

TREC *Advisor*

Texas Real Estate Commission

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Committee to Study Standard Inspection Report Forms

TREC Chairman Jay Brummett has appointed a committee to study the current rules governing standard inspection report forms and to work with interested persons to determine whether amendments should be proposed to the rules.

The committee will be headed by Chairman Brummett and includes Commission members Kay Sutton and Michael Brodie. The committee was appointed after the Texas Real Estate Inspector Committee (TREIC) submitted a proposed report form/summary sheet as an alternative to the standard inspection report form which became mandatory for inspectors on January 1, 1998. (See Commission highlights, Page 2).

TREIC also suggested amendments

clarifying how the TREC report forms are to be used by the inspector and exceptions when use of the forms would not be required, including inspections of new homes, reinspections and inspections for code compliance.

The meeting of the committee has been scheduled for 10:00 a.m., Friday, March 13, 1998 in the TREC offices at 1101 Camino La Costa in Austin.

The meeting is open to the public and all interested persons are encouraged to attend.

It is anticipated that inspectors, relocation companies, builders, real estate licensees and their trade associations will be represented.

The committee will report to the full Commission at the TREC meeting

TREC Names Wayne Thorburn New Administrator

At its regular meeting held in Austin on December 15, 1997, the Texas Real Estate Commission voted to name Wayne Thorburn as the new Administrator.

The new Administrator brings to his position a familiarity with the real estate profession, having been licensed as a salesperson in 1985 and as a real estate broker in Austin from 1989 to 1996.

In addition to his real estate experience, Thorburn was Regional Representative for five southwestern states for the U.S. Department of Education and was a Special Assistant with the U.S. Department of Housing and Urban Development. He has also served as a member of the State Banking Board of Texas.

Thorburn is a graduate of Tufts University, Pennsylvania State University, and the University of Maryland, from which he received a Ph.D. in political science.

He has taught political science at Arkansas State, Southwest Texas State, and St. Edward's universities.

He has been an officer or director of several civic organizations including the Texas Rural Development Council, Austin Friends of Reading is Fundamental (RIF), Balcones Civic Association, Penn State Club of Central Texas, and Young America's Foundation.

He is a former member of the Austin

TREC Issues Invitation to Participate in Strategic Planning Process

The Texas Real Estate Commission is currently developing its Strategic Plan for the period 1999-2003 and invites interested parties to participate. On Sunday, March 22, 1998 from 1:00 p.m. to 5:00 p.m., a public meeting will be held to help TREC identify external factors that will affect TREC's success in achieving its mission. External factors may include economic conditions, population shifts, technological advances, statutory changes and geographical changes. The involvement of the regulated industries and the public in the strategic planning process is consistent with TREC's philosophy of participatory and proactive regulation. Parties interested in these discussions may submit comments orally

by attending the meeting or submit written comments by letter, fax or e-mail. The deadline for written comments is Friday, March 20, 1998.

What is TREC's Strategic Plan?

A strategic plan defines what an agency is and what it intends to be. Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal-setting and decision-making that maps a path between the present and a vision of the future. The strategic plan sets the direction for all operations of the agency.

The legislative appropriation process relies heavily on the elements developed during the strategic planning process.

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TEXAS REAL ESTATE COMMISSION MEETING HIGHLIGHTS

NOVEMBER 3, 1997 - AUSTIN

Commission Chairman Brummett announced that the decision on the administrator position would be deferred until December 15, 1997.

Commission discussed proposed new 22 TAC §§535.400-535.402 concerning registration of easement or right-of-way agents. Commission accepted comments from several attendees. Commission voted to request an attorney general's opinion as to whether employees of corporate entities need to be registered individually under the new statute.

Commission observed a moment of silence in honor of George Sandlin, former chairman of the Texas Real Estate Commission and founder of the Austin Board of Realtors, who passed away on November 1, 1997.

Commission adopted proposed amendment 22 TAC §535.212 concerning education and experience requirements for inspectors.

Commission adopted an amendment to 22 TAC §535.63, concerning broker education and experience; an amendment to 22 TAC §535.64, concerning salesperson education; and an amendment to 22 TAC §535.132, concerning nonresidents' eligibility for licensure.

Commission approved five real estate recovery fund payments and two real estate inspection recovery fund payments.

Commission proposed for possible action amendments to 22 TAC Chapters 531, 533 and 541 to replace existing terms with new statutory language eliminating gender specific terms.

