

District of Columbia
 Department of Consumer
 And Regulatory Affairs
 Business and Professional
 Licensing Administration
 941 North Capitol Street, NE
 Washington, DC 20002

The Commentator

Adrian M. Fenty, *Mayor*
 Linda K. Argo, *Director*

D.C. Board of Real Estate Spring 2008

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Chair's Corner *by Constance W. Maffin, GRI*



2008 promises to be another exciting year as all of us adjust to the ever changing real estate market.

The Board continues to fulfill its responsibility of protecting the public interest by enforcing real estate laws and regulations governing all real estate licensees in the District of Columbia. In addition, the Board continues to ensure that our current licensees are educated on legislative and regulatory changes and updates through its administration of the Real Estate Guaranty and Education Fund.

Last year, 1899 new licensees obtained their respective licenses, and are now practicing real estate in the District of Columbia. Although new licensees have tapered off slightly from the previous year, the total number of licensees who are practicing continues to climb from 12,443 at the conclusion of fiscal year 2006 to 13,298 at the end of fiscal year 2007. This continued increase in licensees is still attributable to the sustainability of real estate activity in the District of Columbia, as well as the tremendous growth in our great city.

In November the board presented an all day development workshop for *D.C. Fair Housing* instructors at Gallaudet University. Shanna Smith of the National Fair Housing Alliance and Ezinwanne Hawkins of the Equal Rights Center were the guest

presenters. This project was designed to ensure that instructors are up-to-date on the various laws, regulations, and amendments governing fair housing.

The Board is currently augmenting our education programs so that we can offer a variety of courses as we move into the 2009 licensing renewal cycle. In the first of these programs, the Board is co-sponsoring our third Historic Preservation Seminar with the D.C. Preservation League, the Appraisal Board and the local chapter of the AIA. This forum will be free to the first 200 active DC real estate licensees who register and will offer 3 hours of CE credits.

The Board is pleased to welcome our newest member and legal counsel: Shari Barton and Karen Todd, respectively. Dr. Barton, an Associate Broker with Randall Hagner Ltd, was appointed to the Board last Fall by Mayor Fenty. Ms. Todd was recently hired to replace Molly Hutchinson as the board's legal advisor and both have added their significant skills to the board's mission.

The Board would like to express our sincere appreciation for each of our staff who continue to provide high-caliber, professional service. We note exceptional performances by Leon Lewis and Staci Mason, along with the support of the Board's assistant, Stephanie Johnston and the Board's chief investigator, Wilfred Usher.



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A Tribute to Nelson Deckelbaum– Former Board Member



Nelson Deckelbaum, the former Board attorney member, completed his final term with the District of Columbia Board of Real Estate, having served for over nine years from 1996-2005.

His presence on the Board will be greatly missed as his contributions and dedicated service to this body were enormous.

Mr. Deckelbaum was instrumental in having legislation passed that closed a major loophole. The previous law allowed officers of a corporation or partnership, where real property was owned by that corporation or partnership, to sell real estate in the District without a real estate license. The consequences of the application of the old statute, as interpreted by the Office of the Attorney General, was that unlicensed persons, even convicted felons, were authorized to sell property in the District of Columbia without any knowledge of our real estate laws, such as contract requirements and fair housing.

An amendment to the present law restricts this ownership exemption to property owned by "natural" persons rather than to persons who are unlicensed and have been designated to sell property that is owned by corporations

and partnerships. The law amendment has led to greater enforcement by the District of Columbia Board of Real Estate in enforcing the licensing law to protect the public against unlicensed persons and entities.

Another legislative provision to his credit was an amendment prohibiting the payment of a real estate commission in the absence of a written listing contract/agreement. Prior to the enactment of this amendment, the Courts issued conflicting decisions regarding whether commissions could be paid in the absence of a written listing contract. Per D.C. Official Code § 42-1705, a licensee shall not receive payment of a commission in the absence of a written listing agreement.

Additionally, as Chair of the Board's Legal Committee, Mr. Deckelbaum reviewed hundreds of complaints, reports, regulations and other legal matters before the Board in protection of the public interest. His wise counsel was invaluable to the Board during his tenure.

Mr. Deckelbaum is a senior partner with Deckelbaum, Ogens, Reiser, Shedlock and Raftery. A native Washingtonian, he has practiced law here for over fifty years.

2008 Board Meeting Dates

January 8, 2008
 February 12, 2008
 March 11, 2008
 April 8, 2008
 May 13, 2008
 June 10, 2008
 July 8, 2008
 August RECESS
 September 9, 2008
 October 14, 2008
 November 18, 2008
 December 9, 2008

Dates Subject to Change. Please call 202-442-4320 for up-to-date information.

New Additions to the Board

Shari Barton, Ph.D., is the newest member to be appointed to the D.C. Board of Real Estate by Mayor Adrian Fenty. Dr. Barton is an associate broker who brings to the Board a wealth of practical real estate knowledge. She holds an MA and Ph.D. in public administration from the University of Maryland and has been an active, full-time real estate licensee since 1985. Prior to becoming a Realtor®, Dr. Barton's vast professional experience included positions in the academic, public relations and local political arenas.

Karen A. Todd, Esquire, is the new legal counsel to the D.C. Board of Real Estate. Ms. Todd earned her B.A. in Political Science from the University of California, Los Angeles (UCLA,) and her law degree from Howard University School of Law. She is currently barred in the District of Columbia and the State of California. Prior to working for the Board, Ms. Todd worked for the D.C. Council as Legislative Counsel for a local Councilmember.

Welcome to both of these talented women!



And The Award Goes To...



