

**South Dakota Real
Estate Commission**

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In this issue from the

**South Dakota Real
Estate Commission:**

From the Director
Commission Calendar
Renewal Reminders
Updates
Disciplinary Action
HUD
New Licensees

Fall Edition

September 2020

From The Director

I hope everyone has enjoyed the summer and was able to spend some time with your family. The Commission is now under the leadership of Carol Lawhun who took the gavel from Ryan Wordeman. Dave Bonde is serving as vice-chair.

Licensees who need to renew this year will be receiving an email reminding you to go online and renew your license. The renewal and fee must be received no later than November 30, 2020. Renewals received after that date will have to pay a late fee. If you do not renew your license by December 31, 2020 your license will be placed on a non-renewal status. If your renewal is submitted, and you have not completed your continuing education and/or do not have errors and omissions insurance covering you on January 1, 2021, your license will be placed on inactive status.

All licensees who carry group errors and omissions insurance from Rice Insurance Services Company will be receiving notices to renew.

All licensees who carry optional insurance need to make sure we have proof of your errors and omissions insurance.

If you would like certain topics addressed in the newsletter please email Bradi at bradi.stampe@state.sd.us.

Autumn is always such a beautiful time of the year. Stay safe and have a wonderful fall season!



Click to like and follow our Facebook page.

Commission Calendar

Wednesday, September 30th - Commission Meeting

Monday, October 12th - Office closed in observance of Native American Day

Wednesday, November 11th - Office closed in observance of Veteran's Day

Wednesday, November 18th or Thursday, November 19th - Commission Meeting

Thursday, November 26th - Office closed in observance of Thanksgiving

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Renewal Reminders



- ⇒ 2020 online renewal open online on October 1st.
- ⇒ The office will be emailing a reminder notice for renewal the end of this month. Now would be a good time to log in online and make sure we have your correct email listed.
- ⇒ Firms due to renew will receive a letter in the mail containing the firms username and password.
- ⇒ Classroom courses have slowed down as a result from the Covid-19 pandemic (some are still being offered via Zoom—check with the instructor of your choice).
- ⇒ Approved online courses are always accepted—all CE hours can be completed online.
- ⇒ Lack of classroom courses will not be an accepted excuse for CE not being completed for the 2020 renewal.

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Updates

- ◇ As of July 1st, the Real Estate Commission will no longer have an application for a restricted auctioneers license. Current auctioneers were grandfathered in, allowing them to maintain a license since the services they provide will still require a license. Broker/broker associates can perform auctions as part of their scope of practice. New applicants who want to do auctions will apply for a broker associates license. Unlicensed auctioneers can call or take bids.
- ◇ Also, as of July 1st, the property condition disclosure statement form was revised. Please save the updated form and be sure your sellers use this version as it is required by law. The form can be found at this link:
https://dlr.sd.gov/realestate/forms/sellers_property_condition_disclosure_statement.pdf

Disciplinary Action

- ◇ Joel McDowell, Lennox, Broker. Violation of 36-21A-130. Administrative fine of \$2,000 plus 6 hours of agency.
- ◇ Joseph Bennington, Rapid City, Broker Associate. Violation of 36-21A-71(6). Administrative fine of \$2,500 and license is revoked.
- ◇ Lee Burggraff, Dell Rapids, Broker. Violation of 36-21A-71(8), 36-21A-71(30), 36-21A-79, 36-21A-130, and 36-21A-132(2). Administrative fine of \$750 plus 6 hours of agency.
- ◇ Ronnie Weir, Sioux Falls, Broker Associate. Violation of 36-21A-71(6). Administrative fine of \$2,000 and license is revoked.

Follow Up: HUD Finalizes New and Amended 'Disparate Impact' Rules (Used with Permission by ARELLO)

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The U.S. Department of Housing and Urban Development (HUD) has finalized its new and amended “disparate impact” Fair Housing Act liability rules, thus ending a rulemaking process that drew widespread interest and input from affected real estate and housing industry associations and practitioners, housing advocates, and other stakeholders.