Commission approved operating budget for fiscal year 1998 and reviewed fees and estimated revenues.

Commission approved questions and answers on use of standard inspection report forms and questions and answers on registration of easement or right-of-way agents.

Commission authorized employees to file complaints under Texas Civil Statutes, Article 6573a, §15B(e).

DECEMBER 15, 1997 - AUSTIN

Commission selected Wayne Thorburn as the Administrator of the Texas Real Estate Commission.

Commission discussed pending amendments to 22 TAC Chapters 531, February 16, 1998

533, and 541.

Commission approved six real estate recovery fund payments.

Commission approved changes to the recovery fund investment policy to comply with the Public Funds Investment Act.

Commission accepted public comments and discussed Commissioner Katine's motion from the last meeting concerning a property condition addendum and addenda submitted by the Broker-Lawyer Committee.

Commission proposed for publication an amendment to 22 TAC §537.11, concerning standard contract forms; an amendment to 22 TAC §537.42, concerning an agreement for mediation; and the amendments to 22 TAC Chapter 535, concerning provisions of The Real Estate License Act.

Commission withdrew approval of the TREC addendum for broker's representation and fee effective January 1, 1998.

FEBRUARY 2, 1998 - AUSTIN

Commission elected Deanna Mayfield as Vice-Chairperson and Chris Folmer as Secretary of the Texas Real Estate Commission.

Commission discussed conducting a public hearing as part of the strategic planning process on March 22 or March 23, 1998. (See article on Page 1)

Commission discussed an amendment to 22 TAC §537.11, concerning standard contract forms; an amendment to 22 TAC §537.42, concerning agreement for mediation; and amendments to 22 TAC Chapter 535, concerning provisions of The Real Estate License Act. The Commission may take final action at the March 23, 1998 Commission meeting.

Commission adopted amendments to 22 TAC §531.1-531.3, concerning canons of ethics and conduct, §§533.7-533.30, concerning practice and procedure and §541.1, relating to criminal offense guidelines.

Commission adopted a resolution in memory of Ellen L. Acevedo, former Director of Enforcement.

Commission approved four real estate recovery fund payments.

Commission accepted public comment and discussed possible action to proposed amendment to 22 TAC

§535.223, concerning standard inspection report form. Chairman Brummett will chair a committee of three commission members to take comments from interested parties. The committee will report recommendations to the Commission. (See article, Page 1)

Commission discussed and approved questions and answers on use of contract forms for publication in the TREC Advisor and on the TREC web site. (See article, Pages 4 & 5)

Commission discussed and issued a declaratory ruling in response to a petition for declaratory ruling concerning easement and right-of-way agent registration filed by several business entities.

Commission set future meeting dates for March 23, 1998, May 4, 1998, June 15,

MISSION STATEMENT: *The mission of the Texas Real Estate Commission is to assist and protect consumers of real estate services, and foster economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers.*

TEXAS REAL ESTATE COMMISSION CALENDAR OF EVENTS

March

- Committee meeting inspection forms
March 13, 1998 —Austin
- Strategic Planning Public Meeting
March 22, 1998 —Austin
- Texas Real Estate Commission
March 23, 1998 — Austin

April

- Broker - Lawyer Committee
April 9-10, 1998—Austin

May

- Texas Real Estate Commission
May 4, 1998 — Austin

June

- Broker - Lawyer Committee
June 11-12, 1998—Austin
- Texas Real Estate Commission
June 15, 1998 — Austin

July

- Texas Real Estate Commission
July 27, 1998 — Austin

Web site: <http://www.trec.state.tx.us>
TREC Fax: (512) 419-1623
Phone (800) 250-TREC (8732) or
(512) 459-6544

From the Commission...

As most of you know, The Real Estate License Act (TRELA) created the Texas Real Estate Broker-Lawyer Committee consisting of six members appointed by the Texas Real Estate Commission and six members appointed by the President of the State Bar of Texas. Among other duties, the Broker-Lawyer Committee:

"Shall draft and revise contract forms capable of standardization for use by real estate licensees and which will expedite real estate transactions and reduce controversies to a minimum while containing safeguards adequate to protect the interests of the principals to the transaction."

Now, that is a difficult charge!

Members of the Broker-Lawyer Committee do not receive pay for their services, nor are they fully reimbursed by the state for their travel. This is strictly a volunteer group which, nonetheless, does a magnificent job serving the people of this state and its real estate licensees. We should all be very proud of the Committee's service. I think it is high time somebody bragged on them!

