July/August 2013

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From the Director

It's hard to believe that summer is almost over and it will soon be time for the Commission's Fall Caravan. Be sure to mark your calendar to take advantage of this valuable education session presented by David Ganje.

Ganje, who was born and raised in Aberdeen, South Dakota, handles matters related to mineral law, oil and gas law, energy law and water law in his natural resources practice.

The Caravan will be the last week in October/first week in November and registration will be available on the Commission's website.

Leading the Commission's charge this year are Mark Wahlstrom as chair and Matthew Krogman as vice-chair. Commissioner Wahlstrom is a public member from Sioux Falls and Commissioner Krogman is an industry member from Brookings. The two will remain in their leadership positions through the 2014 fiscal year.

The renewal deadline of November 30 will also be here before you know it for those holding licenses expiring on December 31, 2013. Please keep in mind that if you have an active license expiring on this date and fail to complete your continuing education and/or fail to have errors and omissions insurance covering you on January 1, 2014, your license will be placed on inactive status. This means you are not allowed to engage in any activities requiring licensure by this agency. Please don't forget that we have made it very easy for you to renew your license and E&O Insurance online.

I hope everyone is having a wonderful Summer!

Save the Date! Fall Caravan Information

Mark your calendars now for the 2013 SDREC Fall Education Caravan. This education session will feature Mr. David L. Ganje of Ganje Law Offices and focus on natural resource issues in modern real estate deals. The SDREC is excited to bring Mr. Ganje's presentation to real estate licensees across the state.

Dates/Locations
Wednesday, October 30 – Pierre Ramkota
Thursday, October 31 – Rapid City Ramkota
Friday, November 1 – Spearfish Holiday Inn Convention Center
Monday, November 4 – Aberdeen Ramkota Convention Center
Tuesday, November 5 – Watertown Ramkota Event Center
Wednesday, November 6 – Sioux Falls Ramkota
Thursday, November 7 – Sioux Falls Ramkota

Look for registration information, a complete course description and bio of Mr. Ganje in the September/October issue of the SD Real Estate View newsletter. Registration information will be mailed via postal service to all real estate offices and the online registration will be available in September.
New Website for State Agency Office Lease Needs

The South Dakota Bureau of Administration, Office of Space Management, has created a new website for providing information to interested parties related to leased space needs of state agencies. When the Office of Space Management is notified of a need for leased space, we will post a brief general description of the need at http://boa.sd.gov/divisions/space/LeasedSpaceNeeds.aspx. This will be the place to go for anyone interested in providing leased space to State of South Dakota agencies.

Cell Phones and Closings – Not a Professional Combination

A closing may simply be a final step in a real estate transaction for an agent, but for the client, it can be an overwhelming experience. The culmination of what is often a long and arduous process brings with it a range of emotion for the client - anxiety, stress and the enormity of what is usually the largest financial transaction of their lives.

It is NOT the moment for professional courtesy and etiquette on the part of the real estate agent to fly out the window! Agents should devote their complete attention to their clients, specifically the ones in the room. Cell phones should be turned off during a closing appointment and the agent should wait until the conclusion of the transaction to return text messages or phone calls.

Responsible brokers should do whatever is necessary to ensure agents affiliated with the brokerage firm project a professional demeanor at all times. The agent may have done an excellent job of leading the client from the initial contact to the closing appointment, only to lose their respect (and more importantly, a potential referral to friends and family) simply because of bad manners during the final home stretch of the deal.

Everybody knows the importance of a first impression, but in a real estate relationship, the last impression is often the most lasting.

Commission Calendar

September 2 – Labor Day – SDREC Office Closed
September 12 – Commission Meeting – Rapid City

Codified Law Revisions Effective July 1

The revisions to a number of codified laws in 36-21A passed during the 2013 Legislative Session at the request of the SD Real Estate Commission took effect July 1.

These changes were to clarify existing law and delete obsolete terminology. Noteworthy items include the addition of a definition of a Broker Price Opinion and clearer language regarding how licenses are placed on inactive status.

The SDREC office is in the process of revising/printing new license law books and should have the updated versions available by September.
Certification of Licensure/License History Requests

SD real estate licensees applying for or renewing a license in another state may need to provide that state’s regulatory agency with a Certification of Licensure/License History.

This Certification is more than just a copy of the person’s license. It is official documentation of a person’s license history: initial date of licensure, current license status and any disciplinary action on record.

Requests for a Certification of Licensure must be submitted in writing along with a $15 fee to the SDREC office.

HUD Charges Minnesota Property Owner with Discriminating Against Single Mother and Her Daughter

July 2, 2013 – The U.S. Department of Housing and Urban Development (HUD) announced that it is charging a Jackson, Minnesota, landlord with violating the Fair Housing Act for allegedly refusing to rent an apartment to a woman and her young daughter. HUD’s charge alleges that the owner refused to rent to the family because he preferred not to rent to families with children.