The FHA prohibits housing discrimination because of race, color, religion, sex, handicap, familial status, or national origin. Over time, numerous federal appellate courts have acknowledged that FHA liability may arise not only from intentional discrimination, but also from practices that have an unintended “disparate impact” on protected persons. In 2013 HUD promulgated rules establishing FHA “discriminatory effect” liability for housing practices that have a disparate impact on members of a protected class or perpetuate segregated housing patterns [24 CFR Part 100]. The rules included a three-part burden-shifting test under which plaintiffs/claimants were to show the discriminatory effect of a practice or policy, defendants could then show its necessity to achieve a legitimate nondiscriminatory interest, whereupon the plaintiff would be required to establish that the interest could be served by a less discriminatory practice. In 2015 the U.S. Supreme Court issued its 5-4 decision in *Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al.*, which affirmed that disparate impact claims are cognizable under the FHA. In such cases, plaintiffs/ charging parties sometimes rely on statistical evidence of the “disparate impact” that a practice has on protected classes of persons.

In 2016, HUD issued a guidance document that identifies FHA discriminatory effect liability that may arise from making “adverse housing decisions” and addresses how statistical data may be used to support disparate impact claims

However, as reported in a recent edition of *Boundaries*, HUD proposed, and has now finalized, its discriminatory effects standards to “more closely align” with the *Inclusive Communities* decision, which HUD understands to place limitations on disparate impact liability that were not, but now are, reflected in the rules. Among many other matters, HUD’s new and amended rules acknowledge that FHA liability may arise from the discriminatory effect of a policy or practice on members of a protected class, even if it is not motivated by a discriminatory intent. At the pleading stage, plaintiffs or charging parties will be required to allege that:

- ◇ The challenged policy or practice is arbitrary, artificial, and unnecessary to achieve a valid interest or legitimate objective such as a practical business, profit, policy consideration, or requirement of law;
- ◇ The challenged policy or practice has a disproportionately adverse effect on members of a protected class;
- ◇ There is a robust causal link between the challenged policy or practice and the adverse effect on members of a protected class, meaning that the specific policy or practice is the direct cause of the discriminatory effect;
- ◇ The alleged disparity caused by the policy or practice is significant; and
- ◇ There is a direct relation between the injury asserted and the injurious conduct alleged.

Cont.

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HUD (Cont.)

The new rules also adjust the “burden shifting” process that will apply to the proof stage of such proceedings. Plaintiffs or charging parties must prove the foregoing “prima facie” elements by “the preponderance of the evidence,” upon which proof the defendant will have the opportunity to advance any valid interest of the challenged policy or practice. If so established, the plaintiff may then advance a less discriminatory alternative to address any valid interest raised. Other elements of the new and amended rules address a broad range of matters such as the use of statistical disparity data and available defenses and remedies.

HUD’s proposed rulemaking notice drew over 45,000 responsive comments, criticisms, and support from a broad range of affected stakeholders. For its part, HUD has said that the rules do not eliminate discriminatory effect/ disparate impact as a basis for unintentional FHA discrimination claims, will increase access to fair and affordable housing, and permit businesses and local governments to make valid policy choices

New Licensees 06.01.20 - 09.01.20

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Broker

Fox, Shalene
Francois, Theodore
Frazier, Shadesia
Gass, Jared
Kane, Jean
Marcote, Michael
Murdock, Joshua
Post, Stephen
Reid, Scott
Stenberg, Aaron
Sullivan, Michael
Sykes, James

Hermosa
Palo, IA
Cedar Hill, TX
Brookings
Excelsior, MN
Grand Forks, ND
Choctaw, OK
Agoura Hills, CA
Orange, CA
Bismark, ND
Hamilton, IL
Omaha, NE

Broker Associate

Ager, Robin
Alberico, Maegan
Bankowski, Karen
Beal, Tina
Bennington, Theresa
Brack, Kelly
Buche, Cam
Chase, Ryan
Cisar, Tyler
Cook, Tricia
Daily, Trevor
Darnall, Scott
Delperdang, Scott
Dimler, Tyler
Domogalski, Stacy
Duin, Anastasia
Favorite, Annaliese
Fiedler, Joshua
Flemmer, Ross
Frear, Kenneth
Geier, Weston
Glood Kuipers, Kari
Gohl, Eric
Griffin, Clayton
Guenther, Jacob
Halsey, Amanda
Hansen, Meghann
Hauck, Rylee
Hettermann, Chad
Heyn, Mark
Holidia, Shelly
Hooker, Cory
Howie, Holly
Huff, James
Jacobs, David
James, Melissa
Jamison, Gregory
Jensen, Adam
Keil, Bryon