In drafting and promulgating the new contract forms, the Broker-Lawyer Committee and the Texas Real Estate Commission have worked together in a very positive and unprecedented manner to fulfill the great charge given

us by TRELA. In the end, contract forms may be promulgated only by the Commission, a body composed of three public members and six active, practicing brokers who must use these new contract forms like everyone else.

No form, no matter how short and simple or long and complicated, can please everyone. Every paragraph, sometimes every word, can be argued for and against. In developing these new contract forms, we received hundreds of letters and calls from licensees and others concerning practically all of the proposed changes. Then each member of the Committee and the Commission had a say. But, since the "buck" stops with the Commission and the Committee, we made the final decisions to create and promulgate the new contract forms.

All of us resist change from the familiar to the new. I realize that many licensees will have difficulty in adapting to the new contract forms. However, the Commission and the Broker-Lawyer Committee will be considering additional methods or addenda to help implement and simplify use of these promulgated contract forms. The Commission and the Committee welcome constructive criticism, recommendations and advice or questions from licensees and the public. Be assured that we will read and consider any and all recommendations.

NEW RULES TAKE EFFECT

Registration of Easement or Right-of-Way Agents

Effective November 30, 1997, TREC adopted rules governing the registration of easement or right-of-way agents under Senate Bill 577. The rules, 22 TAC §§535.400-535.402, concern application forms and the application process, required notices to be used by registrants, and disciplinary action and appeals. After January 1, 1998, non-exempt persons must be registered with TREC or licensed as a real estate broker or salesperson to act as an agent for another person and for compensation regarding an easement or right-of-way for use in connection with telecommunication, utility, railroad, or pipeline service. TREC has requested an attorney general's opinion as to whether employees of an owner or registrant are required to be registered or licensed under TRELA.

Inspector Applicants

Effective December 1, 1997, TREC adopted an amendment to 22 TAC §535.212, permitting applicants for real estate inspector or professional inspector licenses to substitute additional education or related experience for the requirements of first having been licensed as an apprentice or real estate inspector and having performed inspections under the supervision of another inspector. For real estate inspector applicants, an additional 30 hours of core inspection courses or 3 years of related experience would be required. For professional inspector applicants, an additional 60 hours of courses or 5 years of related experience would be required. TREC was required to adopt the substitution rules by Senate Bill 1100.

Real Estate Applicants

Also effective December 1, 1997, amendments to 22 TAC §§535.63, 535.64 and 535.132 permit real estate broker and salesperson applicants who previously were licensed within a six-year period to be relicensed without being subject to core real estate course or experience requirements. If it has been more than two years since the applicant was licensed,

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USE THE CURRENT APPLICATION FORM

Please be sure you are using the most current application forms promulgated by the Commission. If you do not use the current form, it will be returned to you with the current form. This will delay the processing of your application. All current applications (see below) are available at any time on the TREC web site (<http://www.trec.state.tx.us>) and TREC Fax, (512) 419-1623, fax on demand system, or by calling (512) 465-3920.

Application Description	Form	Date	TRECFax
Real Estate Broker License	BL-5	02/97	77000003
Late Renewal of a Real Estate Broker License	BLR-5	02/97	77000026
Real Estate Salesperson License	SL-5	02/97	77000004
Late Renewal of a Real Estate Salesperson License	SLR-5	02/97	77000025
Professional Inspector License	REI 6-5	02/97	77000009
Real Estate Inspector License	REI 4-5	02/97	77000010
Apprentice Inspector License	REI 2-4	02/97	77000011
Easement or Right-of-way Agent for an Individual	ERW 1-0	11/97	77000031
Easement or Right-of-way Agent for a Business	ERW 2-0	11/97	77000032

Questions & Answers About New Contract Forms

Effective January 1, 1998, a new series of standard contract forms are required for use by real estate licensees. Two addenda have been repealed (Property Condition Addendum and Addendum for Inspection with Right to Terminate), and TREC has withdrawn its approval for Addendum for Broker's Representation and Fee. The following questions about use of the new forms were approved by the members of the Commission at their meeting on February 2, 1998. Questions are applicable to paragraphs in TREC No. 20-3, One-to-Four Family Residential Contract (Resale) All Cash, Assumption, Third Party Conventional or Seller Financing and to the other TREC forms having similar provisions.

