



Vermont Real Estate Commission

Newsletter

Governor

The Honorable James Douglas

Secretary of State

Deborah L. Markowitz

Office of Professional Regulation

Christopher D. Winters, Esq., Director

=====

Members of the Commission

- Maretta Hostetler, Broker, Chair
- Elizabeth Wilkel, Broker, Vice Chair
- Gloria Rice, Attorney Member, Secretary
- Herb Beggs, Non-Realtor Broker
- Claire Porter, Public Member
- Thomas Prindiville, Public Member
- Michelle Gosselin, Salesperson

=====

Commission Staff

- Rita Knapp, Administrator
- Judith Griffen, Administrative Assistant
- Kevin Leahy, Legal Counsel

=====

Vermont Real Estate Commission
 Office of Professional Regulation
 National Life Building, North FL2
 Montpelier, VT 05620-3402
 Phone: 802 828-3228
 Fax: 802 828-2368

E-Mail: jgriffen@sec.state.vt.us

http://vtprofessionals.org/opr1/real_estate/

Message from the Chair

We recently had a licensee complain that she had completed her four hour mandatory "Ethics" course and she wasn't given Continuing Education (CE) credit. Obviously she was confused and thought that "Ethics" course was the mandatory State of Vermont requirement for her license renewal. Licensees who confuse the Vermont Real Estate Commission with the professional trade organization (REALTORS) requirements comprise a surprisingly large number of licensed brokers and salespeople.

If you don't meet the correct State of Vermont requirements, any other course taken is meaningless in terms of holding a license. So as a reminder to those of you who don't know what the mandatory course is, it is entitled the "2010-2012 Mandatory Course". That course plus an additional 12 hours of approved elective CE courses must be completed for licensure.

Because the confusion is so widespread on many topics, I thought it wise to remind licensees that there are many real estate courses that are offered in the classroom or online (particularly on various types of agency) that are not approved by the Commission. Licensees must be aware and be able to discern when courses are offered whether they fit into Vermont's Rules.

A hot topic of the day seems to be "Designated Agency" and courses are being offered to explain and educate on that subject. Those courses are not approved for CE credit. While it is enlightening to know what "Designated Agency" is all about, and although it is allowed in other states, it is not a lawful practice in

Vermont. To incorporate that type of agency into your real estate practice would be unlawful and you would be liable for violating the law. The Commission does not advocate or anticipate any changes from present law regarding various types of agency.

Maretta Hostetler, Chair

The Commission Welcomes A New Public Member

Thomas Prindiville, Public Member, has been appointed by the Governor to serve as the newest member of the Commission. Thomas Prindiville was born in New Hampshire and has worked in insurance regulation most of his life. He was last employed by the Department of Banking, Insurance, Security and retired on 12/31/2001. When Tom retired he held the position of Market Conduct Chief. Tom is married to Gladys, and they live in Barre Town.

Due Diligence - Agent to Agent

Purchase and Sale contracts- When agents write a Purchase and Sale contract, the dates are crucial and part of the contract. Time for acceptance is part of the contract. If the contract is signed within the dates specified, the signed contract needs to be delivered to the buyer via the selling agent, as soon as possible. This is "Due Diligence"

Escrow checks- When you have a contract, the initial escrow deposit needs to be deposited in the listing broker's account within 5 days. If you have an additional deposit due within 5 days, it is due within 5 days. If there is a possibility you may not receive the additional deposit within the time frame specified, you should do an extension or risk of being out of contract.

Addendas- Additional changes to parts of the contract have to be signed by both parties and copies sent to all parties as soon as they are signed, and delivered, faxed or emailed to the listing office ASAP with originals to follow. This is called "Due Diligence"

You Are A Professional With A License, You Are Held To A Higher Standard.

The buyer cancelled the contract because of the home inspection: Is this a Material Fact?

The Commission has recently become aware that failed home inspections are not being disclosed to buyers and to other licensees.

This particular situation involves a buyer deciding to opt-out or otherwise cancel their purchase and sale agreement because of the home inspection results.

Fact set: Dependent on the terms of the contract, you, as listing agent, may or may not have received a copy of the inspection report along with the cancellation. If you did get a copy, you handle it like toxic waste, immediately sealing it in an envelope, and burying it deep in the file thinking to yourself; "I didn't read it, I don't know what is in it, I don't have to disclose it." In addition "I need to sell the house, so I can't disclose it because if I do disclose it that house would never sell". As a result you don't share this information with other licensees in (or out of your office), and you don't share it with other potential buyers for the property. You adopt the "don't ask, don't tell, who is ever going to know" approach to this report.

The Commission is concerned that Vermont licensees are operating in this manner. If when reading this, you think, that's me, that's just what I do, and it's "my personal practice" or "my office's policy/practice". If it is just as described above, you're absolutely incorrect!

A failed home inspection IS a material fact, and you'll now find yourself in violation of Rule 4.5 Duty to Customers and the Public (Material Facts).

The Commission recognizes that buyers opt out of purchase agreements for a variety of reasons. Regardless of the reason if they choose to cancel based on the home inspection, the mere fact that a home inspection was conducted and

failed and the buyer cancelled, is a Material Fact that you are required to disclose to all future interested parties. A failed inspection is not necessarily the kiss of death for a listing, but it needs to be properly handled with full disclosure to all interested parties and licensees working with that property. This disclosure needs to be handled in a uniform and consistent manner to ensure that every buyer is given this information and it's similarly provided in a consistent manner to all other licensees. It's up to the individual office policy how to accomplish this disclosure, however be sure it's in compliance with Rule 4.5

The disclosure of a failed home inspection report because of "Material Facts" is not simply limited to the report. This disclosure requirement also applies to a previously failed water test, or failed Radon test, etc. This list is not intended to be all inclusive. Disclosure is absolutely required under Rule 4.5 of Material Facts. If you fail to disclose you will be prosecuted for Unprofessional Conduct, it's just that simple. When in doubt, disclose!

Signs could cost you more money than you realize...

We have written letters, put articles in our newsletters, spoken to the licensees attending their local Realtor meetings but to no avail. Illegal signs, either directional arrows or signs advertising a property that are on a property other than the one being sold, continue to be a source of complaints. We grow weary of repeating ourselves, so we won't send out any more reminders or newsletters on the subject, but we will begin filing formal charges, and assessing administrative penalties for violations. An administrative penalty for a single sign offense can be as much as \$ 1,000.00.

Licensees as of April 2010

Type of License	Resident
Broker	1,073
Salesperson	1,267
Office	666

Unprofessional Conduct Activity September 2009 through April 2010

New cases opened	32
Cases concluded without action	23
Disciplinary Actions Taken	3

Disciplinary Actions Taken Since September 2009

Susan Aiken – 2008-374 - Aiken filed a false EMP (Essential Maintenance Practices) affidavit with the Department of Health in order for the sale of the property to occur. The Commission issued a Reprimand and an Administrative Penalty of \$ 2,000.00.

Kristy Derobertis – 2009-519 - Derobertis was found to have embezzled funds from her employer amounting to approximately \$ 66,350. The Commission Revoked her license to practice.

Giles Wagoner – 2009-486 - Wagoner applied for a salesperson license and indicated that he had been convicted of a crime in 2005. The Commission conditioned his license until he is released from probation.

Commission Meetings

The Commission usually meets once a month on the fourth Thursday, beginning at 10:00 a.m. Meetings are posted on the Office web page found at:

www.vtprofessionals.org/meetings/meetingslist.htm

We encourage anyone who has an interest to attend. Meetings are open to the public. We also post the upcoming meeting Agenda, and Minutes on the Commission's web page.