



September/October
2016

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[South Dakota Real Estate Commission](#)

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From the Director

My favorite season...**football season** is almost here and so is renewal time. Licensees who need to renew this year will soon be receiving their renewal notices. The renewal and fee must be received at the Commission office no later than November 30, 2016. Renewals received after November 30th will have to pay a late fee. In addition, all licensees should take note of the important changes being implemented starting this renewal season. You can find more details on page 2.

There are many active licensees with very few hours of continuing education completed, so if you are one of these, you need to make education a priority if you want to remain active on January 1, 2017. If you do not know the number of education hours you currently have, you can find this information in the 'Licensee' section on the Commission's website.

Please don't forget attend the last the Caravan at the end of September. It will be a very informational session.

Have a wonderful fall season. Go Vikings '**and Packers!**' (Editor's revision.)

Thank You Norma Schilling



After 44 years of public service, 26 years of those years with the Real Estate Commission, we'd like to wish a warm farewell to our Licensing Program Administrator Norma Schilling who will retire October 7, 2016. Over the years Norma has made the protection of the public and our licensees a top priority in her position. Her vast knowledge has helped many people grow and learn about their profession. Good luck Norma! We wish you the best in this next chapter. Thank you for everything you have done for the licensees and Commission office.

Registration is OPEN for the Fall Education Caravan

Online registration for the Fall Education Caravan is available on the SDREC website. Log on to www.sdrec.sd.gov. In the middle of the home page is the Licensee log in area. Follow the log in instructions to view licensing information and to register for the caravan.

Mail-in registration forms are also available from the website. A paper registration form has been mailed to each of the real estate companies.

Here are the dates and locations:

Monday, September 26 – Sioux Falls Ramkota

Tuesday, September 27 – Aberdeen Ramkota

Wednesday, September 28 – Pierre Ramkota

Thursday, September 29 – Rapid City Rushmore Plaza Civic Center

2016 Renewal Almost Here: Important Updates

The leaves are falling and the days are getting shorter. It's almost time for the 2016 renewal season to begin. Renewal notices will be sent out in early October. For active licensees, the notices are mailed to the brokerage company with which the license is associated. For inactive licensees, the renewals are mailed to the home address. Be sure to check that your mailing address is up to date on the Commission website. **You can also renew your license on our website starting in early October until November 30th. Licensees will be able to renew their license online with a \$20 late fee starting December 1st through December 31st.**

There are a few important changes coming in the 2016 renewal cycle.

- **As of 2016 licensees will now print their personal and firm licenses online.** Licensees who renew their personal or firm license in 2016 will receive an email notice for either license, after their renewal has been approved, letting them view and print the license. Allow time for processing prior to contacting the Commission office. Be sure to update your email on the Commission website to receive this email. You are not required to display your personal or firm license.
- **Licensees will now renew their group E & O insurance directly with RISC.** You will receive directions on how you can renew online at RISC's website or by mail. **The SDREC office will no longer be processing renewal checks for RISC. All checks made out to RISC received in our office will be returned.**

Licensees can review their licensing cycle information by logging on to www.sdrec.sd.gov. Be sure to check your continuing education hours. Active licensees must complete 24 hours of continuing education with 12 of those hours being Required continuing education. Approved classes and courses are available to search on our website. Don't forget to review and update your E&O with your insurance provider. The group policy E&O insurance is an annual premium, due every year!

New York A.G. Cracks Down on "Source of Income" Discrimination (Used with permission from ARELLO)

The New York Office of the Attorney General (OAG) recently announced that settlement agreements have been reached with two real estate brokerage firms that allegedly engaged in unlawful "source of income" discrimination against prospective New York City tenants using rental assistance vouchers. The settlement agreements are the latest in a series of such actions that have been taken since the OAG launched a statewide source of income discrimination initiative in 2013.