GENERAL QUESTIONS

- 1. Q: Which contract forms are new?
A: All eight TREC contract forms are new including the residential resale forms, unimproved property, new home, farm and ranch, and condominium resale forms.
- 2. Q: Why are the forms longer?
A: The larger print and the addition of certain notices and disclosure provisions have lengthened the forms, but many persons find the forms easier to read.
- 3. Q: Why are the forms no longer called "earnest money contracts?"
A: Earnest money may not be involved, since it is not required for a binding contract.
- 4. Q: Why have the forms been changed to require a choice as to which party pays for the owner policy of title insurance?
A: By having to mark the box, it will be clearer to the parties that this expense item is negotiable and could be paid by either party.

DISCLOSURE REQUIREMENTS

- 5. Q: Under what conditions would the seller check the box in Paragraph 7C to show that the seller disclosure notice is not required?
A: The Property Code disclosure requirements are applicable to the sale of a property comprising not more than one dwelling unit, but do not apply to a transfer: pursuant to a court order or foreclosure sale; by a trustee in bankruptcy; to or by a mortgage or beneficiary under a deed of trust or pursuant to a court ordered foreclosure or acquisition by a deed in lieu of foreclosure; by a fiduciary in the administration of a decedent's estate, guardianship, conservatorship, or trust; from one co-owner to one or more co-owners; made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors; between spouses resulting from a decree of dissolution of marriage or legal separation or from a property settlement incidental to such decree; to or from any governmental entity; transfers of new residences of not more than one dwelling unit which have

not been previously occupied for residential purposes; or transfers where the value of any dwelling does not exceed 5% of the value of the property.

- 6. Q: Under what circumstances would the seller mark the box in Paragraph 7C to indicate that the addendum for disclosure of lead-based paint or lead-based paint hazards is not attached?
A: Federal law does not require the addendum for property constructed after January 1, 1978, property sold at foreclosure, the sale of a 0-bedroom dwelling where the sleeping unit is not separated from the living area, and housing for the elderly or disabled where children under the age of 6 are not expected to reside (there are other exceptions for rentals).
- 7. Q: Where does the broker disclose who the broker represents?
A: Disclosure of representation, including intermediary status, is now made in the box captioned "Broker Information and Ratification of Fee" on the last page of each form. Note: TREC's Addendum for Representation and Broker's Fee must not be used after January 1, 1998.

INSPECTIONS AND REPAIRS

- 8. Q: What is the purpose of providing a right of inspection in Paragraph 7A in the residential resale forms since that paragraph doesn't obligate the seller to make repairs?
A: Paragraph 7A does several things. It clarifies that the buyer has the right to inspect the property. It may be used in connection with the option provided in Paragraph 7D(1) or to confirm that repairs were made as required by Paragraph 7D(2). The paragraph also requires inspections to be either by a licensed inspector or by a person otherwise permitted by law to perform inspections, such as an engineer. Finally, the paragraph ensures a right of access for the inspector and clarifies that the seller will pay to have utilities turned on for inspections and reinspections.
- 9. Q: Why must the buyer pay for the right to terminate the contract under Paragraph 7D(1)?
A: Under Texas case law, an option requires a separate consideration for the option to be enforceable. If the option is not enforceable for lack of consideration, the contract would also be unenforceable.
- 10. Q: What amount of money should be entered in the first blank in Paragraph 7D(1)?
A: Whatever amount the parties agree upon. The seller will typically require a larger amount of money if the buyer obtains more than a few days during which the buyer may terminate the contract.
- 11. Q: What period of time to terminate the contract should be inserted in the second blank in Paragraph 7D(1)?

