



# Ohio Real Estate News

September/October 1985

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SUPERINTENDENT OF REAL ESTATE

## Superintendent's Column

### COMMITTEE EXPANDS E&R FUND OBJECTIVES

By Charles R. Santer

The Education and Research Committee of the Ohio Real Estate Commission has expanded the uses of Education and Research Fund monies to balance academic contributions with education and research efforts that will more directly benefit real estate practitioners.

This administration, together with the Commission, set up the review committee this summer to evaluate the impact of research supported by the fund and to recommend ways to improve the fund's effectiveness.

Two dollars of each real estate licensee's fees are directly credited to the fund, generating over \$100,000 annually for education and research projects.

In the past, revenues from the fund were earmarked primarily for use by the Ohio State University Center for Real Estate Education and Research which administered the program and supervised the research efforts funded by it.

The Center has played a valuable role in producing academic research that has significantly increased the body of knowledge in the field of real estate. However, while the committee continues to support the concept of basic research, it hopes to create a better balance by encouraging applied research and education projects that will be of more practical and immediate value to the real estate industry of Ohio.

Under the new guidelines adopted by the committee, the program will continue to solicit research proposals from state colleges and universities, as well as from persons and organizations with expertise in the field of real estate that wish to undertake research with more direct application for practitioners.

At its most recent quarterly meeting in August, the committee set aside \$75,000 to finance expanded uses of the fund and \$25,000 to support fixed costs for the Ohio State University Center.

New guidelines call for the Ohio State Center, under the direction of Dr. Ronald L. Racster, to continue to supervise and coordinate education and research projects funded by the program.

The Education and Research Committee will review all education and research proposals and make recommendations to the Commission that will ultimately decide which proposals are funded.

Another change initiated by the committee will make research results more accessible and understandable for practitioners attempting to keep abreast of new developments in the field. Because many academic research projects, by their very nature, are presented in a highly technical manner, the commission is requiring the authors to complete executive summaries that translate findings into less technical terms that everyone can understand.

When completed, a synopsis of the research projects will be published in the Ohio Real Estate News so that the entire real estate community will benefit from this valuable learning experience.

Education or research proposals should be submitted to me, Charles R. Santer, Superintendent of the Ohio Division of Real Estate and Chairman of the Education and Research Committee, at Two Nationwide Plaza, Columbus, Ohio, 43266-0547.

A list of academic research projects that have been written over the years can be obtained, free of charge, from the Ohio State Center. Research project reports can be purchased at a nominal fee. To acquire this information, contact Dr. Racster, Director of the Ohio State Center for Real Estate Education and Research, at 1775 College Road, Columbus, Ohio 43210.

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#### **Attention!!!**

PLEASE SHARE THIS NEWSLETTER WITH ALL OF YOUR SALES ASSOCIATES. FEEL FREE TO MAKE COPIES.

(THIS IS MAILED TO BROKERS AND BRANCH OFFICES ONLY)

# Foreign Real Estate Questions and Answers

The Ohio General Assembly has recently passed legislation transferring the responsibility for the regulation of foreign real estate from the Department of Commerce's Division of Securities to its Division of Real Estate.

This law change, effective September 11, 1985, is bound to generate questions among real estate practitioners. Some of these questions may include:

## Q. What is foreign real estate?

A. Foreign real estate is any real estate (buildings and land) not situated in Ohio or any interest in real estate not situated in Ohio. This includes, without limitation, the sale or lease of realty not situated in Ohio, or time-sharing and condo developments not situated in Ohio.

## Q. Can I automatically get a foreign real estate license if I have an Ohio real estate license?

A. No. Foreign real estate dealers and salesmen have completely separate licenses from Ohio real estate dealers and salesmen. Additional filings and examinations are required to become licensed in foreign real estate.

## Q. How do I get a foreign real estate license?

A. The requirements to become licensed as a foreign real estate dealer or salesman are contained within Sections 4735.27 and 4735.28, respectively, of the

Ohio Revised Code. An applicant seeking to act as a foreign real estate dealer or salesman must be at least 18 years old, of good business repute, have passed the written examination or have had the examination requirement waived and fully complied with the application procedures. The written examination fee is \$75.00 for a foreign real estate dealer's license and \$50.00 for a foreign real estate salesman's license. The examination requirement may be waived in whole or in part by the Superintendent if the applicant is licensed as a real estate broker or salesman in any state or is licensed as a foreign real estate broker or salesman in another state. License applications for foreign real estate dealers and salesman can be received by writing to the Division of Real Estate.

## Q. If I'm currently licensed as a foreign real estate dealer or salesman, do I need to reapply for a license through the Division of Real Estate?

