



TREC Advisor

Texas Real Estate Commission ★ Volume 17, Number 4 ★ October 2006

TREC Prepares for Upcoming Legislative Session

Sunset Advisory Commission Review

This year, the Texas Real Estate Commission has been under review by the Sunset Advisory Commission as part of a regular assessment of the continuing need for any state agency to exist. As part of the process, Sunset Commission staff spent many hours reviewing the activities of TREC and meeting with various agency staff. The Sunset Commission staff report was submitted to the Sunset Advisory Commission members at its meeting on August 8, 2006.

Among the Sunset staff recommendations adopted by the Sunset Advisory Commission were the following:

1. Continue the Texas Real Estate Commission as an independent state agency for the next twelve years, at which time another Sunset review will be conducted.
2. Modernize and simplify TREC's enforcement process, especially as it relates to various administrative violations to provide for a more efficient use of time and agency resources.
3. Modify the method of regulating proprietary real estate providers by eliminating routine audits and creating a performance measure based on a school's student pass rate on the real estate licensing examination.
4. Change the method of establishing fees and educational requirements for individuals whose licenses expire and seek reinstatement.
5. Remove the statutory basis for the Texas Real Estate Inspector Committee and allow the agency to create advisory committees when and where needed.
6. Give to the Commission the ability to set appropriate fees for licenses and various services.
7. Eliminate the agency's hearings officer position and mandate that all complaints be referred to the State Office of Administrative Hearings.

A detailed report on the Sunset Advisory Commission's recommendations can be found at www.sunset.state.tx.us. The next step in the process is the introduction of legislation incorporating the Sunset Commission's recommendations. Possible amendments and modifications to these recommendations can occur in the Texas House or Senate but it is expected that the provision renewing TREC for the next twelve years will remain.

Legislative Appropriations Request for FY2008-09

While the Sunset process continues, the agency is also involved in explaining its need for additional financial resources as included in its Legislative Appropriations Request. On August 22, 2006 a joint budget hearing was held with relevant staff members from the Governor's and Lieutenant Governor's offices as well as from the Senate Finance Committee and the Legislative Budget Board. Again on September 19th, Chairman Walton and staff members appeared before the Senate Finance Committee to discuss the Legislative Appropriations Request for Fiscal Years 2008-2009.

Each state agency was required to begin the appropriations process with a baseline amount reflecting only 90% of the current appropriations level. All requests for funds above that amount are referred to as "exceptional items." TREC's Legislative Appropriations Request included nine exceptional items:

1. Restore the 10% of FY06-07 appropriations cut in the proposed baseline. At a minimum, to continue TREC as a viable licensing and regulatory agency, these reductions must be prevented through a restoration of the remaining 10% of the existing appropriations.
2. Provide a greater approximation of equity in state employee salaries. The average TREC salary is \$3,374 below the average for all 29 other Article VIII agencies (excluding State Office of Administrative Hearings). TREC cannot continue to retain quality staff when other state regulatory agencies can offer higher salaries.
3. Replace the current telephone system. TREC has been operating with an outdated and outmoded telephone system for some time.
4. Update the TREC Communications operations. A recent survey indicated that 70% of all calls to the TREC toll free lines receive a busy signal. Meanwhile, the Communications department is answering more than 167,000 calls a year - or roughly 21,000 for each of the eight Communications staff. Three more lines and staff would alleviate some of this problem.
5. Enhance TREC's ability to respond to complaints. With the growth in the licensee count and the entry of many new individuals into the real estate market has come an increase in the number of complaints filed with TREC. Timely and effective resolution of complaints requires additional staff for the Enforcement Division.
6. Update computerized record-keeping. Information on both real estate inspectors and appraisers is not currently maintained in user-friendly formats. This data needs to be computerized so that both TREC staff and the licensees can obtain the information more readily.

(Continued on page 3)

Special Announcement for Salespersons and Brokers Whose Licenses Expire On or After September 30, 2006 See page... 4

Inside this issue...

Meeting Highlights 2

Mortgage Broker Committee Member Applications 4

Proposed and Adopted Rules 5

Disciplinary Actions 7

TREC Outstanding Employee 12



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.

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

August 7, 2006

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, August 7, 2006. Chairman John Walton presided.

During staff reports, Mr. Thorburn announced that Alan Waters, Director of Staff Services, would be retiring at the end of the month. Mr. Waters has been with TREC for thirty-four years.

The Commission voted to pay one claim from the Real Estate Trust Account in the amount of \$30,500.

The Commission voted to approve adoption of amendments to 22 TAC Chapter 533 concerning Practice and Procedure, 22 TAC Chapter 543 concerning Rules Relating to the Provisions of the Texas Timeshare Act, 22 TAC §535.220 concerning Professional Conduct and Ethics for Inspectors and to approve the repeal of 22 TAC §535.217 concerning information now covered in §535.220.

The Commission voted to propose amendments to 22 TAC §535.61 concerning Examinations.

The Commission voted to return the Standards of Practice and Inspection Report Form back to the Inspector Committee to make additional changes consistent with the issues discussed at the meeting, including addressing safety items, enforceability and possible adoption of a commentary to the Standards of Practice.

The Commission approved Mr. Thorburn's decision to stay on as Administrator of TREC at least until after the next legislative session, and requested that staff terminate the job search for that position at the present time.

The Commission voted to ask the legislature to consider amending the Real Estate License Act to permit TREC to use fingerprint-based applicant background checks through the Department of Public Safety as the Commission deems necessary.

The Commission approved the Legislative Appropriations Request as submitted by staff.