"Source of income discrimination" generally involves situations in which housing, often rental property, is denied because the potential tenant's income includes various forms of federal, state or local housing or other financial assistance. In the first of the two most recent New York cases, undercover telephone testers asked a real estate brokerage firm if they could use New York City-issued "LINC" housing assistance vouchers to rent apartments. The OAG found that a representative of the brokerage firm told the undercover testers on two calls that an apartment listed as available was not accepting any "programs" at this time. The OAG also found that the firm had no written antidiscrimination policies. In the second case, the OAG found that a representative of the subject brokerage firm told undercover testers that she did not handle applicants with government vouchers, and had nothing available for individuals with LINC vouchers. The representative told the testers that they would receive a call back from an agent who handled government vouchers, but the testers never received a call. The OAG conducted two follow-up test calls with the same results. Also, the second brokerage firm had a written policy that prohibited source of income discrimination and conducted training for its agents, but failed to monitor their compliance in order to prevent or remedy unlawful discrimination.

As part of the settlement agreement, both brokerage firms have agreed to implement reforms that include complying fully with the obligations, terms, and conditions of governing source of income discrimination laws, developing new non-discrimination policies, forwarding housing discrimination complaints to the OAG, maintaining rental information about certain properties for review, and providing public notice of their nondiscrimination policies. "Source of income discrimination" is sometimes perceived as an issue involving the federal Fair Housing Act (FHA), which prohibits various forms of discrimination in the sale or rental of housing based on race, color, national origin, religion, sex, familial status or handicap (disability); but not source of income. However, source of income discrimination may be prohibited by federal laws involving U.S. Department of Housing and Urban Development (HUD) HOME housing assistance, low income housing tax credits, HUD "Section 8" housing assistance and other programs.

“Source of Income” Discrimination (cont.)

In addition, 12 U.S. states and the District of Columbia, as well as dozens of municipal and county governments, have passed their own laws and ordinances providing protection against source of income discrimination in rental and other housing. These laws and ordinances vary, but may apply to landlords, real estate brokers, home sellers, mortgage companies, banks and others.

Depending on the jurisdiction, prohibitions against source of income discrimination might include Social Security payments, supplemental social security income, various forms of state and local housing assistance, child support, alimony, or public or state administered general assistance. Some are even broader and provide protection from discrimination for those receiving income from any occupation, profession, activity, contract, agreement or settlement, federal payments, court ordered payments, or payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury. [District of Columbia Human Rights Law, D.C. Code Section 2-1401.01, *et seq.*].

Disciplinary Actions

The following actions by the Commission have become effective since the last report in the newsletter. A **Consent Agreement and Order** is an admission of violation and voluntary acceptance of the terms determined by the Commission in lieu of a formal hearing.

Joshua Uhre, Rapid City, Broker. Consent Agreement. Violation of SDCL: 36-21A-80, SDCL: 36-21A-71(1) for failure to balance the trust account on a monthly basis, i.e lack of a ledger, lack of reconciliation, negative trust balances, or funds that are unaccounted for. Administrative fine of \$100.

Mia Semmler, Rapid City, Broker Associate. Consent Agreement. Violation of SDCL: 36-21A-52 and SDCL: 36-21A-71 (1) for failure to report a place of business or failure to report a change of location within 10 days of the change. Administrative fine of \$100.

New Licenses

Broker

Mortimer, Kent D Chanhassen

Reg. Home Inspector

Knudson, Thomas J Mobridge

Broker Associate

Aman, Ethan C Brookings
Burkhart, Sheryl D Brandon
Eisenhauer, Emily M Sioux Falls
Fischer, Derek M Brandon
Gatti, James M Lennox
Grabow, Elizabeth A Milbank
Jensen, Anne Sioux Falls
Kaufmann, Nikkita L Spearfish
Kelly, Sheri L Box Elder
Knight, Kylie Rapid City
Martz, Lucas Sioux Falls
Murray, Cindy K Canton
Norby, Bruce L Sioux Falls
Ptak, Scott L Huron
Rink, Jeffrey M Sioux Falls
Svennes, Mason W Sioux Falls
Taggart, Sarah Vermillion
Tobkin, Lesle Huron
Warfel, Brenda S Custer

Res. Rental Agent

Blasius, Cathy L Madison
Campbell, Brandy J Mitchell
Doop, Danelle L Brandon
Jenkins, Melodi K Sioux City
Shelton, Linda Sioux Falls
Strom, Matthew A Sioux Falls

