



**The Ohio
Department
of Commerce**

Fall 2003

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

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GOVERNOR

Jennette Bradley
LT. GOVERNOR
DIRECTOR

Anne Moorhead Petit
SUPERINTENDENT

◆ Year in Review

A Strong Consumer Protection and Customer Service Focus Defines Superintendent Petit's First Year

Superintendent Anne Petit's first year at the helm of the Division of Real Estate and Professional Licensing has been marked by many small initiatives that add up to big results.

"When I joined the Division last August, the staff and I set our sights on protecting consumers while streamlining processes for our licensees," Superintendent Petit said. "The staff's commitment and our relationship of mutual respect with the Ohio Association of REALTORS[®] (OAR) has helped us make a great deal of progress."

Improvements in technological capabilities have been a top priority. The Division revamped its Web site for easier navigation and now offers more forms for licensees online. Many forms are interactive. To further simplify licensees' paperwork, the Division created a Broker Transfer for multiple licensees. Now, brokerages can transfer an unlimited number of agents on one form, rather than being required to complete a separate transfer for each agent.

Another priority was opening the lines of communication, both internally and externally. Staff issued an open invitation for all local boards and agent groups to visit. So far, a half-dozen groups from as far away as Akron and Cincinnati have visited the Division in

response. "It's created a bond," said Laird Eddie, Licensing/Education supervisor. "We get the chance to see things from their perspective, and they connect the faces with the voices. It really personalizes our services for them because they know exactly who they are calling when they need an answer from the Division."

The Division's commitment to open communication has also resulted in an outstanding collaborative relationship with the OAR, Superintendent Petit said. This has led to the development of new legislation for agency disclosures, new rules that will change the informal meeting to a mediation environment and up-to-date property condition disclosure rules.

To help keep its licensees working, Division staff started sending courtesy reminder letters to sales agents and then to the brokers when sales licenses neared expiration. This change decreased sales license suspensions by 68 percent.

To prepare real estate students for successful, compliant careers, the Division extended its outreach efforts to include career nights and college visits.

The Division has also made consumer outreach a priority, bringing information about the buying process to consumers across the state and

making related literature available in Spanish as well as English.

In the past, a salesperson would receive a reminder letter when the time approached to renew his or her license. If the renewal wasn't completed in the required timeframe, the license was suspended.

Over the past year, the Division also had the opportunity to ensure the safety of real estate professionals by supporting funding for "Safe, Not Sorry – Agent Safety on the Job," presented by the OAR and Columbus State Community College.

"It's easy to imagine how serving licensees *and* consumers could be seen as conflicting priorities, but we've found just the opposite," Superintendent Petit said. "By educating consumers about the home buying process, we are not only helping to protect them, we are also making licensees' jobs easier. And by making regulations as clear and streamlined as possible for licensees, we're giving them the tools they need to ensure they are operating above reproach."

2003 Compliance Audit Survey Shows Positive Results

Survey results regarding the 2003 compliance audit provided a positive reflection of the audit process and gave some ideas for improvement.

The results also provided insight into five main areas. First, 100 percent of respondents believe the Division's written materials (provided in advance of the audit) were helpful, and only one respondent indicated the audit process was not clearly explained when it was scheduled.

Second, 56 percent indicated the industry understands and is not apprehensive about the audit process. Of those respondents who believe the audit process is not understood (41 percent), most comments indicate the misunderstanding is due to the stress of the audit and the belief that the Division will assess sanctions for non-compliance during the audit.

Third, 88 percent of the respondents indicated the audit was very helpful and 98 indicated the audit improved their knowledge and understanding of real estate law.

A fourth finding is that while 27 percent stated that there was no challenging part of the audit process, 15 percent stated the most challenging component was the anticipation, anxiety and apprehension experi-

enced before the audit occurred. Thirty-six percent believe getting prepared and organized was the most challenging part.

A final point the survey illuminated is that 42 percent of respondents indicate the most important regulatory issues are agency and agency disclosure; 7 percent cite fair housing as most important, and 9 percent indicate trust account issues are of utmost importance.

"Anything that protects the public and makes agents understand how important their job is" is the most important regulatory issue, according to one survey participant's response.