The next meetings of the Commission are scheduled for September 27, 2006 in San Antonio December 4, 2006 in Austin.

September 27, 2006

The Texas Real Estate Commission held its regularly scheduled meeting at the Hyatt Regency Hotel in San Antonio, Texas on Wednesday, September 27, 2006. Chairman John Walton presided.

The Commission voted to pay three claims from the Real Estate Trust Account, one for \$25,000, one for \$21,500 and one for \$50,000. The Commission also voted to pay one claim from the Inspection Recovery Fund in the amount of \$12,500.

The Commission voted to adopt amendments to 22 TAC §535.61 concerning Examinations.

The Commission voted to propose amendments to 22 TAC Chapter 537 concerning Professional Agreements and Standard Contracts.

The Commission approved the proposed legislative housekeeping bill as presented by staff and discussed other anticipated legislation that may impact the real estate industry.

The Commission discussed establishing a procedure for making an appointment to the Mortgage Broker Advisory Committee.

An agreed order was entered in the Motion for Rehearing in the Matter of Milton Steven Bolgiano, Hearing NO. 06-293-041062.

The next meetings of the Commission are scheduled for December 4, 2006 and tentatively for February 26, 2007 in Austin.

(Continued from page 1)

7. Respond to requests for information and assistance. TREC is one of a few Texas state agencies without a staff person assigned to the task of responding to requests from state government officials, the media and interested groups.
8. Conversion of the Texas Real Estate Licensing Information System (TRELIS) to a Windows-based system.
9. Replace paper files with an imaging system. For several years, TREC has requested appropriations authority to eliminate the approximately 200,000 licensee paper files at its office and move to an imaging system.

TREC's Housekeeping Bill

Every two years the agency reviews all existing legislation affecting TREC to determine if modifications are needed. These proposed changes, many of them non-substantive, are referred to as the agency's housekeeping bill. This bill must be introduced into the House and Senate, be approved and then signed by the Governor into law. During the Strategic Planning Process in the Spring of 2006, several areas of concern were identified. The Commission at its meeting on September 27, 2006 approved preliminary drafts of three proposed housekeeping bills. These draft changes to current statutes affect TREC's enabling legislation and modify provisions relating to real estate licensing, inspector licensing, and the regulation of residential service companies.

The proposed changes to Chapter 1101, Texas Occupations Code, relating to real estate licensing and regulation are as follows. TREC's proposed housekeeping bill:

1. Amends Section 1101.005(5) to provide that a person acting under a court order or under the authority of a will or trust instrument to conduct a real estate transaction is not subject to the Real Estate License Act to make clear that a person operating under such authority may not engage in the regular business of real estate brokerage without a real estate license
2. Amends Subsection (a), Section 1101.051(a), Occupations Code to remove the "illness or disability" clause from the list of reasons for removal of a member from the Commission. Thus a member may be removed for failing to discharge the member's duties for a substantial part of the member's term, regardless of whether the reason for such failure is based on illness or disability.
3. Amends Subsection (g)(4), Section 1101.204, to permit a Commission employee to open a complaint when a person fails to pay the \$200 late MCE fee, fails to timely complete required late MCE, or fails to both pay the fee and complete the education.
4. Amends Subsection (b), Section 1101.302, to increase the surety bond requirement for an educational institution authorized by the Commission to offer a real estate or real estate inspector education program or course of study from \$10,000 to \$20,000.
5. Amends Subsection (a), Section 1101.356, to require an applicant for a broker license to complete 2 semester hours (30 clock hours) of real estate brokerage as part of the 18 semester hours (270 clock hours) of core real estate courses required for a broker's license.
6. Amends Subsection (a), Section 1101.652, to permit the Commission to take disciplinary action against a license holder if he or she fails to timely notify the Commission, that he or she has entered a guilty plea to a felony or a criminal offense involving fraud.

Chapter 1102 of the Texas Occupations Code covers statutory provisions relating to real estate inspectors and would be modified in the follow manner, the proposed bill:

1. Amends Section 1102.054(a), Occupations Code, to remove the clause "because of illness or disability" from the provision that permits the Commission to remove an Inspector Committee member if the member cannot fulfill his or her duties for a substantial period of time.
2. Amends Section 1102.111(a) to authorize the Commission to provide for the substitution of education and relevant experience in lieu of the number of inspections and previous licensure requirements for licensing; rules adopted under this section may not require more than 7 years of relevant experience and 320 of additional education.
3. Amends Section 1102.402, to permit the Commission to revoke any license issued by the Commission that an inspector holds upon payment from the inspector recovery fund on behalf of that inspector; a person is unable to obtain an inspector license, regardless of whether the license was revoked or expired, until the person has repaid in full the amount paid from the fund on the person's account, plus interest at the legal rate.
4. Amends Section 1102.1035 by repealing the licensing requirements for corporations and limited liability companies.
5. Amends Section 1102.2051 by repealing the renewal requirements for corporations and limited liability companies.

Finally, the Residential Service Company Act, referred to as Chapter 1303 of the Texas Occupations Code would be amended at subsections (a) and (b) of Section 1303.202 to provide (i) that a seller of residential property, the sellers agent and the buyer's agent may not require that the buyer purchase a residential service contract as a condition of the purchase of residential property, and (ii) that such persons must provide a clear and conspicuous statement that the purchase of a residential service contract is optional and that similar coverage can be purchased through another residential service company or insurance company that is authorized to do business in this state.

Pre-filing of legislation starts in mid-November for the 80th Regular Session convening in January 2007. The Texas Legislature provides a web site where bills that are filed for consideration during the legislative session may be accessed and monitored. It can be found at www.capitol.state.tx.us .