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- A: Whatever the parties agree upon, although the period of time should be long enough for the buyer to have the property inspected and possibly negotiate repairs with the seller.
12. Q: If the option in Paragraph 7D(1) is being used, does the buyer have the right to ask the seller to make repairs after inspections are done?
A: Yes. The buyer could ask the seller to make repairs, reduce the sales price, or modify the contract in some other way.
13. Q: Why do the contracts no longer provide for the seller to make repairs up to a stated limit if required by the buyer after an inspection?
A: Such a provision tends to cause arbitrary limits to be chosen before the parties know whether repairs are necessary. Depending upon the negotiating position of the parties, such a provision may also cause a seller to make unnecessary repairs in order to hold the buyer to the contract, or it may cause the buyer to accept the property with inadequate repairs.
14. Q: Who receipts for the "option fee" in Paragraph 7D(1)?
A: The money is paid and delivered directly to the seller. The option fee should not be made payable to the title company or escrow agent. The recitation in Paragraph 7D(1) that "Buyer has paid Seller \$_____" is an acknowledgment that the option fee has been paid. However, verification of payment may be required.
15. Q: What process should be followed if the buyer purchases an option under Paragraph 7D(1), inspects the property and wishes to purchase the property if the seller will make specific repairs?
A: The parties must reach a written agreement prior to the end of the period for the buyer to terminate the contract. If necessary, the option period may be extended in writing to permit the parties to continue their negotiations. Once an agreement has been reached, the parties could modify the contract to call for the repairs.
16. Q: For what reason may a buyer terminate the contract under the option in Paragraph 7D(1):
A: For any reason or for no reason.
17. Q: May the parties still agree when the contract is first signed for the seller to make repairs up to a stated maximum after the buyer has the property inspected?
A: Yes. An agreement for the seller to make repairs after inspections can be inserted in Paragraph 11 or provided for on an addendum. Licensees who insert such language are responsible for any errors or omissions in the language causing loss to the parties.
18. Q: Are licensees permitted to use an addendum drafted by an attorney to provide for repairs to be made by the seller after inspections by the buyer?
A: Yes.

FEES, PRORATIONS AND ESCROW

19. Q: Why do the new home, farm and ranch, and unimproved property contracts no longer provide for the payment of the brokers' fees by the seller?
A: Because the broker should have a separate written fee agreement created prior to the negotiation of the sales contract.
20. Q: Why do the contracts no longer provide a choice as to whether there will be prorations in Paragraph 13?

New Rules Take Effect

(Continued from page 3)

an examination must be passed, and all applicants for an active license must have completed 15 hours of MCE courses within the two-year period prior to the filing of the application. Senate Bill 1100 authorized TREC to expand its existing waiver rules to persons licensed within a six-year period prior to filing the application.

Inspection Report Form Mandatory

Effective January 1, 1998, new 22 TAC §535.223 requires inspectors to use standard inspection report forms adopted by TREC. Under the rule, the form may be reproduced verbatim by inspectors and must appear to be the same as the form printed by TREC. When using the form, however, inspectors may delete items which are not in the property or which are

not being inspected, provided the heading for the item is shown and an appropriate notation is made in the report. Inspectors are permitted to add additional pages at the end of the report to provide more complete information or to report on

New 1-800 Lines

TREC has installed two new toll free lines for the 1-800-250-8732 number. This brings the total to three for the toll free lines. If you haven't already noticed, the 8732 spells "TREC" so our number can easily be remembered as 250-TREC.

If you cannot get through on the toll free lines, you may still reach us via our regular number (512) 459-6544. Please note that calls originating in the Austin area should use 459-

EXAMINATION UPDATE

Another examination item development workshop was held on February 4th, 5th and 6th in Houston and was for salesperson and broker examinations. There will be another examination item development workshop in April during the Texas Real Estate Teachers Association conference in Dallas.

For item writing, anyone with an interest in real estate may attend. For item review, you may not be associated with a school that has an examination preparation class. These examination development workshops are the heart of what makes the Texas real estate examinations work.

For more information, please contact Cameron Wilson with the National Assessment Institute at (800) 326-3926, ext. 60.

There are two new examination sites: Abilene at 4150 Southwest Dr., Ste. 210

TEXAS REAL ESTATE COMMISSION DISCIPLINARY ACTIONS

Actions Taken Between September 1, 1997 and December 31, 1997

Revocations

Barrick, Ronald Rae (Austin); license #331173 Criminal conviction of felony offenses of Conspiracy to Defraud (2 counts); False, Fraudulent and Fictitious Claims, Aiding and Abetting; False, Fictitious Claims; False Statements, Aiding and Abetting (3 counts) in violation of §4(a) of Article 6252-13c. Revocation of broker license, effective November 17, 1997.

Dark, Lee Russell (Cleveland); license #368834 Converting earnest money to his own use and benefit in violation of §15(a)(6)(E); failing to timely submit an application for change of main office location in violation of §12(a); failing within a reasonable time to provide, for inspection, documents requested by the Commission as a result of a complaint to the Commission in violation of §15(a)(7). Revocation of broker license, effective September 9, 1997.