The survey's purpose was to learn how brokers and sales agents perceive the audit process, learn what type of information is helpful to the industry, and gain suggestions for improvement. It was distributed to brokers and sales agents from December 2002 through April 2003, and distributed by investigators during scheduled audits in various areas of the state, including Dayton, Columbus, Canton, Galion, Cleveland and Cincinnati. A total of 209 surveys were returned to the Division.

The Division appreciates all the brokers and agents who took time to

complete this survey. Their input and feedback will help the enforcement section to enhance its current audit procedures.

The audit survey and complete survey results can be accessed from the Division Web site.

Brokers are required to cooperate during compliance audits, including rectifying issues of non-compliance. If they do not, brokers can face Misconduct charges under the Canons of Ethics, Article 3.

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Lieutenant Governor Jennette Bradley greets Ohio Real Estate Commission Member Lois Yeager as she visits with the Commission during their August meeting.

Meet the Staff of Licensing/Education

By Laird Eddie



(Left to Right) Pat Connors, Robert Yee, Willetta Marcum, Tamela Bryant, Diane Hillman, Laird Eddie, Beverly Spears, Jodi Phillips, Toya Johnson, Christine Broz.

The Licensing/Education section is composed of eight individuals who are responsible for processing all licensing and education documents for 44,939 licensees.

These individuals process all of the applications, beginning with helping an individual who wants to take the examination, to issuing of the license, to processing all post and continuing education. The staff also processes all of the transfers and reactivations for salespersons and brokers as well as brokerage applications. Additionally, all of the continuing education courses for real estate and appraisers are reviewed, approved and recorded by the section. This section accounts for 75 percent of the Division's telephone and e-mail inquiries and processes an average of 2,000 licensing/education applications, renewals and transfers each week.

In addition to its official duties, the section works to educate licensees on ways to ensure their requests are processed as quickly as possible.

Diane Hillman processes the examination applications and retake applications. "I have to return 8 to 10 percent of all examination applications because they are not complete," she said. The returning of incomplete documents slows down the overall processing time for the section and prevents the applicant from embarking on his or her real estate career.

"Up to 25 percent of all of the transfers and reactivations I receive have to be returned," License Processor

Willetta Marcum said.

Transfer and reactivation applications are returned when signatures are missing, forms are not complete, required payment is not attached and - the leading problem - no license is attached.

To guarantee timely processing, licensees must ensure that applications are correct and complete. Each application has instructions on how to complete the form and what attachments are required.

"We want licensees to follow the instructions so that we can process applications as quickly as possible," Education Processor Robert Yee said.

Many of the telephone calls and e-mails the Division receives concern education due dates or the status of an individual's license. A great many of the questions asked can be answered by going to our Web site and using the *Look Up Your License* link.

"We have expanded our Web site to allow our customers to obtain information and forms quickly and at their convenience," Laird Eddie, Supervisor of Licensing and Education said.

Pat Connors, Manager of the Real Estate Section, noted that the section encourages any group that would like to tour the office to contact the Division. Several groups have already taken the tours and the feedback has been very positive from all concerned.

◆ Appraiser Disciplinary Actions

THOMAS WELLS (RA), a state licensed residential real estate appraiser from Columbus, was found to have violated Ohio Revised Code 4763.11 (G) (3) as set forth in the Notice of Opportunity for Hearing. For this violation, his residential real estate appraiser license is suspended for a period of two years, during which time he is ordered to perform appraisal assignments under the supervision of a certified licensed real estate appraiser. Within the two-year suspension period, Wells is ordered to complete 90 hours of pre-licensure education, as set forth in Section 4763.05 (H) of the Revised Code and Rule 1301:11-3-03(c) of the administrative code. He is ordered to complete a 15-classroom-hour course in Uniform Standards of Professional Appraisal Practice with proof of successful passage of the course examination within 90 days. Wells committed a felony involving bank fraud, for which conviction was rendered on June 7, 2002.