Special Announcement for Salespersons and Brokers with an Expiration Date of September 30, 2006 or Later

Starting July 1, 2006 TREC began mailing reminder postcards 90 days in advance of the license expiration date, listing the name, permanent mailing address, license number and expiration date along with any education hours that must be completed in order to renew.

Renewal notification postcards are mailed to brokers for those salespersons on active status; inactive salespersons and brokers receive their notification directly.

Unlike the old renewal forms that were mailed back with checks and money orders, **the new postcard may not be used to renew a license.**

Now, **licensees renew online** using a credit card or "check card" for payment.

IMPORTANT NOTE: *Salespersons under SAE must submit their education hours to TREC at least 10 business days in advance of renewing their license online.*

The online renewal process saves significant time and money for all involved. Payments are made through the secure Texas Online portal, which accepts Visa, MasterCard, Discover and American Express, as well as Visa and MasterCard check cards.



Renewing ONLINE is quick and easy. All you need is a computer with internet access, your renewal postcard and a credit or check card.

MORTGAGE BROKER ADVISORY COMMITTEE APPOINTMENT

On January 31, 2007 the term of office for one member of the Mortgage Broker Advisory Committee appointed by the Texas Real Estate Commission will expire. This is an appointment for a period of three years.

It is the intention of the Texas Real Estate Commission to appoint an individual to this position at its meeting on December 4, 2006. Individuals wishing to be considered for the appointment should submit a letter requesting consideration along with a resume and any letters of recommendation addressed to:

Chairman
Texas Real Estate Commission
Mortgage Broker Advisory Committee
P.O. Box 12188
Austin, TX 78711-2188

no later than November 20, 2006. All such information shall be provided to members of the Texas Real Estate Commission for their review and consideration prior to the Commission meeting on December 4, 2006.

Rules Adopted at the August 7, 2006 meeting of the Texas Real Estate Commission

(for text of rules go to www.trec.state.tx.us)

Rule Number	Effective Date	Rule Topic	Summary of Amendment
§§533.34-533.35	08/28/2006	Practice and Procedure	Adopts amendments to §533.34 concerning Disapproval of an Application for a License or Registration and §533.35 concerning Revocation or Other Action Against a License or Registration. The amendment to §533.34 clarifies that notice of disapproval will not be provided to a sponsoring broker of an applicant for a salesperson license as such licenses are issued as inactive with no sponsoring broker. The amendment to §533.35 clarifies that a hearing concerning a revocation or other disciplinary action against a licensee will be held at a time and place designated by the Commission except in cases involving a violation of §1101.652(a)(3) or (b).
§§543.3-543.4	08/28/2006	Rules Relating to Provisions of the Texas Timeshare Act	Adopts amendments to §543.3, concerning Fees, §543.4, concerning Forms, and new §543.12 concerning Renewal of Registration. The amendments and new rule are adopted to implement revisions to the Texas Timeshare Act, Chapter 221, Texas Property Code enacted during the 79 th Legislative Session, Regular Session, by House Bill 1045. The amendments provide for renewal requirements for registered timeshare properties, including a renewal form, and renewal fees. The proposed Renewal of Registration form was changed to correct typographical errors. Part I.F. of the proposed Abbreviated Registration of a Timeshare Plan form was changed to make it clear that the developer must provide additional information about any one jurisdiction in which the plan is already registered. The developer need not provide the information for all jurisdictions in which the plan is registered.
§535.217	08/28/2006	R. Real Estate Inspectors	Adopts the repeal of §535.217 concerning Dishonest Conduct as Grounds for Disciplinary Action. The subjects addressed in these sections are covered in new amendments to §535.220 that TREC is simultaneously adopting as part of the Real Estate Inspector Committee recommendations regarding Professional Conduct and Ethics.
§535.220	08/28/2006	R. Real Estate Inspectors	Section 535.220 as adopted prohibits contingency arrangements in cases where compensation depends on specific findings or on closing or settlement; prohibits an inspector from paying a fee to or receiving a fee from a "settlement service provider" as defined in the rule for the referral of inspections, for inclusion on a list of preferred providers, or for inclusion on a list of inspectors contingent on other financial agreements; permits an inspector to engage in legal promotional or educational activities to or with a settlement service provider that are not conditioned on the referral of business; permits an inspector to purchase advertising and promotion at market rates from any person in any publication, event or media; prohibits an inspector from accepting a fee for referring services that are not settlement services or other products to the inspector's client without the consent of the inspector's client; clarifies that an inspector may pay or receive a fee for services actually rendered; prohibits an inspector from conducting repair for a fee of any systems or components of property covered by the Standards of Practice on which the inspector has performed an inspection under a real estate contract, lease, or exchange of real property within 12 months of the date of the inspection; and prohibits an inspector from disclosing inspection results or client information without prior approval from the client, except for observed immediate safety hazards to occupants exposed to such hazards.

Rules Adopted at the September 27, 2006, meeting of the Texas Real Estate Commission

Rule Number	Effective Date	Rule Topic	Summary of Amendment
§535.61	10/22/2006	F. Education, Experience, Education Programs, Time Periods and Type of License	Adopts an amendment to §535.61 concerning Examinations. Section 535.61 authorizes the commission to waive the national portion of the examination for an applicant who has passed a comparable national examination that has been certified by a nationally recognized real estate regulator association. The amendment to §535.61 clarifies that the waiver would only apply to an applicant who has a current license equivalent to the license being applied for.