Salesperson

Dieter, Nicholas Los Angeles
Gillespie, Faye M Scandia
Weaver, Teresa L Sioux City

Property Manager

Cogley, Elizabeth M Sioux Falls
Frost-Elshami, Erin F Sioux Falls
Hinz, Cami Roy
Huber, Amanda M Brookings
Noe, Bryan L Sioux Falls

Appraiser Update

New Licensees – July 2016

William H. Dooley, State-Certified Residential – Sioux City, IA
Blake A. Moreland, State-Certified General – Imperial, NE
Jonathan R. Richmond, State-Certified General – Dexter, MO

Upgrades

Kristin M. Nattress, State-Certified Residential – Lead, SD

Review of Cases

For the period January 1, 2016 through August 16, 2016, the Department has opened nine cases – three investigations and six upgrades.

Investigations – Three pending.

Upgrades – Two pending, one agreed disposition, and three closed.

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Department of Labor and Regulation, Appraiser Certification Program, 308 South Pierre Street, Pierre, South Dakota 57501 or e-mail: Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action includes but may not be limited to denial, suspension, censure, reprimand, or revocation of a certification by the department. (ARSD 20:14:11:03)

Appraisers- 2016 Renewal

NOTICE! All registrations, licenses and certificates expire on September 30, 2016 and must be renewed before this date to maintain your current status. Renewal application forms were mailed the first week in July. The applications were due in the Appraiser Certification Program office by August 17, 2016. The renewal application is available on the Appraiser Certification Program website at <http://dlr.sd.gov/appraisers>. If you do not renew by September 30, 2016, your registration, license or certificate will expire as of that date.

Supervisory Appraisers- 2016 Renewal

NOTICE! The 2016 supervisory appraiser endorsement renewal applications were mailed the first week in July. All supervisory appraiser endorsements expire on September 30, 2016 and must be renewed before this date to maintain your current status. The applications were due in the Appraiser Certification Program office by August 17, 2016. The supervisory appraiser endorsement renewal application is available on the Appraiser Certification Program website at <http://dlr.sd.gov/appraisers>. If you do not renew by September 30, 2016, your supervisory appraiser endorsement will expire as of that date.

What is the Appropriate Action of an Appraiser When an Error Is Discovered in His or Her Appraisal Report?

[Reprinted courtesy of the North Carolina Appraisal Board-Appraisereport Vol. 26, Spring 2016, Number 1]

Many of the complaints received by the Appraisal Board are the result of typographical and clerical errors in appraisal reports. A majority of errors occur simply because reports are not being proofread before they are transmitted to the client. Often an appraiser will write over an old report, forgetting to make changes as necessary. The result may be a misleading report that confuses the intended users and other readers of the report. This issue is addressed in USPAP. The Conduct Section of the ETHICS RULE states that an appraiser must not use or communicate a report that is known by the appraiser to be

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Appropriate Action (cont.)

misleading, and must not knowingly permit an employee or other person to communicate a misleading or fraudulent report. Standards Rule 1-1(c) states that “An appraiser must not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.” In addition, Standards Rule 2-1 requires that an appraisal report must “clearly and accurately set forth the appraisal in a manner that is not misleading.”

Appraisers should carefully proofread their reports before sending them to clients. If a mistake is discovered in a report after it has been transmitted, the appraiser should let the client know about the error. The appraiser should then make the appropriate corrections and issue a new report with a new signature date. The second report should clearly state that it is a revision of a report signed on an earlier date, and that the prior report should be discarded. Copies of both the original report and the revised report must be kept in the workfile. If the client does not want the revised report, the appraiser should keep a copy of the email or prepare a detailed note about the conversation. The email or note should be retained with the corrected copy in the workfile.

USPAP Q&A 2016-17 USPAP Issue Date: July 7, 2016

2016-10: APPRAISAL DEVELOPMENT – SUBJECT PROPERTY SALES HISTORY Subject Property Sales History and Standards Rule 1-5(b)

We often receive appraisal reports where a prior sale of the subject property is addressed. However, the reports do not include an affirmative statement that there have been no *other* sales within the three years prior to the effective date of the assignment. The appraisers believe they are in compliance with USPAP as they have appropriately addressed a prior sale. As the client, I do not agree.

