



TREC Advisor

Texas Real Estate Commission ☆ Volume 13, Number 4 ☆ December 2002

Annual Report for Fiscal Year 2002

Total Number of Licensees Continues to Increase

Licenses in force at end of year	FY01	FY02	%
Total Real Estate Licenses	111,991	117,745	+ 5.1
New Licenses Issued	9,675	17,460	+80.5
Return to Licensure	4,636	6,856	+47.9
Total Inspector Licenses	2,196	2,399	+9.2
Total Easement or Right-of-Way	952	916	-3.8

This past fiscal year (September 1, 2001-August 31, 2002) saw a dramatic increase in the number of real estate and inspector licensees in Texas. The number of real estate salespersons and brokers grew from 111,991 to 117,745 (up

5.1%) and the number of licensed inspectors went from 2,196 to 2,399 (up 9.2%). This increase in total licensees occurred mainly among salespersons and was due to three possible factors: (1) an increase in new individuals entering the business, (2) more previously-licensed salespersons filing late renewal applications, and (3) a higher percentage of licensees renewing in a timely fashion. For two years now, the number of licensees has increased continuously every month.

Clearly, there has been a major influx of individuals entering the real estate business in Texas. Over the past year, 15,113 individuals filed original applications for a salesperson license, an increase of 42.5% over Fiscal Year 2001. Applications are submitted *after* completion of all required pre-licensure course work and *before* taking the real estate license examination. As the year progressed, more and more original applications were processed by TREC's licensing office. Each month the number of new applications received continues to run above the previous year's total.

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Salesperson Original Applications Last 6 Months of FY02

March	1,018
April	1,027
May	1,168
June	1,155
July	1,432
August	1,485

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Chairman Appoints Education Task Force

Based on feedback received from focus groups at TREC's strategic planning sessions, Chairman Mike Brodie has appointed the following individuals to a task force to review, evaluate, and offer recommendations for changes in real estate education: Commissioner Louise Hull (Chair), Cornerstone Properties (Victoria); Charles Kramer, Republic Title of Texas (Dallas); Lance Lacy, Lacy & Company, Realtors (San Angelo); Gary Maler, Associate Director, Real Estate Center, Texas A&M University (College Station); Charles Marina, First American Realty (McAllen); Mary Milford, Professor of Real Estate, Collin County Community College (Plano); Brad York,

Houston Director, Leonard-Hawes Real Estate School (Houston).

To date, the Education Task Force (ETF) has met three times and has delineated the following mission statement: "To rethink and re-invent MCE (structure, delivery, reporting, and content)." Additionally, the ETF has determined that the purpose of MCE is "to expand and reinforce the knowledge, ethics, competency, and skills of Texas real estate licensees." The ETF is currently designing a survey that will be sent out to licensees to solicit their input regarding MCE in Texas. This survey will also be available online at: www.trec.state.tx.us



TEXAS REAL ESTATE
COMMISSION

Meeting Highlights

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.

Official publication of the
Texas Real Estate Commission

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December 2002

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Desktop Publisher
Patricia Holder

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Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
(512) 459-6544 or (800) 250-TREC
<http://www.trec.state.tx.us>

September 9, 2002

The Texas Real Estate Commission held a regularly-scheduled meeting at the TREC headquarters in Austin on Monday, September 9, 2002.

Staff reports were presented concerning the total number of active and inactive licenses-121,060, at the end of Fiscal Year 2002. It was noted that nearly half of all original salesperson applications were received online during August, 2002. The Enforcement Division had met one of its key performance measures by closing 3,070 cases for the year. It was reported that TREC would be discontinuing the TRECfax due to low usage and the fact that all forms are available at TREC's web page..

The Commission voted to post a proposal to amend TAC 22 §535.2 to define the minimum level of service that a consumer may expect to receive from a broker who represents the consumer.

The Chairman appointed, with commission approval, an Education Task Force which would be chaired by Commissioner Louise Hull. Other members appointed were Charles Kramer, Lance Lacy, Gary Maler, Mary Milford, and Brad York, with an additional commercial broker to be appointed. The Commission approved a software licensing agreement with the Texas Department of Licensing and Regulation regarding its use of TRELIS, the TREC developed licensing information software.