Davis, Alfonso Fernando (Midland); license #169733 The Texas Real Estate Commission has made a payment from the Real Estate Recovery Fund toward satisfaction of a judgment in violation of §8(i); negotiated a contract for deed transaction on a Commission-promulgated contract form in violation of §15(a)(6)(W). Agreed revocation of broker license, fully probated for 3 years and 6 months, effective September 20, 1997.

Estevez-Monroe, Inc. (San Antonio); license #419010 2 violations of §15(a)(2) for submitting a license application for a salesperson that the broker knew or should have known failed to disclose unlicensed real estate brokerage activity; 2 violations of §15(a)(6)(F) for compensating an unlicensed person who has performed real estate brokerage activities; 2 violations of §15(a)(6)(S) for permitting an unlicensed person to engage in real estate brokerage activities; failing to account for earnest money in violation of §15(a)(6)(E); refusing to sign a contract termination form in violation of §15(a)(6)(W) and §15(a)(6)(V); failing to deposit money in a timely fashion in violation of §15(a)(6)(E); failing to obtain the seller's agreement to a buyer's temporary lease and failing to make the temporary lease a part of the contract, failing to timely remit buyers' rent payment to seller, charging a seller for an unauthorized fee in violation of §15(a)(6)(W) and §15(a)(6)(V). Agreed revocation of broker license, effective November 21, 1997.

Nichols, Steven James (Austin); license #366879 Submitting false invoices to a property owner for services claimed to have been rendered and accepting compensation from the owner based on such false claims in violation of §15(a)(6)(Q) and §15(a)(6)(V). Revocation of broker license, effective

December 11, 1997.

Ronquille, Danny Devereaux (Houston); license #428489 Permitting a salesperson to act without a license and failing to disclose the unlicensed activity in a license application for the salesperson in violation of §15(a)(6)(W); negligently supervising a salesperson and associate in violation of §15(a)(6)(W); 6 violations for failing to properly supervise salespersons who improperly placed signs in violation of the Sign Code of the City of Houston in violation of §15(a)(6)(W). Revocation of broker license, effective December 1, 1997.

Stonecipher, Audrey Yvonne (Austin); license #396578 Failing to provide required information with a license renewal in violation of 22 TAC §535.91(a). Revocation of salesperson license, effective December 15, 1997.

Southeast Texas Real Estate Institute (Huntsville) Failing to pay the yearly fee for operation of an education program in violation of 22 TAC §535.66(rr). Withdrawal of proprietary school accreditation, entered September 9, 1997.

Tindle, Terri Fayann (Dallas); license #315424 Converting earnest money to her own use and benefit in violation of §15(a)(6)(E). Revocation of broker license, effective September 29, 1997.

Tornabene, Diane Burgess (Houston); license #266745 Issuing a rental payment on a property she was leasing on a closed account in violation of §15(a)(3); closing the purchase of a property without payment of the monies due under the contract in violation of §15(a)(3); issuing an insufficient funds check for a mortgage payment on a property she was managing in violation of §15(a)(6)(E); engaging in real property management without the participation of her sponsoring broker in violation of §1(b). Revocation of salesperson license, effective November 17, 1997.

Vaughn, Louis E. (Houston); license #385669 Criminal conviction for felony offense of attempted burglary of a habitation in violation of §4(a) of Article 6252-13c. Revocation of salesperson license, effective November 3, 1997.

SUSPENSIONS

De La Garza, Maria Elda (McAllen); license #233330 Failing to promptly refund the buyers' earnest money in violation of §15(a)(6)(E); failing within a reasonable time to provide information requested by the Commission as a result of a complaint to the Commission in violation of §15(a)(8). 1-year suspension of broker license, effective

November 17, 1997.

Duncan, Robert Curtis (Spring); license #283648 Criminal conviction for unlawful and intentional delivery of, by actual transfer, a controlled substance, namely, cocaine weighing more than 28 grams and less than 200 grams in violation of §4(a) of Article 6252-13c. Agreed 8 years and 1 month suspension of broker license, fully probated effective December 1, 1997.

Estevez, Ricardo M. (San Antonio); license #405143 2 violations of submitting a license application for a salesperson that the broker knew or should have known failed to disclose unlicensed real estate brokerage activity and permitting an unlicensed person to engage in real estate brokerage activities in violation of §15(a)(6)(W); failing to take action to effectuate the return of earnest money in violation of §15(a)(6)(W); failing to properly and effectively supervise his salesperson's actions and to take timely action to rectify the problems with a transaction in violation of §15(a)(6)(W); attempting to procure a real estate license for a limited liability company by making a material misstatement in a license application in violation of §15(a)(2). Agreed 6-month suspension of broker license, fully probated for 2 years, effective November 21, 1997; Agreed administrative penalty of \$5,000, to be paid by December 12, 1997.