Rules Proposed at the September 27, 2006 Meeting of the Texas Real Estate Commission

Rule Number	Rule Topic	Summary of amendment
<p>§§537.11, 537.20-.23, 537.26-.28, 537.30-.33, 537.35, 537.37, 537.39-.41, 537.43-.49</p>	<p>Professional Agreements and Standard Contract Forms</p>	<p>The amendments would adopt by reference four revised contract forms to be used by Texas real estate licensees and would restructure and clarify the rules by removing redundant provisions.</p> <p>The amendment to §537.11 would delete the text in subsection (a). The amendments to §§537.20-.23, 537.26-.28, 537.30-.33, 537.35, 537.37, 537.39-.41, and 537.43-.49 would include the text deleted from §537.11(a) as appropriate for each section and form so that the description of each form would be included in the section that adopts the form by reference. In addition, the amendments to each section would include a reference to the commission's website as another means by which a person may obtain the form.</p> <p>The amendments to §537.26 would adopt by reference Standard Contract Form TREC No. 15-4, Seller's Temporary Lease and §537.27 would adopt by reference Standard Contract Form TREC No. 16-4, Buyer's Temporary Lease. In both forms, paragraph 12 would be revised to require the tenant to provide the landlord with door keys and access codes to allow access to the property during the term of the lease; paragraph 24 would be revised to include a blank for e-mail addresses; and the blank line for the execution date would be removed as the execution date is provided for in the contract to which the lease is attached. Also, paragraph 14 in the Buyer's Temporary Lease would be revised to add equipment and appliances to the list of specific expenses of repairing, replacing and maintaining the property that the buyer/tenant will bear.</p> <p>§537.33 would adopt by reference Standard Contract Form TREC No. 26-5, Seller Financing Condition Addendum. In this form proposed revisions to paragraph C include a blank line for the interest rate of the note; a provision addressing the interest rate of matured unpaid amount; and, subparagraphs (2) and (3) provide for a choice of monthly installments rather than an option to fill in the blanks on the type of installment. A note is added to subparagraph D(1) which states that the buyer's liability to pay the note will continue unless the buyer obtains a release of liability from the Seller; and subparagraph D(2)(a) is revised by adding "ad valorem" before "taxes".</p> <p>§537.37 would adopt by reference Standard Contract Form TREC No. 30-6, Residential Condominium Contract (Resale). The change to the form would fix a typographical error in paragraph 7.F.</p>

Texans attend 50th Anniversary Congress of the Asociacion Mexicana de Profesionales Inmobiliarios (AMPI) in Mexico City

TREC Chairman John Walton was part of a delegation of more than twenty Texas real estate licensees who took part in the 50th anniversary Congress of the Asociacion Mexicana de Profesionales Inmobiliarios (AMPI) in Mexico City. The keynote address was provided by Mexican Presidente Vincente Fox on October 5th. AMPI and the National Association of Realtors signed an agreement whereby AMPI members can become NAR members and use the designation "Realtor."



Among the speakers at the International Forum were, left to right, Steve Price, President of the CCIM Institute, Pat Vredevoogd, President-Elect of NAR, Raul Figuerola of AMPI, Wayne Thorburn representing ARELLO, and Owen Gwyn, President of FIABCI.



Disciplinary Actions

June 2006—August 2006

Beal, Michael Murphy
(Bryan);
License #152755

Agreed administrative penalty of \$500, entered August 21, 2006; negligent supervision of a salesperson sponsored by the corporate broker for which he was the designated officer, in violation of §1101.652(b)(1) of the Texas Occupations Code; allowing an unlicensed person to perform brokerage activity while associated with the brokerage firm for which he was the designated officer, in violation of §1101.652(b)(26) of the Texas Occupations Code; and, while acting as the designated officer of the brokerage firm, paying a commission or fees to an unlicensed person for compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code

Century 21 Beal, Inc.
(College Station);
License #322632

Agreed administrative penalty of \$500, entered August 21, 2006; negligent supervision of a sponsored salesperson, in violation of §1101.652(b)(1) of the Texas Occupations Code; allowing an unlicensed person to perform brokerage activity while associated with the brokerage firm, in violation of §1101.652(b)(26) of the Texas Occupations Code; and paying a commission or fees to an unlicensed person for compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code

Dyer, Christopher Dee
(Southlake);
License #471784

Agreed reprimand of salesperson license, entered August 16, 2006; Agreed administrative penalty of \$250, entered August 16, 2006; formal reprimand of real estate salesperson license and payment of \$250.00 administrative penalty; Mr. Dyer acted in the capacity of, engaged in the business of, and/or advertised and held himself out as engaging in the business of a real estate salesperson at a time his salesperson license was on inactive status by not filing along with the appropriate fee a salesperson sponsorship form with the Texas Real Estate Commission, in violation of §1101.351(c) of the Texas Occupations Code

Valentino, James Charles II
(Houston);
License #451094

Agreed reprimand of broker license, entered August 16, 2006; Mr. Valentino established an association, by employment or otherwise, with an inactive salesperson by not filing along with the appropriate fee a salesperson sponsorship form with TREC, in violation of §1101.652(b)(26) of the Texas Occupations Code

Harrison, Sean Allen
(Austin);
License #504142

Revocation of salesperson license, effective August 16, 2006; procuring a license for himself by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license by misrepresentation and concealment of his criminal record and of charges pending against him at the time of his application for late renewal of real estate license, in violation of §1101.652(a)(2); and assault committed by a man against a woman, which is an offense involving moral turpitude and within the criminal offense guidelines for license applicants established by the Commission in 22 TAC §541.1(a) of the Rules of the Texas Real Estate Commission