The Commission authorized the payment of \$8,900 from the Inspection Recovery Fund

November 4, 2002

At its meeting in Austin on November 4, 2002, the Texas Real Estate Commission welcomed a new Director of Information Services, Lyndon Clements. Mr. Clements has worked at TREC for nine years. His most recent assignment was lead programmer.

After an executive session, the Commission authorized the payment of two claims on the Real Estate Recovery Fund, totaling \$60,000.

Staff reports were presented concerning streamlining the complaint process on routine administrative violations. Reports were given concerning current statistics relating to online activity and several ongoing projects in the Information Services Department.

The Commission adopted the amendments to TAC 22 §535.2, concerning a broker's responsibility toward a consumer he or she represents.

The Commission voted to propose amendments to 22 TAC §§537.11, 537.20, 537.28, 537.30, 537.32,

537.43, and 537.46, concerning standard contract forms. These amendments would adopt by reference six revised contracts and two addenda (See page 7 for more information). In conjunction with these amendments a separate proposal to repeal two forms was approved. The forms along with a summary of the changes would be available on the agency's website (www.trec.state.tx.us)

A revised version of the Lead-Based Paint Addendum was approved for voluntary use.

The Commission voted to support amendments to the Real Estate Licensing Act, Residential Service Company Act and Texas Timeshare Act for consideration by the Texas Legislature at its 2003 regular session.



Lyndon Clements
Director of
Information Services

Do you have any opinions about MCE?
To share your ideas with TREC's Education Task Force, please take a moment to complete an anonymous online survey at www.trec.state.tx.us

Annual Report for Fiscal Year 2002

(Continued from page 1)

Some interesting demographic changes have occurred in the composition of the new licensee class. More younger and older Texans were licensed in FY02 with fewer middle-aged entrants into the real estate profession. In fact, nearly one-half of all new salesperson licenses were issued to individuals aged 46 years or more. Those aged 25 and below constituted 15% of all new salespersons licensed in FY02 compared with 13% in FY01. But the most dramatic change was among individuals 46 years old or more, a group which made up 29% of all entrants in FY01 but increased to 46% of all new salespersons in FY02. No significant changes were found in the ethnic or racial composition of the profession but the percentage of new male salespersons grew from 41.6% in FY01 to 44.0% in FY02.

Just as significant, however, the past year saw a slight in-

Expanding Role for the Internet

TREC has continued to make transactions available via the Internet. With the elimination of the "convenience fee" for two-year license renewals in June 2002, additional salespersons and brokers have been paying by credit card and renewing online. As the fiscal year ended, approximately 20% of the eligible salespersons and over 15% of the eligible brokers were renewing via the Internet. Beginning in November 2002, all three categories of Inspectors are now able to renew licenses online also. Online renewals for Easement or Right-of-Way (ERW) agents are projected to begin in June 2003.

In January 2002, TREC made salesperson original applications available online. From that point forward, each month the number of individuals applying online has increased. Currently,

This service to our applicants and licensees has become more and more important. Through the end of August 2002, over 13,000 TREC transactions (license applications and renewals) have been made through the *TexasOnline* payment portal. As more real estate licensees become aware of this possibility and both inspectors and ERW agents are able to renew online, this feature will continue to increase in use.

At the same time, TREC's web site is continuously updated with relevant information, forms, and materials. The number of pages viewed in FY02 (12,436,880) was astronomical-as both licensees and the public turned to it for assistance. Of growing significance is the use of electronic mail to provide a speedy and cost-effective method for disseminating news and information to the agency's licensees. At the end of the fiscal year, TREC's e-mail list server had 24,858 subscribers -a total that continues to increase as more licensees provide e-mail information.

Changes in Real Estate Education

During the past fiscal year, applicants for both salesperson and broker licenses confronted additional educational requirements. The total classroom hours of pre-licensure core real estate courses for a salesperson applicant increased from 90 to 120 while the number of core real estate hours completed prior to applying for a broker license went from 180 to 270.