A. No. Any existing license of a dealer or salesman of foreign real estate acquired from the Ohio Division of Securities prior to September 11, 1985, will be accepted by the Division of Real Estate. The license shall be valid until the expiration date of the license (December 31, 1985). The renewal of any existing foreign real estate licenses shall be filed with the Division of Real Estate.

## Reminder — Continuing Education Requirements — Reminder

At the time our last issue was printed we notified you that of the real estate licensees whose continuing education will be due on January 31, 1986 approximately 29,000 had still not submitted proof that they have completed this education. As of this printing there are still approximately 26,000 such individuals who fall in this category. These persons are apparently waiting until the last minute to take their courses. By doing so they are taking the risk of such classes not being available.

Once again, if you are one of these 26,000 people, it is crucial that you complete this education by January 31, 1986. If proof that you have done so is not received by the Division by January 31, 1986, your license will be **automatically** suspended. Therefore, it is imperative that you complete your continuing education as soon as possible.

For those of you who may have taken some course work, but have not completed a total of 30 classroom hours, please do not send it in to the Division until you have completed the remainder of the required hours. As a professional licensee it is your responsibility to maintain records of the education you take. Not until the classroom hours you have taken total 30 hours will it be accepted by this Division.

When you have your total 30 hours completed, send in your certificate(s) of completion along with the required compliance form to our Division. This compliance form **must be typed**. Only black ribbon will be accepted. If you need one of these forms, or a list of approved courses available in your area, please contact our Continuing Education Section.

Remember, no exceptions or extensions can be given to complete this education. Therefore, it is important to make arrangements **today** to complete these courses in order to avoid the suspension of your license.

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DIVISION OF REAL ESTATE  
DEPARTMENT OF COMMERCE  
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The Ohio Real Estate Commission

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# DISCIPLINARY ACTIONS

The purpose of this article is to disseminate to licensees information concerning recent Commission activities and decisions, pursuant to Section 4735.03 (E) of the Ohio Revised Code.

The Commission has taken the following action with regard to these real estate licensees:

## SUSPENSIONS

C. RUSSELL BUNNING, broker, and ABC REAL ESTATE EXCHANGE, INC., corporate real estate brokerage, Newark, Ohio, each had their broker's license suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. These suspensions commenced June 24, 1985. Bunning entered into an agreement to purchase a property from a seller if, after the expiration of a 90 day listing with ABC, the subject property was not sold or under contract to be sold. At the expiration of this 90 day listing said property had not been sold. Bunning failed, without reasonable cause, to enter into a contract to purchase the subject property, as he had agreed to do. Also in connection with a contract for the sellers' purchase of property, Bunning lent the sellers certain money. In consideration of the receipt of this money, the sellers gave ABC a note, which was not due and payable until after their home was sold by or purchased by ABC. Although said property had not been sold yet, or purchased by ABC pursuant to its agreement to do so, ABC demanded payment of this note. This conduct was also found to constitute misconduct in violation of Ohio Revised Code Section 4735.18(F).

WILLIAM X. YOUR, sales associate, Marion, Ohio, had his sales license suspended for 10 days for violating Section 4735.18(A) of the Ohio Revised Code. This suspension commenced June 24, 1985. Your failed to disclose to the purchasers of property he owned that the roof leaked, when Your knew or should have known of this latent defect.

R. STEPHEN HENDERSON, broker, Paris, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced June 24, 1985. Henderson represented to the buyers of a property he owned that the property had a well and a septic tank and that these features worked properly without exercising any care to ascertain the accuracy of these representations. Henderson's conduct was found to constitute gross negligence.

BARBARA T. GILDAY, sales associate, Northfield, Ohio, had her sales license suspended for 10 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced June 24, 1985. Gilday was grossly negligent in failing to note on a legal description of property she had listed (on behalf of the broker) that one acre of the property had been the subject of an earlier conveyance. Due to her failure to note this prior conveyance, she represented to the buyer that the property was one acre larger than it actually was.

WILLIAM R. BEARD, broker, Cleveland, Ohio, had his broker's license suspended for 90 days for violating Sections 4735.18(E), (F) and (Z) of the Ohio Revised Code. This suspension commenced July 19, 1985. Beard failed within a reasonable time to remit to the buyers earnest money he had received from them in connection with an offer to purchase property that was not accepted. Beard also failed to deposit and/or maintain this earnest money in a trust account at all times. Lastly, Beard failed to satisfy a judgment obtained against him by the buyers in Municipal Court as a result of his failure to remit their earnest money to them.

JAMES A. LANCE, broker, Wooster, Ohio, had his broker's license and sales license suspended for 15 days for violating Sections 4735.18(F) and (Z) of the Ohio Revised Code. These suspensions commenced on July 26, 1985. Lance improperly withdrew monies from his corporate brokerage's trust account for his own personal use and benefit and to pay operating expenses of the corporation. Said conduct evidenced Lance's failure to maintain a trust account that was separate and distinct from his personal accounts.