Garza, Thomas R.
(San Antonio);
License #316141

Agreed reprimand of broker license, entered August 8, 2006; Agreed administrative penalty of \$500, entered August 8, 2006; acting negligently or incompetently by making changes to a contract with white out and making handwritten changes, although later the parties formally amended the contract with the same terms, in violation of §1101.652(b)(1) of the Texas Occupations Code

Sloan, Jennifer Ann
(Greenville);
License #468753

Revocation of broker license, effective August 7, 2006; as a property manager for an owner, Ms. Sloan leased the property to a third person for terms that were not authorized and/or agreed to by the owner and not in the owner's best interest and during this time she personally occupied the property herself later forcing the owner to regain possession of the property by seeking legal services and a court judgment, in violation of §§1101.652(a)(3), (b)(1)&(2) of the Texas Occupations Code; as a property manager for three individual owners, Ms. Sloan failed to render monthly statements, failed to properly account for or remit monies, documents and personal property due to the owners, and issued insufficient checks to two of the owners, in three counts of violation of §§1101.652(b)(1), (2), (9), & (10) of the Texas Occupations Code and 22 TAC §535.146 & 535.159; failed or refused to produce documents, in violation of §1101.652(a)(5) of Texas Occupations Code; failed to provide information to the Commission, in violation of §1101.652(a)(6) of the Texas Occupations Code; and failed to notify the Commission of a change in her permanent mailing address, in violation of 22 TAC §535.91(c)

Howard, David L.
(Kerrville);
License #326673

Agreed reprimand of broker license, entered August 2, 2006; Agreed administrative penalty of \$1,000, entered August 2, 2006; failing to supervise a salesperson engaging in property management, in violation of §1101.652(b)(1) of Texas Occupations Code; paying a commission or fee to a real estate salesperson who had been working under an expired license, in violation of §1101.652(b)(11) of the Texas Occupations Code; continuing an association with a salesperson who continued to work after expiration of the salesperson's license, in violation of §1101.652(b)(26) and (27) of the Texas Occupations Code

Edwards, Thomas Dean
(Gatesville);
License #329212

Revocation of broker license, effective August 1, 2006; failing or refusing to produce on request, for inspection by a Commission representative, a document, book, or record in his possession which relates to a real estate transaction conducted by him, in violation of §1101.652(a)(5) of the Texas Occupations Code; failing to provide, within a reasonable time, information requested by the Commission that relates to a formal complaint to the Commission which would indicate a violation of Chapter 1101 of the Texas Occupations Code,

in violation of §1101.652(a)(6) of the Texas Occupations Code; acting negligently or incompetently in performing an act for which a person is required to hold a real estate license by failing to deliver to the Texas Veterans Land Board in a timely fashion two loan applications and contracts regarding real property for which he was the listing agent, in violation of §15(a)(6)(V) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003]; engaging in conduct which constitutes dishonest dealings, bad faith, or untrustworthiness, in violation of §15(a)(6)(V) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(2) of the Texas Occupations Code effective June 1, 2003]; failing to be faithful and observant to trust placed in him and failure to be scrupulous and meticulous in performing his functions as a real estate agent, in violation of 22 TAC §531.1(2) as authorized by §15B(b) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.656 of the Texas Occupations Code]; failing to fulfill his special obligation to exercise integrity in the discharge of his responsibilities, including employment of prudence and caution so as to avoid misrepresentation, in any wise, by acts of commission or omission, in violation of 22 TAC §531.2 as authorized by §15B(b) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.656 of the Texas Occupations Code]; and failing to exercise judgment and skill in the performance of his work, in violation of 22 TAC §531.3(3) as authorized by §15B(b) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.656 of the Texas Occupations Code]

Swearington, Bertha L.
(Houston);
License #544336

Agreed administrative penalty of \$250 assessed against salesperson license, entered August 10, 2006; licensee violated a term and condition of her probationary Texas real estate salesperson license

Thompson, Richard Wayne
(Fort Worth);
License #428035

Agreed reprimand of salesperson license, entered August 1, 2006; agreed administrative penalty of \$250, entered August 1, 2006; failing to pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

Shedd, John C.
(Bandera);
License #450085

Agreed reprimand of salesperson license, entered July 31, 2006; acting negligently or incompetently by leading the buyers to believe that the quality of the drinking water available to the property was high when it was not and failing to correctly identify his broker on the contract as representing the seller only, in violation of §15(a)(6)(W) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003]

Davis, Sandra Lynn
(Princeton);
License #211913

Agreed administrative penalty of \$250 assessed against broker license, entered July 25, 2006; Sandra Lynn Davis paid a commission or fees to, or divided a commission or fees with, an unlicensed person (formerly a salesperson until their license expired) for compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code and Ms. Davis established an association, by employment or otherwise, with an unlicensed person (formerly a salesperson until their license expired) who was expected or required to act as a real estate licensee, in violation of §1101.652(b)(26) of the Texas Occupations Code

Whitfield, Gail M.
(Austin);
License #316233

Agreed administrative penalty of \$250 assessed against broker license, entered July 14, 2006; negligence in supervision and training of a salesperson sponsored by the broker, in violation of §1101.652(b)(1) of the Texas Occupations Code; and allowing an unlicensed person to perform brokerage activity while associated with the brokerage firm, in violation of §1101.652(b)(26) of the Texas Occupations Code