Five different companies submitted proposals to provide examination services for the

(Continued on page 4)

Percentage of Licensees Who Renewed

	FY 01	FY 02	
1 Year Salesperson Renewal	74.2	76.7	+2.5
2 Year Salesperson Renewal	82.2	83.6	+1.4
2 Year Broker Renewal	88.2	88.5	+0.3

crease in the percentage of licensees who renewed. The change was greatest for those newly licensed and still completing their basic post-licensure education, individuals who receive one-year licenses. Nearly nine in ten real estate brokers renewed their licenses last year.

nearly 50% of all new salesperson applications are being received via the Internet. This process both decreases the time for application approval as well as ensures greater data-entry accuracy since the information is provided and entered by the applicant.

Five Years of Growth in Licensees Served					
Total Number of Licensees	FY 98	FY 99	FY 00	FY 01	FY 02
Salespersons	68,797	69,383	70,219	72,318	78,086
Brokers	41,369	40,606	40,106	39,673	39,659
Inspectors	1,505	1,698	1,944	2,196	2,399
New Individual Real Estate Licenses (includes late renewals)	12,820	13,266	13,626	14,341	24,316
Examinations Administered	21,279	23,163	27,799	29,442	39,310
Individuals Examined	9,334	10,238	11,077	11,684	16,534

(Continued from page 3)

agency under a new contract which began on September 1, 2002. PSI Examination Services was selected to be the new provider and spent much of FY02 updating and revising examination materials as well as locating and leasing space for TREC examination centers across the state. These new centers are used exclusively for administering TREC examinations.

Throughout March and April, TREC held four public forums in Houston, Lubbock, Austin, and Fort Worth to receive public comments and recommendations for the agency's 2003-2007 Strategic Plan. So many suggestions relating to real estate education were received that Chairman Mike Brodie appointed an Education Task Force and charged it with reviewing the entire scope of education and making recommendations to the Commission.

Related Topics and Concerns

Two new members were selected to serve on the *Texas Real Estate Broker-Lawyer Committee*: Rob Orr of Burleson and Norman Dierschke of San Angelo. The committee undertook a major review of

residential contract forms and addenda with many changes enacted by the Commission during the year. Two TREC representatives also were re-appointed to the *Mortgage Broker Advisory Committee* - Keno Torres of Houston and Ron Wakefield of San Antonio.

In response to concerns expressed by many licensees over the continued availability of homeowners' insurance, Texas Insurance Commissioner *Jose Montemayor* met with the Commission at its June 3rd meeting and agreed to receive reports of incidents where buyers were unable to obtain insurance prior to closing a transaction.

TREC is an active member of the *Association of Real Estate License Law Officials (ARELLO)*, an international organization which brings together regulators from several countries. Texas was pleased to serve as host for the ARELLO Mid-Year meeting held in Fort Worth in April 2002. This allowed several Commissioners and staff to take part in the conference. TREC Administrator Wayne Thorburn was re-elected to the ARELLO Board of Directors at the annual meeting.

The close working relationship between TREC and the Real

Estate Center at Texas A&M University continued in the past year as the two groups collaborated for their third videotape production. The new issue, "A Visit to the Texas Real Estate Commission," provides a concise 18-minute overview of TREC's responsibilities and how the agency operates. Like the other videos on agency law and the options clause, this video is available from the Real Estate Center at a nominal cost.

Once again, TREC was pleased to have met or exceeded all key performance measures developed by the Legislative Budget Board in conjunction with the Texas Legislature. These measures are critical elements of the overall performance-based budget used by Texas state government. Additionally, the agency continued to receive high marks from both its clients (in the *Customer Service Survey* available to all who interact with TREC) and its staff (in the *Survey of Organizational Excellence* conducted by the University of Texas).

Staff turnover continued to be a concern in FY 02. However, TREC was fortunate to find skilled personnel for two key legal positions as Loretta DeHay assumed a new role as *General Counsel* and Linda Bayless joined the agency as *Director of Enforcement*.

