. The appraiser must explain any anomalies in the data, such as seasonal markets, new construction, foreclosures, etc.					
Inventory Analysis	Prior 7-12 Months	Prior 4-6 Months	Current - 3 Months	Overall Trend	
Total # of Comparable Sales (Settled)				<input type="checkbox"/> Increasing	<input type="checkbox"/> Stable <input type="checkbox"/> Declining
Absorption Rate (Total Sales/Months)				<input type="checkbox"/> Increasing	<input type="checkbox"/> Stable <input type="checkbox"/> Declining
Total # of Comparable Active Listings				<input type="checkbox"/> Declining	<input type="checkbox"/> Stable <input type="checkbox"/> Increasing
Months of Months Supply (Total Listings/Active Sales)				<input type="checkbox"/> Declining	<input type="checkbox"/> Stable <input type="checkbox"/> Increasing

The appraiser must use the exact same search parameters used in looking for the comparable sales and listings used in the appraisal. This often results in a modest dataset. Sometimes there will be zero sales or listings for a given period. The GSE's say that is okay. They do not want the appraiser to change neighborhood boundaries or other significant factors in order to collect more data.



The Appraisers Page

Useful Links:

[GREAB
Web Site](#)

[Appraisal Act](#)

[GREAB
Disciplinary
Sanctions](#)

Calculating Time Adjustments

By: D. Scott Murphy, SRA & E. Grant Murphy

*Markets are seldom all up or all down. Most markets have general trends, but on any given day, there will be evidence of values increasing, decreasing, and/or remaining stable. In some areas, it may be difficult to find any evidence of a trend or even any change. This is not for the lack of change but for the lack of evidence. It is doubtful that the analysis done in one market is transferable to another market nor is it likely that any analysis has a very long shelf life. * Source Fannie Mae, Freddie Mac and the Appraisal Institute training video*

Using just the neighborhood boundaries is not sufficient. Within those neighborhood boundaries are many submarkets. Wouldn't you agree that homes in a given neighborhood in the \$100,000-200,000 price range could be appreciating or depreciating at a very different rate than those over \$1,000,000. One could be appreciating and the other depreciating. The appraiser must focus on the particular submarket, which the subject is a part of.

The 1004MC form, when completed correctly, should help the appraiser properly analyze the current market. He must consider any current trends. This does not mean he calculates that average appreciation over the course of the past 12 months. He must consider how the market is reacting as of the effective date of the appraisal. The 1004MC should also not be the only source of data used by the appraiser. There are various databases available, which can assist, in his final conclusion. Furthermore, close attention should be given to pending sales, which tend to form leading indicator.

Correct completion of the 1004MC and proper analysis of the market forms the foundation for a reliable appraisal. Incorrect completion of the 1004MC form leads to other errors throughout the report. The next most common error is the incorrect completion of the Neighborhood Section. Many appraisers and other users of the appraisal report, do not realize that the GSE's have "repurposed" the neighborhood section. This was particularly difficult for very experienced appraisers who for decades have completed the neighborhood section by reporting the data for the entire neighborhood. Makes sense, we would define the boundaries of the neighborhood and then we provided the trends of ALL the sales and listings within the subject neighborhood (remember that the subject neighborhood is generally not just the subject subdivision but many subdivisions within the defined boundaries). Now what the GSE's require is that the appraiser populate the fields in the neighborhood section with the data from the 1004MC and other databases used to arrive at his conclusions of the current market conditions. So not to state the obvious but if the appraiser checks the box "increasing" for sales price on the 1004MC form, he must check the box for "increasing" for market values in the neighborhood section. You would be amazed at how many times these boxes do not match.

Then the third part to correct completion of the appraisal with regards to the 1004MC is the "top of page two". This term is familiar to appraisers, it is the first part of the sales comparison approach where the appraiser is asked to report the current number of active listings and their list price range, then the number of sold properties



The Appraisers Page

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB Disciplinary Sanctions](#)

Calculating Time Adjustments

By: D. Scott Murphy, SRA & E. Grant Murphy

in the past twelve months and their respective sales price range. Again, these numbers must match those reported in the 1004MC.

There are two significant shortcomings of the 1004MC report. The first is that the results are the **median** values. I am not a statistician and I am sure there is a very good reason the GSE's chose to use the median numbers but one or two slightly abnormal sales in a given period may significantly alter the result. I think the rationale is that median eliminates the highs and lows.

The second shortcoming with the 1004MC report is that all the sales and listings used in this report are unadjusted. Remember we are trying to calculate the market change for the subject property. The data used in the report must be **comparable** properties. Properties which are as similar to the subject as possible, properties a typical buyer would have considered when considering to buy the subject property. But it does not mean that those

properties will not vary slightly from the subject property. If all sales used were identical to the subject property then any change in sales price would represent a true change in market value. However, let's assume all the homes in our dataset are identical except in the early part of the year two of the sales had inground pools (the subject and the other sales did not have pools). Let's assume those pools had a contributory value of \$40,000. Then in the second quarter of the year there were three sales which happened to have an additional car garage and let's assume the contributory value of the additional car garage was \$20,000. In the 3rd quarter a number of sales had slightly superior lot sizes – assume \$10,000. In the final, or current quarter, all the sales were identical to the subject. Remember, my assumption is that all the sales and listing are identical to the subject in terms of size, age, condition, room count, basements, etc. – the only slight differences are those outlined above.

First Quarter	Second Quarter	Third Quarter	Fourth Quarter	
\$750,000	\$740,000	\$730,000	\$725,000	UNADJUSTED
\$710,000	\$720,000	\$720,000	\$725,000	ADJUSTED

The unadjusted value indicate that values have declined from \$750,000 to \$725,000 over the course of the year. But if you consider the adjusted numbers values have actually increased over the course of the year.

One other very important factor to take into consideration is that appraisers use the local multiple listing service for collection of the data for this analysis. Not all sales and listings are not included in the multiple listing service. Also consider that most new construction is not multiple listed. When valuing a new or newer property alternative databases must be relied upon over the standard MLS system.

The take-away for agents and appraisers is how critical it is to analyze the subject market correctly. With or without a special form, we must be very careful in collecting the right data and thoroughly analyzing it. You also want to step back and contemplate if the data actually makes sense. If the trends are contrary to what you expected or are not consistent, go back and look at the actual sales and listings. If there are some which are skewing the results and may not be a true representation of the market they should be given less weight.