JAMES W. MOORE (RA), a state licensed residential real estate appraiser from Akron, was found to have violated Ohio Revised Code 4763.11 (G) (5) as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1 (c) and Ohio Revised Code Section 4763.11 (G) (6) and Ohio Revised Code 4763.11 (G) (7). Moore was also found to have violated 4763.11 (G) (5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-5, Ohio Revised Code 4763.11 (G) (6) and Ohio Revised Code 4763.11 (G) (7) as set forth in the Notice of Opportunity for Hearing. For these violations, Moore was issued a written reprimand and was admonished to use greater care to avoid signing an

appraisal report that contains misleading and inaccurate data. Additionally, Moore is ordered to complete a 15-classroom-hour course in the Uniform Standards of Professional Appraisal Practice and a 15-classroom-hour course in Sales Comparison Approach to Value and to submit proof of successful passage of both course examinations. The courses were ordered to be completed within 120 days. Moore communicated and developed an appraisal report that contained inaccurate data in failing to report all transfers of the subject property that had occurred within one year of the appraisal. He failed to report the correct zoning of the subject property, failed to properly state the neighborhood boundaries, failed to properly describe the neighborhood, and failed to explain what was meant by “no adverse influences.” Moore failed to make adjustments for the superior views that the comparable sales properties reflected. Additionally, Moore signed a misleading report prepared by another appraiser.

RICK L. DOMINSKI (RA), a state licensed residential real estate appraiser from Akron, was found to have violated Ohio Revised Code 4763.11 (G) (5), as it incorporates the Uniform Standards of Professional Appraisal Practice, standards Rules 1-1 (c) and Ohio Revised Code Section 4763.11 (G) (6) and Ohio Revised Code Section 4763.11 (G) (7) as set forth in the Notice of Opportunity for Hearing. For these violations, Dominski was issued a written reprimand and was admonished to report all prior sales of the subject property as required and within the “Market Approach to Value,” indicate adjustments for superior view for the comparable properties, as warranted. Additionally, Dominski was suspended for 30 days. Dominski was further ordered to

complete a 15-classroom-hour course in the Uniform Standards of Professional Appraisal Practice and a 15-classroom-hour course in the Sales Comparison Approach to Value, including proof of successful completion of each course examination. All courses were ordered to be taken within 90 days. Dominski communicated and developed an appraisal report that contained inaccurate data in failing to report all transfers of the subject property that had occurred within one year of the appraisal. He failed to report the correct zoning of the subject property, failed to properly state the neighborhood boundaries, failed to properly describe the neighborhood, and failed to explain what was meant by “no adverse influences.” Dominski also failed to make adjustments for the superior views that the comparable sales properties reflected.

THOMAS J. PUSECKER II (RA), a state licensed residential real estate appraiser from Columbus, was found to have violated Ohio Revised Code Section 4763.11 (G) (5) as it incorporates the Uniform Standards of Professional Appraisal Practice Standards Rule 1-1 (c) and Ohio Revised Code 4763.11 (G) (6) and Ohio Revised Code 4763.11 (G) (7) as set forth in the Notice of Opportunity for Hearing. For these violations, Pusecker is suspended for 60 days and is ordered to complete a 15-classroom-hour course in the Uniform Standards of Professional Appraisal Practice and a 15-classroom-hour course in the Sales Comparison Approach to Value and must remit proof of passing both course examinations. These courses were ordered to be completed within 120 days. Pusecker

Continued on Next Page...

communicated and developed an appraisal report that contained inaccurate data and failed to report all transfers of the subject property that had occurred within one year of the appraisal. He failed to report the correct zoning of the subject property, failed to properly state the neighborhood boundaries of the subject property, and failed to properly describe the neighborhood. He also failed to explain what was meant by “no adverse influences” and failed to make adjustments for the superior views that the comparable sales properties reflected.

DENNIS M. NASH (GA), a state certified general real estate appraiser from Columbus, was found to have violated Ohio Revised Code 4763.11 9 (G) (5), as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1 (c), set forth in the Notice of Opportunity for Hearing. For these violations, Nash was issued a written reprimand and admonished to use greater care in verifying data used in the Comparable Market Approach to Value. Nash was suspended for 30 days. Additionally, he was ordered by the Appraiser Board to complete a 15-classroom-hour course in Sales Comparison Approach to Value and successfully pass the course examination. This course was ordered to be taken within 90 days. Nash failed to properly report the prior sales of comparable properties used in the appraisal and to report the correct county of the subject property.