Enforcement Activity

The Enforcement Division processed 3,132 complaint matters in FY02, consisting of both consumer concerns and administrative issues such as bad checks, failure to comply with license requirements, or failure to provide required information. Nearly one-half, or 1,559, were closed with "no action taken" for one of the following reasons: not enough information provided by the complainant (case is reopened when and if information is subsequently provided); no violation of the Real Estate License Act; insufficient evidence of a violation; with-

drawal of the complaint; or settlement of the dispute by the relevant parties.

The remaining 1,573 complaints were opened for investigation and the Enforcement Division legal staff made determinations on how to proceed with each of them. In some instances an advisory letter was issued by TREC when a licensee appeared to have engaged in a questionable activity but no clear violation of the Real Estate License Act could be proven. This was the final action taken on complaints in 242 instances.

When a licensee is found to have violated the Real Estate License Act or Commission Rules, the agency can impose sanctions up to and including license revocation. Last year, the agency issued 61 reprimands, 20 probated suspensions, 7 suspensions, 5 probated revocations, 41 revocations, and 8 licenses surrendered in lieu of administrative action. In 54 complaint matters an administrative penalty was assessed, producing a total of \$11,400 which was deposited to the Real Estate Recovery Fund.

A number of matters are referred to the Enforcement Division by the Licensing office. These consist of license applications or renewals in which the individual answered "yes" to questions concerning criminal convictions, unlicensed activity or other issues. There were 1,866 referrals from Licensing in FY02. Of these, 1,738 were cleared for licensure (93%) with 42 being granted probationary licenses while 128 applications were either disapproved or terminated by the applicant (7%). Beginning in September 2001 TREC obtained statutory authority to take administrative action against *any person* conducting real estate activity while also retaining its au-

thority to file criminal complaints for unlicensed activity. In 23 instances TREC either sent "cease and desist" letter to unlicensed persons or made referrals to District Attorneys concerning allegations of unlicensed activity.

When the Enforcement Division makes a decision to seek disciplinary action against a licensee, that individual can either agree to waive a right to an administrative hearing and sign an "Agreed Order" for approval by the administrative law judge, or the licensee can oppose the proposed disciplinary action and request a hearing before the administrative law judge. Licensees may represent themselves at the hearing or they may choose to be represented by their own attorney. In the past year, 85 administrative hearings were held and an additional 62 agreed orders were entered.

In some situations, a complainant may file a civil suit against a licensee independent of any action taken by TREC. On occasion, when a complainant wins the suit, obtains a judgment against the licensee, and is awarded damages and/or attorney fees, the complainant may be unable to collect the court-ordered sum. In those instances, the complainant can seek payment from either the

Real Estate Recovery Fund or the Real Estate Inspection Recovery Fund which are both managed by TREC. If the agency issues a payment from either of these funds, the Enforcement Division pursues disciplinary action to revoke the license of the individual against whom the judgment was rendered. During FY02, 19 payments totaling \$561,110 were made from the Real Estate Recovery Fund. Two payments totaling \$15,000 were made from the Real Estate Inspection Recovery Fund.

This past fiscal year saw real estate assume a leading position in ensuring the strength of the Texas economy. Throughout this fiscal year and into the future, TREC is committed to assisting and protecting consumers of real estate services and, in so doing, fostering economic growth in Texas. The agency's programs of education, licensing and industry regulation will continue to be employed to ensure the availability of honest and capable real estate service providers. This will continue to be the mission of the Texas Real Estate Commission.



Loretta DeHay moved from Director of Enforcement to become TREC's General Counsel in January 2002.



Linda Bayless became the new Director of Enforcement in March of 2002. She was formerly Chief of the Fraud Investigation Unit at the Texas Department of Insurance.



Disciplinary Actions

August 2002 - October 2002

Johnson, Paula Jean
(Dallas); license# 483216

Agreed 1-month suspension of salesperson license fully probated for 6 months; effective August 2, 2002; acting negligently or incompetently by failing to receipt the earnest money within a reasonable time, failing to instruct the buyer to remit the option fee to the seller, and failing to assist the buyer to notify the seller in writing of their intent to terminate the contract within the option period, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Dodson, Kathryn Brooks
(El Paso); license# 465593

Revocation of salesperson license; effective August 2, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Chesak, Michael Francis
(El Paso); license# 452557