Umelloh, Innocent Onyegbule
(Dallas);
License #447489

Reprimand of broker license, entered July 7, 2006; Mr. Umelloh acted negligently and incompetently by: conducting real estate brokerage business using a corporation that was not duly licensed as a real estate broker including continuing to use the corporation after the Commission notified him of such requirements; continuing to engage in the business of real estate brokerage by and through salespersons he had sponsored after the time his broker license expired without timely renewal; filing with the Commission a late renewal broker license application for himself and an application for broker license for his corporation that included responses that were material misstatements of fact, in violation of §§1101.652(a)(2) & (b)(1) of the Texas Occupations Code and Mr. Umelloh paid a commission or fees to a person or entity not licensed as a real estate broker or salesperson and established an association with an unlicensed person or entity who acted as a real estate licensee, in violation of §§1101.652(b)(11)&(26) of the Texas Occupations Code

Bunton, Jack Erwin
(Burlison);
License #389300

Revocation of broker license, effective July 6, 2006; the Commission was ordered to pay from the real estate recovery trust account to satisfy all or part of a judgment against Jack Erwin Bunton, in violation of §1101.655(a) of Texas Occupations Code; after complaints were filed against Mr. Bunton's license, he failed or refused to provide requested documents, in two (2) counts of a violation of §1101.652(a)(5) of the Texas Occupations Code; Mr. Bunton failed within a reasonable time to provide the Commission information, in violation of §1101.652(a)(6) of the Texas Occupations Code; in two separate transactions in which Jack Erwin Bunton contracted to sell real property in his own name, he engaged in misrepresentation or dishonest or fraudulent action, in two (2) counts of a violation of §1101.652(a)(3) of the Texas Occupations Code

Kennimer, Richard Wayne
(Rockwall);
License #5231

Agreed reprimand of professional inspector license, entered July 26, 2006; payment of \$7500.00 made by the Texas Real Estate Commission from the Real Estate Inspection Recovery Fund toward satisfaction of a judgment against Richard Wayne Kennimer, as provided by §1102.401 of the Texas Occupations Code

McFadden, Monique Unette
(Houston);
License #501285

Revocation of salesperson license, effective July 25, 2006; 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 §535.91(c) of the Rules of the Texas Real Estate Commission

Guerrero, Alfredo M.
(Killeen);
License #448348

Agreed administrative penalty of \$250 assessed against broker license, entered July 6, 2006; licensee violated a term and condition of his probationary broker license

Garcia, Ana Maria
(Laredo);
License #450581

Revocation of broker license fully probated until August 31, 2011, effective June 30, 2006; payment of \$19,596.68 was made by the Texas Real Estate Commission from the Real Estate Recovery Trust Account toward satisfaction of a judgment against Ana Maria Garcia, as provided by §1101.655(a) of the Texas Occupations Code

Carrizales-Ponce, Claudia Rocio
(San Angelo);
License #397647

Agreed 31-day suspension of broker license, effective June 30, 2006, beginning July 31, 2006; the license be suspended for an additional 5 months fully probated for 11 months failing to make clear to all parties to a transaction which party the licensee was acting for and receiving compensation from more than one party without the full knowledge and consent of all parties, in violation of §15(a)(6)(D) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§§1101.652(b)(7) and (8) of the Texas Occupations Code]; accepting, receiving, or charging an undisclosed commission, in violation of §15(a)(6)(H) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(13) of the Texas Occupations Code]; engaging in conduct in a brokerage transaction which constitutes dishonest dealings, bad faith, or untrustworthiness, in violation of §15(a)(6)(V) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(2) of the Texas Occupations Code]; and acting negligently or incompetently in performing an act for which a person is required to hold a real estate license by completing contract forms inappropriately and other acts, in violation of §15(a)(6)(W) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(1) of the Texas Occupations Code]; failing to obtain written consent to intermediary from the buyers and the sellers in a transaction, in violation of §15C(h)(1) and (2) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.559(a) of the Texas Occupations Code]; and using a name in brokerage business for more than 30 days other than the name under which she was licensed without notifying the Commission in writing, in violation of 22 TAC §535.154(c), as authorized by §15B(b) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.656 of the Texas Occupations Code].

Williams, Edgar Lee
(Snyder);
License #5974

Agreed 6 months suspension of professional inspector license fully probated for 3 years, effective June 30, 2006; Agreed administrative penalty of \$500, entered June 30, 2006; performed a real estate inspection in a negligent or incompetent manner, in violation of §1102.301 of the Texas Occupations Code; failed to report as in need of repair conditions and symptoms that indicated the possibility of water penetration within the crawl space area, including severely deteriorated wood and rusting pipes, in violation of 22 TAC § 535.228(a)(8) of the Rules of the Texas Real Estate Commission; failed to report as in need of repair deficiencies in the type and condition of accessible and visible water supply and/or wastewater pipes, including rusting, leaking, and an improper repair made with duct tape, in violation of 22 TAC § 535.229(x)(1) of the Rules of the Texas Real Estate Commission; failed to report as in need of repair a clothes dryer vent pipe that terminated in the crawl space, an improper location, in violation of 22 TAC § 535.229(v)(6) of the Rules of the Texas Real Estate Commission; reported an inspection on a form that deviated in several impermissible respects from the required TREC REI 7A-0 form, in violation of 22 TAC § 535.223(c) of the Rules of the Texas Real Estate Commission

Waller, Logan Lamar
(Dallas);
License #479147

Agreed administrative penalty of \$250 assessed against broker license, entered June 20, 2006; paid a commission or fees to, or divided a commission or fees with, an unlicensed person (formerly a salesperson until their license expired) for compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code and Mr. Waller established an association, by employment or otherwise, with an unlicensed person (formerly a salesperson until their license expired) who was expected or required to act as a real estate licensee, in violation of §1101.652(b)(26)