Garza, Arturo H. (San Antonio); license #311376 Commingling property management monies with his own funds in violation of §15(a)(6)(E) and §15(a)(6)(W). Agreed fully probated 1-year suspension of salesperson license, effective September 30, 1997.

Sutton, James Arthur (Fort Worth); license #578 Failing to inspect the condition of the roof structure where accessible in violation of 22 TAC §535.222(e)(2)(E)(i)(IV); failing to adequately explain water stains and cracks in violation of §23(1)(3); failing to observe deficiencies of exterior walls related to water penetration in violation of 535.222(e)(2)(C)(i)(I); failing to observe conditions or symptoms that may indicate water penetration in violation of 22 TAC §535.222(e)(2)(A)(i)(VI); failing to report deficiencies in items inspected in violation of §23(1)(3). 60 day suspension of professional inspector license, effective December 1, 1997.

REPRIMANDS

Attaway, Terri L. (Arlington); license #328585 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the

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returned check processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered November 3, 1997.

Ayers, Cortlin Dee (Fort Worth); license #357204 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4). Failing to pay the returned check processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of salesperson license, entered October 28, 1997.

Cornelius, Ronald Guy (Grand Prairie); license #324501 In a transaction where he was acting as both agent and principal, failing to inform buyer of signboard leases encumbering the property and failing to initially rectify the matter, in violation of §15(a)(3), §15(a)(6)(V), §15(a)(6)(W) and 22 TAC §§535.156(b) and (d). Agreed reprimand of broker license, effective September 3, 1997. Agreed administrative penalty of \$500.00 (broker), entered September 3, 1997.

Cox, Delores Laverne (Dallas); license #200024

Failing to exclude a satellite dish and controls from a contract she negotiated in violation of §15(a)(6)(W). Agreed reprimand of salesperson license, entered November 10, 1997.

Currey, David Marcus (Austin); license #171341 Failing to pay the returned check processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered December 12, 1997.

Estevez Monroe Realtors, L.C. (San Antonio); license #450881 Attempting to procure a real estate license by making a material misstatement of fact in a license application by failing to disclose pending Commission complaint investigations in violation of §15(a)(2). Agreed reprimand of broker license, entered November 21, 1997. Agreed administrative penalty of \$1,000.00 (broker), entered November 21, 1997.

Griggs, Erin Kelly (Houston); license #452412 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4). Failing to pay the returned check processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered October 31, 1997.

Haggenmaker, Mary Ann B. (Houston); license #326978 Attempting to require a buyer to sign a hold harmless agreement for the benefit of the broker in violation of 22 TAC §531.1(3). Agreed

reprimand of broker license, entered December 12, 1997.

Jones, Leslie Jennings, Jr. (Austin); license #3308 Failing to report the correct type of foundation in an inspection report in violation of §23(1)(3). Agreed reprimand of professional inspector license, entered November 4, 1997; Agreed administrative penalty of \$500.00 (professional inspector), entered November 4, 1997.

Klein, Jack Jay (Bryan); license #297782 Failing to timely provide buyers a copy of their executed buyer representation agreement in violation of §15(a)(6)(T). Agreed reprimand of salesperson license, entered September 30, 1997. Agreed administrative penalty of \$250.00 (salesperson) entered September 30, 1997.

Livingston, Joe Frank (Arlington); license #257147 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4). Failing to pay the returned check processing fee within

15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license,

entered October 28, 1997.

Lucero, Lucila R. (El Paso); license #255016 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the returned check processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of salesperson license, entered December 18, 1997.

McDonald, Thomas Joseph (Conroe); license #222756 Failing to disclose he is acting in the dual capacity of broker and undisclosed principal in violation of §15(a)(6)(J). Agreed reprimand of broker license, effective September 3, 1997. Agreed administrative penalty of \$500.00 (broker), entered September 3, 1997.

McKee, Joni B. Alexander (Fort Worth); license #279426 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered September 11, 1997.

Monacelli, Frank Michael (Houston); license #380703 Compensating an unlicensed person for negotiating lease agreements in violation of §15(a)(6)(F). Agreed reprimand of broker license, entered November 20, 1997. Agreed administrative penalty of \$500.00 (broker), entered November 20, 1997.