The Fair Housing Act makes it unlawful to refuse to rent or to impose different rental terms on the basis of race, color, national origin, religion, sex, disability, or familial status.

“Refusing to rent housing to families with children is against the law unless the property legally qualifies as housing for older persons,” said Bryan Greene, HUD’s Acting Assistant Secretary for Fair Housing and Equal Opportunity. “HUD will continue to take action against property owners who discriminate against prospective tenants because of their family status.”

According to HUD’s charge, the woman contacted the owner after seeing an advertisement in a local newspaper for a one-bedroom apartment. When she told the owner that the unit was for her and her one-year-old daughter, the owner allegedly said that he had rented to families before and it “just doesn’t work.”

During HUD’s investigation, the owner admitted that he told the woman he preferred to rent the apartment to adults, not families with children. Two weeks after turning the woman down, the owner rented the apartment to an applicant without minor children. The lease included a provision limiting the unit to one person only.

HUD’s charge will be heard by a United States Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court. If an administrative law judge finds after a hearing that discrimination has occurred, he may award damages to the family. The judge may also order injunctive relief and other equitable relief to prevent further discrimination, as well as payment of attorney fees. In addition, the judge may impose fines in order to vindicate the public interest. If the matter is decided in federal court, the judge may also award punitive damages to aggrieved persons.
# New Licensees

## Broker
- Bradley, Joseph F – Evansville, WI
- Schwinghammer, Roger L – White Bear Lake, MN
- Swartz, Michael J – Jamestown, ND

## Broker Associate
- Ahlers, Brooke L – Brookings
- Baldwin, Joshua J – Spearfish
- Cameron, Terri A – Tea
- Emch, Donald R – Hill City
- Fanger, Kenneth R – Sioux Falls
- Folk, Ryan – Watertown
- Gomosh, Or – Sioux Falls
- Heisel, Cody A – Sioux Falls
- Hendrix, Amy J – Sioux Falls
- Hodges, Brady S – Brookings
- Jurrens, Arlo D – Elkhon
- Lewis, Heidi L – Nisland
- Massie, Skyler M – Belle Fourche
- Murray, Marilyn J – Sioux Falls
- Nielsen, Judd M – Rapid City
- Schaefer, James E – Sioux Falls
- Schramm, Stacy A – Yankton
- Snyder, Joseph W – Watertown
- Stockberger, Brad A – Sioux Falls
- Watson, Michelle J – Belle Fourche
- Welfl, Kade – Spearfish
- Whitelock, Adam J – Brandon

## Property Manager
- Daley, Raymond A – Rapid City
- Dunn, Kelly J – Black Hawk
- Hurd, Brett A – Rapid City
- Linn, Shellie L – Sioux Falls
- Weter, Olivia M – Rapid City

## Registered Home Inspector
- Barthel, Kelly D – Spearfish
- Rieger, Jeremy D – Black Hawk

## Salesperson
- Frisbie, Steven T – Minneapolis, MN
- Wade, Christina M - Watertown
- Johnson, Kareen R – Sioux City, IA

## Residential Rental Agent
- Beck, Jennifer C – Sioux Falls
- Cook, Alicia B – Sioux Falls
- Ernste, Amber J – Brandon
- Hansen, Karollee K – Aberdeen
- Kehn, Ashley M – Sioux Falls
- Willuweit, Eric – Sioux Falls

## Timeshare Agent
- Treick, Anne – Rapid City
Appraiser Update

Appraiser Certification Program Office Has Moved

The mailing address is as follows:

Appraiser Certification Program
308 South Pierre Street
Pierre, South Dakota 57501-3137

The phone number remains the same, 605.773.4608. The fax number has changed to 605.773.5405.

New Licensees – May/June 2013

Keith J. Newman, State-Registered – Rapid City, SD
Amanda DeJong, State-Registered – Yankton, SD
Jason D. Vaith, State-Registered – Pierre, SD
Robert J. Lentz, State-Certified General – Marlette, MI
Mike J. Gustafson, State-Licensed – Eagan, MN
Michael D. Dahle, State-Licensed – Madison, MN
Mindy Hubert, State-Registered – New Underwood, SD
Clint W. Bumguardner, State-Certified General – Abilene, TX
Justin, G. Reed, State-Certified General – Minneapolis, MN
Randal J. Reider, State-Registered – Sioux Falls, SD

Upgrades Issued – June 2013

Brad Flemming, State-Certified Residential

Complaint Investigation and Upgrade Reviews

For the period January 1, 2013 through July 15, 2013, the Department has initiated nine complaint investigations and three upgrade reviews.

Complaints – Five closed and four pending.
Upgrades – Three cases pending.

Appraisers – 2013 Renewal

NOTICE! The 2013 appraiser renewal applications were mailed the first week in July. The applications are due in the Appraiser Certification Program office by August 17, 2013 for renewal of certificates for state-certified general, state-certified residential, state-licensed and state-registered appraisers.