MISTY LYNN PULLON f.n.a. MISTY LYNN ARNETT, AND MISTY LYNN MONTENARO (RA) 2001-000972, a state licensed residential real estate appraiser from Hide-A-Way Hills was found to have violated Ohio

Revised Code 4763.11 (G) (5), as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-1 (a), Ohio Revised Code Section 4763.11 (G) (6) and (G) (7). Pullon is found to violate Ohio Revised Code Section 4763.11 (G) (6). She was also found to have violated Section 4763.11 (G) (5) as it incorporates Uniform Standards of Professional Appraisal Practice Standards Rule 1-1 (a) and 1-1 (b), Ohio Revised Code Section 4763.11 (G) (6) and (G) (7) as set forth in the Notice of Opportunity for Hearings. For these violations, Pullon was ordered to complete a 15-classroom-hour course in USPAP; a 15-classroom-hour course in Sales Comparison Approach to Value; a 15-classroom-hour course in Report Writing and a 15-classroom-hour course in Cost Approach to Value and successfully pass the course examinations. These courses were ordered to be taken within 120 days. Further, Pullon was suspended for 60 days. This order was to run concurrently with the disciplinary action ordered by the Appraiser Board in case captioned J. Michael McDonald vs. Misty Lynn Pullon Case No.: 2001-000759. Misty Lynn Pullon inconsistently identified the reporting in the appraisal as “limited” in one section and “complete” in another. She failed to correctly state the vacancy rate, zoning code and foundation type; failed to give a full description of the market area in which the subject property was located; and erroneously reconciled the residential vacancy rate in the neighborhood.

MISTY LYNN PULLON f.n.a. MISTY LYNN ARNETT and MISTY LYNN MONTENARO (RA), 2001-000759, a state licensed residential real estate appraiser from Hide-A-Way Hills was found to have violated Ohio Revised Code 4763.11 (G) (5) as that section

incorporates Uniform Standards of Professional Appraisal Practice Rules 1-1 (a) and 1-1 (b), Ohio Revised Code Section 4763.11 (G) (6) and (G) (7) as set forth in the Notice of Opportunity for Hearing. For these violations, Misty Lynn Pullon was ordered to complete a 15-classroom-hour course in USPAP; a 15 classroom-hour course in Sales Comparison Approach to Value; a 15 classroom-hour course in Report Writing and a 15-classroom-hour course in Cost Approach to Value and successfully pass the course examinations. These courses were ordered to be taken within 120 days. Additionally, Pullon was suspended for 60 days, to run concurrently with the disciplinary action ordered by the Appraiser Board in case captioned Gary Wallace vs. Misty Lynn Pullon Case No.: 2001-000972. Pullon indicated that an appraisal report that she developed and communicated was identified as both a limited and complete appraisal report. She also overstated the gross living area for the subject property, which resulted in the cost approach being inaccurately performed and irregularities in the adjustments made within the Comparative Market Analysis Approach to Value.

Note: The appraisal education taken to satisfy these orders can not be used for credit for the 14 hours of approved continuing education required annually.

Real Estate Disciplinary Actions

REVOCATIONS

TONI L. JONES, salesperson, Columbus, had her license revoked for violating Ohio Revised Code 4735.13(C). Ms. Jones failed to timely furnish notice to the Division of her felony convictions.

SUSPENSIONS, FINES, EDUCATION

EUGENIA K. McDONALD, salesperson, Toledo, had a \$500 fine levied against her license and was required to pay \$78.50, as replacement of a dishonored check, for violating Ohio Revised Code 4735.18(A)(6), as it incorporates Ohio Administrative Code 1301:5-1-10. McDonald issued to the Division a personal check for payment of her license renewal fees. The check was returned by McDonald's bank unpaid. Despite notice to her of the return of the check, the fees remained unpaid.

KIMBERLY D. SIMS, salesperson, Akron, had a \$500 fine levied against her license and was required to pay \$105.50 as replacement of a dishonored check for violating Ohio Revised Code 4735.18(A)(6), as it incorporates Ohio Administrative Code 1301:5-1-10. Sims submitted a check to the Division as payment for her licensure renewal and penalty fees. The check was returned by the bank for insufficient funds. Despite notice to her of the return of the check, the fees remained unpaid.