Revocation of salesperson license; effective August 2, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Walsh, Ed
(El Paso); license# 234125

90-day suspension of broker license; effective August 8, 2002; acting as a buyers' agent for tenants and accepting a retainer fee from them while managing the owner's property that the tenants were leasing, in violation of Section 15(a)(6)(D) of The Real Estate License Act and 22 TAC Section 535.148 of the Rules of the Texas Real Estate Commission; creating an agreement whereby the broker withheld from the owner part of the rents collected from the tenants, in violation of Section 15(a)(6)(O); submitting an accounting to the owner which did not accurately reflect the amount of rent actually received from the tenants, in violation of Section 15(a)(6)(Q); concealing his agreement with the tenants from the owner and by knowingly creating misleading accountings submitted to the owner, in violation of Section 15(a)(6)(V) of The Real Estate License Act and 22 TAC Section 535.156(b) of the Rules of the Texas Real Estate Commission

Busby, Catherine L.
(Carthage); license# 404922

2-months suspension of broker license fully probated for 9 months; effective August 8, 2002; acting negligently or incompetently by failing to receipt the earnest money within a reasonable time, failing to assist the buyer by providing a termination of contract and release of earnest money form, and failing to suggest the buyer discuss the release of earnest money dispute with an attorney, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Miller, Kerri Sue
(Kerrville); license# 474977

Agreed reprimand of salesperson license; entered August 15, 2002; Agreed administrative penalty of \$500.00; entered August 15, 2002; failing to complete contract forms correctly, failing to use correct contract form, failing to correctly indicate representation on the contract, and failing to advise parties regarding possibility of negotiating temporary lease, in violation of Section 15(a)(6)(W) and Section 15(a)(6)(V) of The Real Estate License Act and 22 TAC Section 537.11(d) of the Rules of the Texas Real Estate Commission; failing to comply with the requirements of an intermediary transaction, in violation of Section 15C(h)(1) of The Real Estate License Act

Douglass, Brandon Glenn
(Kerrville); license# 462408

Agreed reprimand of salesperson license; entered August 15, 2002; Agreed administrative penalty of \$500; entered August 15, 2002; failing to complete contract forms correctly, failing to use correct contract form, failing to correctly indicate representation on the contract, failing to deliver option check to seller and failing to advise parties regarding possibility of negotiating temporary lease, in violation of Section 15(a)(6)(W) and Section 15(a)(6)(V) of The Real Estate License Act and 22 TAC Section 537.11(d) of the Rules of the Texas Real Estate Commission

Masters, John Gregory
(Kerrville); license# 475651

Agreed reprimand of broker license; entered August 15, 2002; Agreed administrative penalty of \$1000; entered August 15, 2002; failing to supervise two salespersons negotiating a transaction, who incorrectly completed and used the promulgated contract forms and failed to turn over the option money to the seller, in violation of Section 15(a)(6)(W); failing to properly appoint licensees in an intermediary transaction, in violation of Section 15C(k); failing to give the Commission written notice of a business name, in violation of Section 15(a)(6)(P) of The Real Estate License Act and 22 TAC Section 535.154(c) of the Rules of the Texas Real Estate Commission

Mantzaris, Jeffrey Neal
(The Colony); license# 460463

Revocation of salesperson license; effective August 15, 2002; violation of terms and conditions of probationary license by failing to cooperate with the Commission in its investigation of a complaint filed against him and refusal to submit to an inspection and review by the Commission of documents, books and records concerning real estate transactions

Best, John Kraetsch
(El Paso); license# 178242

Agreed reprimand of broker license; entered August 20, 2002; Agreed administrative penalty of \$200; entered August 20, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Ayinde, Sikiru Tony
(Fort Worth); license# 461035

Agreed reprimand of salesperson license; entered August 22, 2002; Agreed administrative penalty of \$200; entered August 22, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Reid, Brian Oakes
(Dallas); license# 406695

Agreed reprimand of salesperson license; entered August 22, 2002; Agreed administrative penalty of \$200; entered August 22, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Bostic, Jean
(Arlington); license# 466002

Revocation of salesperson license; effective August 22, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Patterson, James Carnell
(Houston); license# 366462