Question 1: If, in fact, there was only one sale within the 3-year period, must the appraisal report state that there were no additional sales?

Response 1: No, USPAP does not require an appraiser to state in the report that there were no additional sales.

Question 2: Must the appraisal report include a statement that there were no sales of the subject within the 3 year period if, in fact, there were none?

Response 2: No. USPAP does not require an appraiser to state in the report that there have been no sales within the 3-year period.

As the client you may, of course, require that the appraiser exceed USPAP requirements by including an affirmative statement about the absence of other sales.

Support Your Opinion Notes from the Board’s Executive Director [Reprinted courtesy of Kentucky Real Estate Appraisers Board (KREAB- July 2015-Summer Edition)]

During the past year the KREAB has observed issues in allegation cases and experience reviews that are troubling. The source of that trouble is an apparent misunderstanding by many appraisers, concerning the use of regression analysis and other technology driven programs that are available for supporting market derived sales adjustments.

This problem has grown recently due to an expectation for appraisers to include a detailed depth of rationale and support for each market derived adjustment reported. Although this is not a new expectation, it has created an increased demand for both qualifying and continuing education seminars that demonstrate the operation and use of statistical analysis programs that can be used for supporting adjustments.

Support Your Opinion (cont.)

The courses and seminars being developed today offer exciting opportunities for use by the appraisal profession. They are more affordable, provide greater reliance, and provide appraisers the opportunity to do more work in a shorter time than was considered possible only a few years ago.

While the advancement of technology products and tools can assist in making the above possible, there is an expectation that prior to using any tool or program, the appraiser will have mastered the knowledge and competency needed for meaningful application and results. The requirement to comply with that expectation is amplified in USPAP Standards Rule 1-1, *"In developing a real property appraisal an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal"*.

For purposes of demonstrating the problem, consider the following scenario: The subject of an appraisal report is a residential site in a subdivision with a ten (10) year old one-unit residential dwelling, also included is a one (1) year old recreation amenity, landscaping that was professionally installed, and an additional building for entertaining guests. The property owner provided information for support that approximately one year prior to the appraisal effective date, the amenity items and landscaping collectively cost \$70,000 to build and install.

The only reference within the appraisal report for the amenities and landscaping was, "paired sales reveal the market does not recognize an adjustment for amenities".

Absent from the report was any statement or summary to support the rationale for why the amenities and other substantial site improvements did not 1) contribute value or 2) create a loss due to functional obsolescence. When asked to comment, the appraiser answered, "The analytical program output indicated \$0.00 for amenities, therefore no adjustment was considered applicable in this market for amenities."

The KREAB staff examined the response, and the data used for analysis. It was found that the answer of \$0.00 was given total reliance on the basis of two (2) sales entries that included similar amenities. The data was not considered sufficient for calculating a statistically valid response without providing additional supporting data. Therefore, the conclusion of \$0.00 contribution was considered to lack credibility, and might also lead to a conclusion that the report was misleading.

Appraisers should recognize that when reporting \$0.00, or none, in the comparison analysis section of an appraisal report, that entry is an adjustment, therefore, it is expected the appraiser developed the opinion by collecting, verifying, analyzing, and reconciling sufficient data necessary for reporting a meaningful result. If not, the result might be found to lack credibility, and the report considered misleading.

Professional appraisers must strive for continual advancement of knowledge and skills for the purpose of remaining proficient in the appraisal of real property. To assist in achieving this objective, each Kentucky licensed and certified real property appraiser is encouraged to research the available seminars and courses, and then make a decision to complete education on the basis of content and instruction quality. Doing so, will enhance the ability to visualize, articulate, and solve both complex and non-complex problems necessary for developing credible appraisal assignment results.

Regardless of the education taken, the experience gained, or other reasoning, it is each individual appraiser's personal responsibility to understand if she or he has mastered the skills and competency necessary for developing and reporting credible solutions for each appraisal assignment undertaken.