LIZ BAUER, salesperson, Columbus, had a \$300 fine levied against her license and was required to complete and to submit proof of completion of a three-hour agency

course. Bauer was found to have violated Ohio Revised Code 4735.18(A)(9), as it incorporates Revised Code 4735.58(B)(1)(c), when she failed to present to a prospective purchaser an agency disclosure form prior to showing the property.

JON W. ULLMAN, salesperson, Columbus, had a \$300 fine levied against his license for violating Ohio Revised Code 4735.18(A)(6), as it incorporates Ohio Administrative Code 1301:5-1-10. Ullman issued a personal check to the Division for his license renewal fees. The check was returned by Ullman's bank unpaid. Despite notice to him of the return of the check, the fees remained unpaid.

SHANNON L. DOLLISON-RYAN, salesperson, Covington, had a \$500 fine levied against her license and was required to pay \$78.50 as replacement of a dishonored check for violating Ohio Revised Code 4735.18(A)(6), as it incorporates Ohio Administrative Code 1301:5-1-10. Ms. Dollison-Ryan issued a personal check for her renewal and reactivation fees. The check was returned by Ms. Dollison-Ryan's bank "account closed." Despite notice to her of the return of the check, the fees remained unpaid.

KATIE K. WINNER, inactive broker, Circleville, had a \$300 fine levied against her license for violating Ohio Revised Code 4735.18(A)(6), as it incorporates Ohio Administrative Code 1301:5-1-10. Winner issued a personal check to the Division for her broker renewal fees. The check was returned by Winner's bank for insufficient funds. Despite notice to

her of the return of the check, the fees remained unpaid.

KAREN E. DINSMORE, salesperson, Maineville, had a \$300 fine levied against her license and was required to complete and to submit proof of completion of the 10-hour sales post-licensure course. Dinsmore was found to have violated Ohio Revised Code 4735.18(A)(6), as it incorporates Revised Code 4735.62. Dinsmore failed to follow the lawful instructions of her clients, the sellers, and to exercise reasonable skill and care in representing her clients, because she did not note, with particularity, in the purchase contract, the appliances her clients were selling.

THOMAS T. HOMAN, JR., salesperson, Coldwater, had a \$150 fine levied against his license and was required to complete and to submit proof of completion of the 10-hour sales post-licensure course, for violating Ohio Revised Code 4735.18(A)(14). Homan failed to memorialize a promise he made to pay for window screens as a concession to get a property closed. In addition, he had another \$150 fine levied against his license and was required to complete and to submit proof of completion of a three-hour agency course for violating Ohio Revised Code 4735.18(A)(9) as it incorporates Revised Code 4735.58(B)(1). Homan failed to provide the appropriate agency disclosure form to the buyers of a property.

Please use the most recent version of all forms and applications.
They can be downloaded from the Division's Web site at
www.com.state.oh.us/real

Payment of Commissions to Unlicensed Entities: Auditing Operating Accounts

The enactment of H.B. 272 includes changes that allow brokers to pay commissions due a broker or salesperson's unlicensed corporation, partnership, association, LLC or LLP. This provision will allow all licensees to capitalize on certain tax advantages of compensation through a business entity. These changes were codified as R.C. Section 4735.20 on April 5, 2002.

The unlicensed business entity must have at least one partner, member, officer or shareholder who holds an active license and is the same licensee who earned the commission. The unlicensed business entity cannot engage in activity for which a license is required.

Effective December 1, 2003, real estate investigators will begin auditing brokerage operating accounts as part of their standard compliance audit

procedure. During compliance audits, investigators will verify if any commission payments were made to unlicensed entities and if so, review records regarding the payments. Under R.C. Section 4735.20(C) (5), brokers paying commissions must verify these requirements and keep a record of verification for three (3) years.

In order to assist the real estate industry with this law change, the Division has developed an "Operating Account Checklist" and an "Operating Account Verification Record." The checklist will help brokers answer three key questions:

- ✓ Was a fee/commission paid to an unlicensed entity?
- ✓ Was an affiliated licensee a partner, member, shareholder or officer of the unlicensed entity?