Agreed revocation of salesperson license fully probated for 42 months; effective August 28, 2002; payment of \$42,757.03 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against James Carnell Patterson, in violation of Section 8(i) of The Real Estate License Act

Amrani, Allal K.
(Hurst); license# 345534

Agreed administrative penalty of \$200; entered August 30, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Rhodes, Mary Lurene
(Overton); license# 130772

Agreed 1-month suspension of broker license fully probated for 6 months; effective August 30, 2002; acting negligently or incompetently by using a TREC contract previously repealed from use, filling in a provision in the contract that did not accurately reflect the intent of each party, failing to use the Amendment form to reflect changes, and failing to keep her principal informed at all times, in violation of Section 15(a)(6)(W); failing to provide the seller with the Information About Brokerage Services form, in violation of Section 15C of The Real Estate License Act

Carcamo, Jesse Avizahi
(Lewisville); license# 411530

Agreed 2-month suspension of broker license fully probated for 6 months; effective August 30, 2002; Agreed administrative penalty of \$750, entered August 30, 2002; acting negligently or incompetently by entering into an exclusive listing agreement when he knew the sellers were obligated under another exclusive listing agreement, in violation of Section 15(a)(6)(W) of The Real Estate License Act; failure to convey accurate information into MLS records, in violation of 22 TAC Section 535.156(d); failing within a reasonable time to provide information requested by the Commission, in violation of Section 15(a)(8) of The Real Estate License Act

Teague, Adana Louise
(Camp Wood); license# 113989

Agreed 6-months suspension of broker license fully probated for 1 year; effective August 30, 2002; failing to complete the contract form correctly, failing to advise the buyer to undertake due diligence in a timely fashion, and inserting language into the contract in an attempt to create a binding commission agreement with the seller, in violation of Section 15(a)(6)(W) of The Real Estate License Act; failing to use the correct contract form, in violation of 22 TAC Section 537.11(d) of the Rules of the Texas Real Estate Commission

Martinez, Rick J.
(Crosby); license# 317015

Agreed reprimand of broker license; entered September 3, 2002; Agreed administrative penalty of \$500; entered September 3, 2002; using a Commission-promulgated temporary lease form for a lease of over one year, thereby using the form in a transaction for which it was not intended, in violation of 22 TAC Section 537.11(b) of the Rules of the Texas Real Estate Commission; making substantial insertions into a Commission-promulgated contract form to create a lease-purchase agreement, in violation of 22 TAC Section 537.11(d) of the Rules of the Texas Real Estate Commission

Helm, Michael Clinton
(Sweetwater); license# 459792

Revocation of salesperson license; effective September 4, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day

Calendar of Events

Commission Meetings:

January 6, 2003
February 24, 2003
April 7, 2003

Broker-Lawyer Committee Meetings:

December 13, 2002

Web site:

<http://www.trec.state.tx.us>

Phone

(800) 250-TREC (8732)
or
(512) 459-6544

period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Allen, Tamika Nicole (Garland); license# 484820

Revocation of salesperson license; effective September 4, 2002; violation of a term and condition of her probationary license for failure to submit within 10 working days of a change in sponsorship, a verification from the new sponsoring broker that they received a copy of the order directing the issuance of a probationary license and is aware of the terms and conditions of the probation

Gannon, Charlotte Gay (Dallas); license# 370337

Revocation of salesperson license; effective September 12, 2002; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Texas Real Estate License Act

Black, John W. (Proctor); license# 162701

Revocation of salesperson license; effective September 12, 2002; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Real Estate License Act

Pittman, Doyce Elaine (Arlington); license# 420632

Agreed administrative penalty of \$500; effective September 18, 2002; engaging in real estate brokerage activities when license was expired, in violation of Section 1(b) of The Real Estate License Act

Burnett, Jesse R. Lane (Houston); license# 390461

Agreed reprimand of salesperson license; entered September 17, 2002; Agreed administrative penalty of \$200; entered September 17, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Boyd, Maureen G. (Houston); license# 238223

Agreed reprimand of broker license; entered September 23, 2002; Agreed administrative penalty of \$200; entered September 23, 2002; failing to pay the \$200 fee within the 60-day period provided by 22 TAC