Belle Fourche
Sioux Falls
Sioux Falls
Sioux Falls
Rapid City
Sioux Falls
Humboldt
Huron
Aberdeen
Tea
Sioux Falls
Pierre
N. Sioux City
Sioux Falls
Spearfish
Sioux Falls
Aberdeen
Dell Rapids
Dell Rapids
Sioux Falls
Sioux Falls
Rapid City
Sioux Falls
Rapid City
Sioux Falls
Sioux Falls
Rapid City
Sioux Falls
Sioux Falls
Sioux Falls
Sioux Falls
Harrisburg
Edgemont
Watertown
Sioux Falls
Rapid City
Mt. Pleasant, IA
Rapid City
Black Hawk
Sioux Falls
Sioux Falls
Spearfish

Broker Associate *cont.*

Kulesa, Mandy
Lanson, Elaina
Larsen, Bruce
Larson, Chloe
Lees, Megan
Lowman, Matthew
Lytle, Robert
Martens, Cole
Matos, Juan
McKnight, Jaime
Meyer, Jason
Morris, Chad
Moyer, Kari
Naser Jr, Richard
Negi, Hadass
Nelson, Michael
Ness, Shelby
Nolan, Josh
Pagone, John
Palmer, Athena
Paulson, Beth
Peot, Gary
Powers, Edward
Rutz, Theresa
Sage, Joel
Schaffer, Kirsten
Scott, Krysta
Sorenson, Mark
Steckelberg, Diane
Stevens, Mary
Stockel, Brian
Stout, Benjamin
Strong, Donald
Sun, Li
Tassler Sr, Mark
Taylor, Crystal
Taylor, Glenn
Thapa, Kumar
Tiefenthaler, Patrick
Tischler, Craig
Toennies, Sidney
Veurink, Brent
Vlcek, Trista
Wallinga, Sara
Weeman, Cheryl
Wells, David
Wingert, Andrew
Wipf, Kasey

Sioux Falls
Sioux Falls
Sioux Falls
Sioux Falls
Sioux Falls
Valley Springs
Ellsworth AFB
Aberdeen
Sioux Falls
Rapid City
Cavour
Sioux Falls
Watertown
Sioux Falls
Sioux Falls
Rapid City
Waubay
Rapid City
Sioux Falls
Rapid City
Custer
Box Elder
Brookings
Hot Springs
Brandon
Sioux Falls
Rapid City
Sioux Falls
Yankton
Brandon
Oelrichs
Brookings
Sioux Falls
Sioux Falls
Sioux Falls
Rapid City
Rapid City
Sioux Falls
Sioux Falls
Mitchell
Black Hawk
Platte
Rapid City
Sioux Falls
Ethan
Sioux Falls
Sioux Falls
Aberdeen

New Licensees (Cont.)

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Res. Rental Agent

Arndt, Audrey	Tea
Bartunek, Michelle	Mitchell
Caperton, Shannon	Rapid City
Castillo, Samantha	Watertown
Crosby, Jordin	Sioux Falls
Edelman, Terra	Huron
Elkins, Owen	Sioux Falls
Fuehrer, Stacey	Sioux Falls
Kayl, Kayla	Sioux Falls
Klinzmann, Anneliese	Brookings
Lindner, Rachel	Sioux Falls
Lisack, Michelle	Sioux Falls
Middlen, Andrew	Sioux Falls
Pearson, Ivy	Brandon
Peery, John	Sioux Falls
Thurston, Madison	Sioux Falls

Property Manager

Geres, Heather	Sioux Falls
Miller, McKenzie	Sioux Falls
Winkler, Joshua	Aberdeen

Reg. Home Inspector

Cox, Ryan	Piedmont
Dattolico, Vincent	Sioux City
Levy, Clinton	Rapid City
Seehafer, Kevin	Ortonville
Skyberg, Brad	Brookings

Salesperson

Dattolico, Stephanie	Sioux City, IA
Emerson, Robterrius	Sioux City, IA
Harper, Jaden	Spearfish
Homa, Leslie	Rapid City
Stevens, John	Sioux City, IA
Stippich, McKenzie	Lemmon
Warsame, Mohamed	S. Sioux City, NE