- ✓ Was the affiliated licensee the licensee who earned the fee/commission?

The verification record is a columnar ledger form that allows brokerages to properly track and maintain records when such fees/commissions are paid to unlicensed entities. It includes such items as the date the fee/commission was paid, the amount, the name of the unlicensed entity and the name of the affiliated licensee.

Investigators will send the checklist and verification record to brokers in advance of a scheduled compliance audit. If brokers have paid such fees/commissions, they are required to fill out both documents before the scheduled day of the audit.

Brokers can access both of these forms directly from our website.

Division Offers Educational CD at OAR Convention



(Left to Right) Dana Smith, Pat Connors, Mary Petro, Kristin Rosan, Laird Eddie

The 2003 OAR Convention and Trade Show, held in Cleveland, brought together numerous key players in the home ownership arena, including the Division. Agents and brokers, home inspectors, lenders, MLS and insurance providers, mold experts, title agencies and state agencies shared their expertise on what many call the largest single

transaction of a lifetime. The Cleveland Area Board of REALTORS[®] worked in concert with the OAR staff to provide a memorable experience for the record 2015 attending the opening session.

Division representatives welcomed association members to the Division's booth at the trade show, addressing questions and handing out an informative CD intended to augment brokerages' in-house educational tools. The CD highlights education requirements for brokers and sales people, including continuing education rules, distance education opportunities, the appropriate pre-

scribed forms and applications to use and how to use them. Division managers also audited continuing education classes on agent safety, predatory lending and legal issues during the convention.

Response to a Division survey conducted during the trade show reveals an overwhelming "thumbs up" for our Web site, a sentiment confirmed by a 5 percent increase in Web site use and a one percent point gain in online renewals. Additionally, 8 percent more members than last year are utilizing forms and applications from our Web site. Sixty four percent of these licensees also review Ohio's real estate laws online. Respondents love our Home Buyers' Guide and would like to see a Home Sellers' Guide. We'll see what we can do! We wish to thank the OAR for hosting an outstanding convention and extending their hospitality to the Division again this year.

Important FHA Rule Changes

On May 16, 2003, the Department of Housing and Urban Development (HUD) published a final rule FR-4620-F-02 in the Federal Register making several changes affecting licensing requirements for placement on the FHA Appraiser Roster. These changes were effective June 16, 2003.

On June 20, 2003, HUD issued Mortgagee Letter 2003-09, which provides a synopsis of this final rule and updates the requirements contained in Mortgagee Letter 99-35, covering appraiser reporting requirements contained in HUD Handbook 4150.2 CHG-1.

These changes mean that FHA Roster requirements are now congruent with AQB requirements for each level of license/certification, with respect to state examinations, experience and classroom hour requirements for becoming an appraiser. Also covered is the number of hours for yearly continuing education (CE).

It also means that if you lose your appraisal license in one state for any reason other than expiration, you are automatically suspended from doing any FHA work in any state in which you hold licenses/certifications. For example, if you are licensed in Ohio, Kentucky and Pennsylvania and your Kentucky license is revoked, you are now automatically suspended from performing FHA appraisals in Ohio and Pennsylvania, even if these states take no action against you.

It also means an appraiser must meet current AQB qualifications for upgrading to a higher license level. If the state in which an appraiser is licensed was in compliance with the AQB at the time he/she obtained a license, the appraiser does not have to obtain more education or experience hours. The Division has already certified to the AQB those Ohio licensed/certified appraisers who meet these requirements.

New Interpretation For Continuing Education

Real Estate appraisers must successfully complete the seven-hour National USPAP Update Course, or its equivalent, at a minimum of every two years.

Equivalency shall be determined through the AQP Course Approval Program or by an alternate method established by the AQB.

New Interpretation Language:

For continuing education purposes in 2003 and 2004, the 15-hour National USPAP Course, or its equivalent, may be taken in lieu of the seven hour National USPAP Course, or its equivalent. The licensing/certifying jurisdiction must determine whether the student is required to take and pass the associated examination. In Ohio, the test is not mandatory for the Continuing Education Program.



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