EDWARD J. BODISH, dba, COLUMBIAN REAL ESTATE, broker, Dublin, Ohio, had his broker's license suspended for 60 days for violating Sections 4735.18(A), (F), (K), (Z) of the Ohio Revised Code. This suspension commenced July 26, 1985. Bodish authorized a non-licensed person to perform, on his behalf, acts for which a real estate license is required. Said acts were performed in furtherance of and incidental to the sale of a property. Bodish paid a commission or fee to this non-licensed person upon the sale of the subject property, when he knew or should have known that said person was not licensed as a real estate broker or salesperson. Also, Bodish failed to maintain at all times a special or trust account which was noninterest-bearing and which was separate and distinct from any personal account. Furthermore, Bodish failed to deposit into his trust account an earnest money deposit he received from the buyers of the subject property.

DONALD W. SHAFFER, broker, Jackson, Ohio, had his broker's license on deposit and sales license suspended for 30 days for violating Sections 4735.18(E) and 4735.18(F) of the Ohio Revised Code. This suspension commenced on July 26, 1985. Shaffer transferred part of the money he had received in a fiduciary capacity in connection with an option to purchase property from his trust account to his operating account. This was done without the knowledge and/or consent of either the buyer or the seller. Furthermore although the option to purchase contract called for this money to be retained by the sellers if the option was not exercised, Shaffer failed to so remit all of the option money to the seller.

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## SUSPENSIONS

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PAULA G. WALLEN, sales associate, Franklin, Ohio, had her sales license suspended for two days for violating Section 4735.18(S) of the Ohio Revised Code. This suspension commenced May 30, 1985. Wallen negotiated the sale of a property directly with the owners, knowing that they had a written, outstanding contract granting exclusive agency to another broker for the sale of this property.

WILLIS BATES, sales associate, Shaker Heights, Ohio, had his sales license suspended for 180 days for violating Sections 4735.18(A) and (F) of the Ohio Revised Code. This suspension commenced May 30, 1985. Bates signed a seller's name to a contract granting his broker the exclusive right to sell the subject property without the seller's knowledge, consent, or authorization to do so. Bates failed to indicate in anyway that the name of the seller was signed by him rather than by the seller. Bates also acknowledged the receipt of an earnest money deposit from a buyer on a contract for the purchase of the subject property when he knew that he had not received this earnest money deposit.

## SUPERINTENDENT'S COLUMN

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The Education and Research Committee represents an excellent cross section of the real estate industry in Ohio. The committee members besides myself are: Kenneth R. Cox, Director of the Ohio Department of Commerce; Paul J. Everson, Ohio Real Estate Commission, Euclid; M. Robert Garfield, Broker - West Shell, Inc., Cincinnati; Edward D. Horton, President of the Ohio Realists, Cleveland.

Also, Selmer E. Prewitt, Ohio Real Estate Commissioner, Cleveland; Dr. Racster; Almon R. Smith, Executive Vice President of the Ohio Association of Realtors, Columbus; Dr. James Webb, University of Akron; Elmer F. Synek, author, broker, and educator, Cleveland; and Robert Welly, President of the Youngstown Area Board of Realtors.

## Robert Hersam Case Clarified

In the July/August newsletter, it was reported that Columbus sales associate Robert G. Hersam had his license revoked for violating Section 4735.18(F) of the Ohio Revised Code.

The newsletter stated that Hersam had failed to disclose to the buyers of a property that it could be purchased for less than the asking price.

On the face of this explanation, Hersam had done nothing illegal.

However, the facts of this case were such that a violation was committed. In the transaction involved, Hersam was specifically hired by a corporation to represent it in the acquisition of certain properties. In the course of his duties, Hersam prepared an offer for the corporation's purchase of certain property for \$490,000.

At the time he did so, he had knowledge that the seller had purchased the same property on the same day for nearly \$200,000 less.

Because Hersam was clearly the buyer's agent in this transaction, he had a duty to advise them that the property could probably be purchased at a lower price.

It is only in this situation where the real estate licensee is clearly the agent of the buyer (e.g., is hired and being paid by the buyer) that his duty of loyalty requires such disclosure to the buyer. In the typical situation where the licensee is hired by the seller, it would be a breach of his duty to the seller to disclose such a minimum acceptable price to potential buyers.

### UPCOMING TEST DATES

(These dates are subject to addition or revision)

	SALES	BROKERS
	COLUMBUS/CLEVELAND	COLUMBUS
September 11	25	17/19
October 9	17	15
November 13	27	19

State of Ohio  
Department of Commerce  
Division of Real Estate  
Two Nationwide Plaza  
Columbus, Ohio 43266-0547

Bulk Rate  
Permit #  
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