Stevenson, John Paul, Jr.
(Austin);
License #436012

Agreed reprimand of salesperson license, entered June 15, 2006; Agreed administrative penalty of \$500, entered June 15, 2006; acting negligently in performing an act for which a person is required to hold a real estate license, in violation of §1101.652(b)(1) of the Texas Occupations Code; causing a commercial sign to be placed on real property offering it for sale without the written consent of the owner or his authorized agent, in violation of §1101.652(b)(18) of the Texas Occupations Code; offering to sell real property without the knowledge and consent of the owner of the property or the owner's authorized agent, in violation of §1101.652(b)(19) of the Texas Occupations Code; and offering to sell real property on terms other than those authorized by the owner of the real property or the owner's authorized agent, in violation of §1101.652(b)(20) of the Texas Occupations Code

Taylor, Kimberly Rose
(Dallas);
License #481686

Agreed reprimand of salesperson license, entered June 13, 2006; Agreed administrative penalty of \$250, entered June 13, 2006; acted negligently or incompetently in instructing her buyer client who offered cash for the option fee and earnest money to obtain checks or money orders instead, causing the earnest money to go entirely unpaid and the option fee to go unpaid until the last day of the option period, when the buyer attempted to deliver both the option fee and termination of contract, and in preparing the termination of contract and release of earnest money form directing the title company to disburse the earnest money to the buyer, despite knowing that earnest money had never been tendered, in violation of §1101.652(b)(1) of the Texas Occupations Code

Rajan, Thomas
(Sunnyvale);
License #448055

Agreed 6 months suspension of salesperson license fully probated for 18 months, effective June 9, 2006; Agreed administrative penalty of \$750, entered May 24, 2006; based on past business arrangements between Mr. Rajan and his sponsoring broker, but without his sponsoring broker's authority, Mr. Rajan accepted commission checks from escrow agents for real estate brokerage, negotiated the commission checks, and in some instances remitted a portion back to his sponsoring broker, in violation of §1(d) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.651(b) of the Texas Occupations Code], and §15(a)(6)(X) of the Real Estate License Act, Article 6573a, Texas Civil Statutes [§1101.652(b)(33) of the Texas Occupations Code]

Calendar of Events

Commission Meetings:

December 4, 2006
(Austin)

Broker-Lawyer Committee Meetings:

November 2-3, 2006
(Austin)

Inspector Committee Meetings:

None at this time

Web site:

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

Phone

(800) 250-TREC (8732)

or

(512) 459-6544

Christenson, Shelly Kay
(Arlington);
License #391358

Agreed reprimand of broker license, entered June 7, 2006; when Ms. Christenson was selling her own property she used her expertise to the disadvantage of the buyers by failing to attach to the Seller's Disclosure Notice certain structural reports listed on the SDN and by failing to include on the SDN a structural report she considered merely a bid for work to be done. Subsequently after closing, the buyers determined there were structural defects, a lawsuit was filed and settled wherein Ms. Christenson repurchased the property from the buyer, in violation of 22 TAC §535.144 of the Rules of the Texas Real Estate Commission

Bryan, Greg Stuart
(Houston);
License #3608

Reprimand of professional inspector license, entered June 2, 2006; performed a real estate inspection in a negligent or incompetent manner by failing to state in the written inspection report that a significant area (parts of a lower level storage area) of the property was not accessible for visual observation, in violation of §1102.301 of the Texas Occupations Code; failed to advise his client that an area of the property would not be included in the inspection, in violation of 22 TAC § 535.227(c)(4)(A) of the Rules of the Texas Real Estate Commission; failed to state on the inspection report form the reason the area was not inspected, in violation of 22 TAC § 535.223(b) of the Rules of the Texas Real Estate Commission; reported an inspection on a form that deviated from the required TREC REI 7A-0 form, in violation of 22 TAC § 535.223(d)(4) of the Rules of the Texas Real Estate Commission

Tarrazas, Ivan
(San Antonio);
License #530052

Agreed reprimand of salesperson license, entered June 1, 2006; Agreed administrative penalty of \$500, entered June 1, 2006; acting negligently or incompetently by failing to ensure that the buyers conducted a walk through prior to closing to confirm that the repairs had been done to their satisfaction, in violation of §1101.652(b)(1) of the Texas Occupations Code

Alvaniva, Maureen
(San Antonio);
License #444602

Revocation of salesperson license, effective June 29, 2006; 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 535.91(c) of the Rules of the Texas Real Estate Commission

Dunn, Patricia Lynn
(Montgomery);
License #454231

Agreed reprimand of salesperson license, entered June 29, 2006; 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 §535.91(c) of the Rules of the Texas Real Estate Commission

Godfrey, Billy F.
(Garland);
License #79

Agreed revocation of professional inspector license fully probated for 14 months, effective June 28, 2006; payment of \$4837.11 made by the Texas Real Estate Commission from the Real Estate Inspection Recovery Fund toward satisfaction of a judgment against Billy F. Godfrey, as provided by §1102.402(a) of the Texas Occupations Code

Estevez, Ricardo M.
(San Antonio);
License #405143

Revocation of broker license fully probated for 3 years, effective June 26, 2006; criminal conviction of the offense of mail fraud in violation of 18 USC 1341, in violation of §53.021(b) of the Texas Occupations Code

Estevez, Juan C.
(San Antonio);
License #387747

Revocation of broker license fully probated for 3 years, effective June 26, 2006; criminal conviction of the offense of mail fraud in violation of 18 USC 1341, in violation of §53.021(b) of the Texas Occupations Code

TREC Commissioners and Staff attend Association of Real Estate License Law Officials (ARELLO) Conference Held in San Antonio, Texas



(From left to right) TREC Chairman John Walton, TREC Administrator Wayne Thorburn, Investigator Terrie Coffman and General Counsel Loretta R. DeHay attended the ARELLO Installation Banquet held in San Antonio, Texas, September 26, 2006.