Section 535.92(f) of the Rules of the Texas Real Estate Commission

Scales, Paul Lawrence (Houston); license# 438608

Agreed reprimand of salesperson license; entered September 23, 2002; Agreed administrative penalty of \$200; effective September 23, 2002; failing to complete mandatory continuing education hours within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Rusinko, James Michael (Houston); license# 391559

Agreed reprimand of broker license; entered September 25, 2002; Agreed administrative penalty of \$250; entered September 25, 2002; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate broker license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Adams, Janet Lee (Houston); license# 417369

Revocation of salesperson license, effective October 3, 2002; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Hart, Carlisha Lynshay (Dallas); license# 495373

Agreed administrative penalty of \$250.00, entered October 9, 2002; violation of term and condition of her probationary license for failure to submit within 10 working days of a change in sponsorship, a verification from the new sponsoring broker that they received a copy of the order directing the issuance of a probationary license and are aware of the terms and conditions of the probation

Ortolani, Cicely Walter (Houston); license# 477215

Agreed reprimand of salesperson license, entered October 11, 2002; failing to see that a buyer deposited earnest money and paid the option fee as required by the real estate sale contract, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in

violation of Section 15(a)(6)(W) of The Real Estate License Act

Allegra, John M. (Dallas); license# 298210

Agreed reprimand of broker license, entered October 17, 2002; Agreed administrative penalty of \$250.00, entered October 17, 2002; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Real Estate License Act
Agreed reprimand of broker license, entered October 17, 2002; Agreed administrative penalty of \$250.00, entered October 17, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules of the Texas Real Estate Commission

Whisenant, Carol Joyce (Buda); license# 439202

Agreed reprimand of salesperson license, entered October 18, 2002; Agreed administrative penalty of \$200, entered October 18, 2002; failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Autrey, Mary Marie (Fort Worth); license# 198590

Revocation of broker license, effective October 15, 2002; offered property that she owned for sale through an agent she sponsored and failed to disclose to a prospective purchaser that the property had extensive foundation problems and was uninsurable by HUD, represented the fair market value of the property was substantially more than it actually was, failed to submit a seller's property disclosure notice to the purchaser, and after entering into a written settlement agreement to resolve a legal dispute with the purchaser, breached the terms of the agreement by repudiating her performance, in violation of Section 15(a)(3), Section 15(a)(6)(A), and Section 15(a)(6)(V) of The Real Estate License Act

Willis, Glenda Rae (League City); license# 419049

Agreed 1 year suspension of salesperson license fully probated until January 31, 2008, effective October 31, 2002; entering a plea of guilty to a felony in which fraud is an essential element, in violation of Section 15(a)(1) of The Real Estate License Act

Draft Contracts Proposed

The Texas Real Estate Commission (TREC) proposes amendments to §§537.11, 537.20, 537.28, 537.30, 537.31, 537.32, 537.37, 537.43, and 537.46, concerning standard contract forms. These amendments would adopt by reference six revised contract forms and two addenda to be used by Texas real estate licensees. Read or download a detailed summary and drafts of the forms for further information. The Commission could take final action to adopt the proposed forms as early as January 6, 2003. Comments on the forms may be addressed to: Broker-Lawyer Committee, c/o TREC General Counsel, P.O. Box 12188, Austin, TX 78711-2188 or draft-contracts@trec.state.tx.us

Zero Interest Loans for Pre-Construction Projects

Non-Profits, Units of Local Government, and Community Housing Development Organizations may be eligible for 0% interest loans to cover certain pre-construction costs for affordable housing projects benefiting special needs, low, very low, and extremely low income persons and families. Eligible project costs include:

Consulting Fees
Architectural Fees
Engineering Fees
Site Control
Title Clearance
Zoning Approvals

Engineering Studies
Costs of Preliminary
Financial Applications
10% cash or in-kind
match required

Texas Dept. of Housing & Community Affairs Housing Trust Fund

For more information contact fund administrator:

Ark-Tex Council of Governments
P.O. Box 5307

Texarkana, TX 75505-5307

Phone 903-832-8636

Fax: 903-832-2672

Genevieve Burtchell
gburtchell@atcog.org

Jerry Sparks
jsparks@atcog.org



**TREC Outstanding Employee
January 2002 - June 2002**

TREC is proud to announce that **Beverly Rabenberg** recently received the Outstanding Employee Award for the first half of calendar year 2002.