Nino Corporate Lodging, Inc. (Houston); license #431801 Compensating

an unlicensed person for negotiating lease agreements in violation of §15(a)(6)(F). Agreed reprimand of broker license, entered November 20, 1997; Agreed administrative penalty of \$500.00 (broker), entered November 20, 1997.

Oliva, Rachel Hardison (McAllen); license #428272 Commingling money belonging to others with her own funds in violation of §15(a)(6)(E). Agreed reprimand of salesperson license, effective October 8, 1997. Agreed administrative penalty of \$500.00 (salesperson), entered October 8, 1997.

Reagan, Thomas Gary (Austin); license #410613 Negligently supervising his salesperson in violation of §1(c). Agreed reprimand of broker license, entered November 5, 1997. Agreed administrative penalty of \$250.00 (broker), entered November 5, 1997.

RGJ, Inc. (Amarillo); license #411921 Permitting a salesperson to engage in real estate brokerage activities after license expiration in violation of §15(a)(6)(S). Agreed reprimand of broker license, entered September 8, 1997. Agreed administrative penalty of \$5,000.00 (broker) entered September 8, 1997.

Starr Realty, Inc. (Magnolia); license #415927 Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4). Failing to pay the returned check processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered October 30, 1997.

Trusty, George Lee, III (Houston); license #444289 Negligently placing a sign in violation of the Sign Code of the City of Houston in violation of §15(a)(6)(W). Reprimand of salesperson license, entered September 4, 1997.

Valentino, James Charles, II (Houston); license #451094 Negligently placing a sign in violation of the Sign Code of the City of Houston in violation of §15(a)(6)(W). Reprimand of salesperson license, entered September 4, 1997.

For this and more TREC enforcement information visit <http://www.trec.state.tx.us>

1998 ARELLO Digest

The Association of Real Estate License Law Officials (ARELLO) announces the availability of the 1998 DIGEST OF REAL ESTATE LICENSE LAWS. The digest is a reference guide for those in need of state-by-state license law requirements. The guide is updated annually and the information changes considerably from year to year. It is available for \$40 from: ARELLO DIGEST, P.O. Box 129, Centerville, Utah 84014-0129.

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The TREC Advisor (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of The Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The TREC Advisor is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, *Texas Register*.

TREC encourages reproduction of this newsletter with the appropriate acknowledgments. Subscriptions are available for \$3.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to: TREC Advisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

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Strategic Planning Process

(Continued from page 1)

Once the agency has completed its five year plan, it uses the first two years of the plan as the basis for its appropriation request.

TREC views the strategic planning process as a vehicle through which TREC and its service recipients can cooperatively develop a shared vision of the future.

How Does the External Assessment Fit Into the Strategic Plan?

The external assessment sets the stage for the agency's strategic planning process. The purpose of the assessment is to facilitate the agency's recognition of current and future issues that will affect TREC's success in achieving its mission. The assessment should address all factors affecting the agency, including strengths, weaknesses, opportunities and challenges. Through analysis of these factors TREC will determine its current position and outline its expectations for change.

What is Your View of the Future?

The following general questions provide a basis from which you can respond to the Commission's solicitation for your involvement and input into the strategic planning process.

- What changes will most impact real estate service providers in the next five years?
- What are the major issues that are relevant to TREC?
- What is the level of customer demand and public need for our agency's services in the areas of education, licensing and industry regulation?

- What opportunities and challenges will TREC face in pursuing the agency mission of: "Assisting and Protecting Consumers of Real Estate Services, and Fostering Economic Growth?"

We appreciate any comments you choose to make either at the public meeting or at any of the following addresses:

Mail: Texas Real Estate Commission
Strategic Planning Comments
P. O. Box 12188
Austin, Texas 78711-2188

Fax: (512) 465-3910 (addressed to Strategic Planning Comments)

Employee of the Quarter

TREC is proud to announce that Carla Barron is the first Employee of the Quarter for fiscal year 1998.

Carla began working at TREC on October 5, 1987 in the Staff Services division where she is currently Chief Accountant. Carla's duties include supervising the accounting, payroll, and public information staff. She is involved in preparation of the Annual Financial Report, the Legislative Appropriations Request, the Operating Budget and the Biennial Operating Plan. Carla is a conscientious and dedicated worker. Her efforts make her an asset to the Commission.

TREC applauds Carla's efforts and is pleased to acknowledge her