In order to renew your certificate, you must submit the completed application, applicable renewal fees and verification of the required 28 hours of approved continuing education which includes the 2012-2013 Edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course (USPAP Update). Appraisers are required to complete the USPAP Update during the period of January 1, 2012 through June 30, 2012. If the USPAP Update was not completed by June 30, 2012, there will be a $100 administrative penalty fee assessed.
Question 1: I am a state regulator responsible for approving distance education to be utilized as qualifying education under the Real Property Appraiser Qualification Criteria. The Criteria requires a proctored written examination. Can an examination be proctored by the staff at an electronic testing service office?

Response: The Real Property Appraiser Qualification Criteria specifies a proctor must be “an official approved by the college or university or by the sponsoring organization” that delivers the course. The AQB does not maintain a list of acceptable proctors. However, a testing service, such as one that delivers the National Uniform Licensure and Certification Examinations and/or examination for other professions, with staff approved by the course deliverer, would likely be an acceptable means for an examination to be proctored.

Question 2: What are the qualifications of an acceptable proctor for an examination required under the Real Property Appraiser Qualifications Criteria?

Response: The Real Property Appraiser Qualification Criteria specifies a proctor must be “an official approved by the college or university or by the sponsoring organization” that delivers the course. The AQB does not maintain a list of qualifications or requirements to approve acceptable proctors. Each state may adopt specific requirements for an individual to serve as a proctor.

2015 REAL PROPERTY APPRAISER QUALIFICATION CRITERIA-RELATED ISSUES

FIRM DATE

Question: I became a registered Trainee Appraiser in February 2013 and I am working toward a Certified Residential credential. My state requires all experience to be earned after official registration with the state. Will I be required to have a Bachelor’s degree in order to earn my certification?

Response: Yes. Experience for the Certified Residential credential cannot be earned in less than 24 months; in your case because your state requires you to be a credentialed Trainee in order to obtain experience, you could not finish accruing experience until on or after February 2015. All individuals seeking a credential after January 1, 2015 must fulfill all of the education, experience and examination requirements in the 2015 Real Property Appraiser Qualification Criteria, which include having a Bachelor’s degree.
SUPERVISORY APPRAISER / TRAINEE REQUIREMENTS

Question: I am a state appraiser regulatory official who has received an application from a Trainee Appraiser seeking to become a Certified General appraiser. The candidate meets the college degree and qualifying education requirements. The candidate relocated to my state one year ago and some of the experience on the experience log submitted was completed while the candidate was a resident of a neighboring state. What responsibility do I have to ensure experience earned in another state meets the Supervisory Appraiser/Trainee Appraiser requirements of that state?

Response: As the jurisdiction evaluating the Trainee Appraiser’s experience, it would be incumbent upon you to obtain sufficient evidence to support that the experience sought from work done in the neighboring state was earned in accordance with appraiser licensing/certification rules of the other state in effect at the time the experience was earned.

SUPERVISORY APPRAISER / TRAINEE APPRAISER COURSE

I am an education provider planning to create a course that meets the minimum requirements under the Course Content Outline promulgated by the AQB for the Supervisory appraiser/Trainee Appraiser course. I would like to submit the base course (that includes the national minimum requirements, not the state rules/regulations) to the AQB’s Course Approval Program (CAP) for approval for use in multiple jurisdictions, and then allow states to write add-on modules covering any state-specific requirements. I have three questions:

Question 1: Will the AQB, through its Course Approval Program, review and approve a course under the above scenario as meeting the minimum base requirements?

Response: Yes. The AQB recognizes that a Supervisory Appraiser/Trainee Appraiser course must cover the required elements of the Course Content Outline. As such, a course that earns CAP approval will have an additional statement to this effect.

Question 2: In prior Q&As on this topic, the AQB affirmed there is no minimum or maximum course length for the Supervisory Appraiser/Trainee Appraiser course. If my base course is approved through CAP for 6 hours, and I offer the course in a state that has adopted a 3-hour course requirement, can my course be presented in a 3-hour format in that state?

Response: No; not based on the CAP approval. CAP approves a course as submitted; therefore, material cannot be added or omitted from the presentation of the course. In this case, you would have to create a 3-hour course for that particular state and seek separate approval from CAP or directly from that state appraiser regulatory agency.

Question 3: Are education providers required to submit Supervisory Appraiser/Trainee Appraiser courses to the CAP for approval?

Response: No. States can approve courses directly, provided the state verifies the course includes all of the required elements of the course content outline developed by the AQB.

The reader is advised that in all cases, the above responses are based upon the minimum criteria adopted by the AQB. Individual states can adopt more stringent requirements. Please check with the state appraiser regulatory agency in your state to confirm their specific requirements.

The AQB Q&A is posted on The Appraisal Foundation website (www.appraisalfoundation.org)