Beverly is an attorney for the Texas Real Estate Commission and works in the Enforcement Division. Her areas of expertise include The Real Estate License Act and the Texas Timeshare Act. Beverly is a valuable asset to the agency and this recognition by her fellow employees is an indication of her professionalism and dedication to the work of the Commission.



Beverly Rabenberg

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Repair or Improve?

By FRED WILLCOX

Home inspectors are grappling with an issue regarding the use of the phrase "in need of repair" in the promulgated inspection report form. Are sellers required to make improvements to their houses, without compensation, on life/safety issues that are mandated in inspection reports as items "in need of repair"? While the answer is no, there is a false impression in the industry that a seller must repair those items reported as "in need of repair" on the form.



The phrase "in need of repair" as defined by the Standards of Practice for Real Estate inspectors means "does not adequately function or perform". The term "repair" as defined by Webster's dictionary means "to restore by replacing a part or putting together what is torn or broken".

In the inspection industry, the term "repair" has and does include the concept of bringing a house into conformance with current codes for life/safety issues. For example, a house built before the introduction of ground fault

circuit interrupting devices is not in need of "repair" as the electrical system is not broken. It is in need of improvement to increase the level of safety in the house. Knob and tube wiring can perform the function for which it was intended, but the use of knob and tube wiring is not considered to be safe. Therefore, it may be in need of improvement but not repair.

Currently, several life/safety issues are identified in the Standards as items to be noted as "in need of repair" when these items are actually improvements. The use of this term implies that repairs by the seller for the benefit of the buyer are mandated in inspection reports.

There is a discussion taking place over the use of "repair" to describe improving life/safety issues in houses. Many inspectors and real estate licensees are of the opinion that the term "repair" is improperly used in some areas and should be changed to more accurately reflect the concept of improvement for life/safety reasons rather than the misconception of mandated repair. There is concern over the issue as inspectors do not want to diminish the importance of life safety issues, yet do not want to give the appearance of mandating repairs. Your comments on this concern can be addressed to TREC or the Texas Real Estate Inspector Committee by mail, fax or email at inspectors@trec.state.tx.us

Enforcement Questions and Answers

- Q:** My sister wants to start her own property management business for various property owners. Does she need to have a real estate license to do this?
- A:** If a property management company is also going to lease and list for lease real property belonging to others, then the people who do the leasing and listing of the properties must be properly licensed. [See *The Real Estate License Act, §2(2)(1) and (J).*] Property managers who merely collect rent, do billing statements, and make maintenance arrangements do not need to be licensed.
- Q:** My daughter does not want to get her real estate license right now but wants to work in real estate. Is there any work she could do in the real estate industry without a real estate license?
- A:** There are several ways in which she could work in the real estate industry without a license. She could work as an unlicensed assistant to a licensee. [Under the tab "Forms, Rules, Publications", see *Topics of Special Interest, "Information for Brokers and Salespersons Regarding the Use of Unlicensed Assistants in Real Estate Transactions"*, on our web site: www.trec.state.tx.us] Also, Texas has a number of exemptions to the licensing requirement. [See *The Real Estate License Act, §3.*] Your daughter might be employed by a builder or by an apartment complex and could work in sales or leasing for that one entity. Or she could become registered under 9A of the Act and sell, buy, lease, or transfer an easement or right-of-way for use in connection with telecommunication, utility, railroad, or pipeline service.
- Q:** Recently, I have had some serious concerns about how a mortgage broker and a title company are doing business. Can TREC help me with this?
- A:** Mortgage brokers are regulated by the Texas Savings and Loan Department, 2601 North Lamar, Suite 201, Austin, Texas 78705-4241, (512) 475-3679. Title companies are regulated by the Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78701 (512) 463-6169. You may contact either or both agencies with your questions or concerns.