Members of the Texas Real Estate Commission and staff attended the Annual ARELLO Conference held in San Antonio, Texas, in September.

ARELLO was founded 75 years ago to facilitate the exchange of information and cooperation among regulators and policy makers in the area of real property. Wayne Thorburn is a past President of ARELLO.

ARELLO is an international organization and more information can be found at its web site: www.arello.org

For failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission the Commission took the listed action against the following persons.

Meador, Justin Dale
(Lewisville); License #486882

Revocation of salesperson license, effective June 7, 2006

Carpenter, Thomas David
(Tomball); License #329767

Revocation of broker license, effective June 9, 2006

La, Quy Huy
(Houston); License #428796

Agreed reprimand of salesperson license, entered June 14, 2006

Hinson, Robert Lloyd
(Austin); License #488115

Revocation of salesperson license, effective June 28, 2006

Li, Xiao
(Dallas); License #489978

Agreed reprimand of salesperson license, entered July 12, 2006; Agreed administrative penalty of \$250, entered July 12, 2006

Williams, Gary Hurdis
(Abilene); License #489920

Revocation of salesperson license, effective July 25, 2006

Speed, Alissa Ann
(Lake Dallas); License #491969

Agreed reprimand of salesperson license, entered August 1, 2006; Agreed administrative penalty of \$250, entered August 1, 2006

Chaves, Ramon Andres, Jr.
(Fort Worth); License #531187

Agreed reprimand of salesperson license, entered August 9, 2006; agreed administrative penalty of \$250, entered August 9, 2006;

Miller, Henry S. III
(Dallas); License #138290

Revocation of salesperson license, effective August 14, 2006

Pacheco, Santiago
(Humble); License #473935

Agreed reprimand of salesperson license, entered August 17, 2006; Agreed administrative penalty of \$250, entered August 17, 2006

Vansickle, Irma Jane
(San Antonio); License #471561

Revocation of salesperson license, effective August 31, 2006;

Hathorn, Larry Wayne
(Walburg); License #236758

Revocation of broker license, effective June 7, 2006

McBride, Jessica Lynn
(Houston); License #486669

Revocation of salesperson license, effective June 9, 2006

Zapata, Andrew, Jr.
(San Antonio); License #526036

Revocation of salesperson license, effective June 23, 2006

Gulley, Michael H.
(San Antonio); License #262037

Agreed reprimand of salesperson license, entered July 12, 2006; Agreed administrative penalty of \$250, entered July 12, 2006

Borel, Nancy D.
(Beaumont); License #491838

Agreed reprimand of salesperson license, entered July 12, 2006; Agreed administrative penalty of \$250, entered July 12, 2006

Messiha, Nader N.
(Houston); License #486953

Revocation of salesperson license, effective July 26, 2006

Sealy, Scott Peterson
(Dallas); License #192685

Agreed reprimand of broker license, entered August 8, 2006; Agreed administrative penalty of \$500, entered August 8, 2006

Marsey, Kristina Meth
(Allen); License #475049

Agreed reprimand of salesperson license, entered August 9, 2006; Agreed administrative penalty of \$250, entered August 9, 2006

Kellam, Nayton
(Allen); License #531303

Agreed reprimand of salesperson license, entered August 16, 2006; Agreed administrative penalty of \$250, entered August 16, 2006

Hutton, Mary Jo
(San Antonio); License #306040

Agreed reprimand of broker license, entered August 30, 2006; Agreed administrative penalty of \$250, entered August 30, 2006

Check out the TREC web site

www.trec.state.tx.us

for *ONLINE* filing of applications and renewals, useful consumer information and downloads, and FAQs concerning Enforcement, Inspectors, and Education.

TREC Outstanding Employee January 2006 - June 2006

Laura Alexander



TREC is proud to announce that **Laura Alexander** has received the Outstanding Employee Award for the first half of calendar year 2006.

During the course of Laura's more than five years employment at the Texas Real Estate Commission, she has made everyone's working environment better through her hard work, dedication and her wonderful attitude. She has lifted the spirits of co-workers on many difficult and busy days. Members of the public have often commented on receiving exceptional customer service over the phone from Laura, and she is always willing to go that extra mile to get the job done. Laura's encouraging attitude and pleasant smile have truly made her an asset to this agency.

FOR YOUR OWN GOOD...

CHECK THE EXPIRATION DATE OF YOUR LICENSE

It is your responsibility to ensure that your license is renewed in a timely manner. Any education required must be completed before your license expiration date if you want to maintain an active real estate license, unless you pay an additional \$200 fee and complete your MCE within 60 days of the expiration date of your license. Salespersons under SAE must submit their education hours to TREC at least 10 business days in advance of renewing their license online.

Renewal reminder postcards are sent out to all brokers and inactive salespersons. Active salespersons' renewal reminder postcards are sent to the sponsoring broker. The Texas Real Estate Commission is not responsible for U.S. Postal Service delivery or knowing where to find you if you have moved and have not filed a change of address with our office. Failure to receive a renewal reminder postcard does not provide a valid excuse for not renewing your license.