Our own Constance Maffin was selected as the NATIONAL ASSOCIATION OF REALTORS® "2007 REALTOR® of the Year" for D.C. Connie will be honored at a GCAAR luncheon on May 23, 2008 . Congratulations!

D.C. Historic Preservation Seminar-Friday May 30, 2008

In an effort to keep our licensees abreast of new historic preservation requirements in the District of Columbia, the Board will co-sponsor a 3-hour continuing education course for our licensees on [May 30, 2008 from 9 AM to Noon](#). This co-sponsorship is being funded from the Board's Real Estate Guaranty and Education Fund.

The District of Columbia Preservation League in cooperation with the D.C. Historic Preservation Office and The L'Enfant Trust will sponsor a half-day seminar designed for the historic preservation, development, real estate and appraisal communities entitled "*An overview of the Principles and Practices of Preservation in the District of Columbia.*"

A panel of experts on preservation, real estate, finance and law will explore the benefits and responsibilities associated with conservation easements and cover historic tax credits

and other incentive programs available to historic property owners.

Panel discussions will discuss in further detail the history and character of individual D.C. historic districts as well as cover subjects as diverse as "grant programs" and "tax credits," to "what historic designation means."

The cost for the three-hour seminar, including light refreshments is \$40 for DCPL members; \$60 for non-members; ***FREE for active real estate licensees who register early. SPACE IS EXTREMELY LIMITED!***

To register, please RSVP to the D.C. Preservation League by phone: (202) 783-5144, or by email: rsvp@dcpreservation.org.

Protections and Benefits Afforded to Historic Property

The D.C. preservation law protects all properties listed in the D.C. Inventory of Historic Sites. Under the law, permit applications involving a listed property or its site must be reviewed for historic compatibility prior to issuance. Applications for exterior alteration, new construction, demolition, and land subdivision are subject to historic review. Interior work is reviewed only if the interior is specifically designated as a historic landmark.

What are the benefits of designation?

Historic designation reflects pride in the character of neighborhoods and a desire on the part of the city and its residents to protect their assets. Historic designation is an important planning tool for the city, a way to improve the quality of life, and a means to protect neighborhoods from unmanaged change. Because the review process involves public comment, private citizens are given a voice in development affecting their own neighborhoods.

Are there any tax benefits for historic property under DC law?

The D.C. Code (Section 47-842) allows a designated landmark to be assessed for property taxes at the rate of its current use rather than at the rate of the potential "highest and best" use which may be allowed by zoning. This provision applies only in those limited circumstances where the zoning classification of a property is inconsistent with its actual use (for example, a residential building in a commercial zone). In

addition to this qualification, the owner must sign a twenty-year covenant with the D.C. government guaranteeing the property's maintenance and preservation.

Are there other special considerations for historic property?

Rehabilitation of historic buildings may be eligible for special consideration under the D.C. Construction Code (Section 513), and for waivers of zoning requirements for off-street parking and loading.

What benefits are provided for historic property under federal law?

Federal law protects historic properties from adverse federal government action under a process commonly known as Section 106 review. In addition, substantial rehabilitation of income-producing historic property may qualify for significant tax benefits. There are also federal tax advantages in the form of charitable contribution deductions for donating a historic preservation easement to a charitable organization.

For more information, contact the District of Columbia Historic Preservation Office by phone: (202) 442-8818, or by email: historic.preservation@dc.gov.

What the Real Estate Licensee Should Know: “Meth Houses”

Move over toxic mold. Now it's meth residue...



Methamphetamine, also called “**meth**,” is a potent, highly addictive form of amphetamine. Because of the increasing number of individuals cooking and manufacturing meth in homes, many homebuyers may be unaware of the dangers and liability in purchasing a meth house.

On the legislative front, the meth lab crisis has prompted several states to begin tackling this problem and require the information be disclosed to potential buyers that a home was a former meth lab. Laws mandating sellers to clean up meth houses before selling them are on the books in 13 states. As of this writing, the DC Board of Real Estate has addressed this issue only indirectly on the Seller’s Disclosure Statement (item D.4. Exterior/Environmental Issues) in order to comply with the District of Columbia Residential Real Property Seller Disclosure Act.

The real estate licensee needs to be aware of several issues concerning these suspected houses and prepared with a plan to disclose and deal with them. The dangers that go along with meth houses include exposure to cancer causing chemicals that can saturate walls, carpets and other building materials as well as all contents. Lead and mercury are common byproducts. Chemicals, such as solvents, may be disposed of in plumbing or simply poured on the ground.

If not removed properly these chemicals and byproducts can cause various health problems.

Don’t be fooled by “*location, location, location.*” Meth labs are found in neighborhoods from the very affluent to the extremely poor. Meth users and manufacturers include people from all lifestyles. Doctors, lawyers and dentists are no more immune than factory workers or roofers.

When you enter a property take a deep breath. A cat urine smell is often associated with meth. Other odors to be aware of are ammonia, vanilla, solvents or metallic smells. These are warning signs.

Meth labs may be hidden behind false walls or other odd building alterations. Alterations that make no sense should be suspect, such as: exhaust fans mounted where they have no logical use; bootlegged power supply; rooms that are unexplainably small.

If you have a buyer looking to secure a contract on a house with potential contamination, advise them to seek expert advice from experts: an environmental specialist, a real estate attorney and an insurance agent.

You can obtain more information regarding meth contamination from websites such as www.methresources.gov or www.drugabuse.gov.

Is Your Real Estate Company in Good Standing?

All real estate companies (i.e., corporation/LLC/partnership) conducting business in the District of Columbia **must** be on record and in good standing in the Corporations Division. This means:

1. Your company is either incorporated or registered in the District of Columbia (a domestic corporation); OR
2. Your company was incorporated or registered in another state and is authorized or registered to conduct business in the District of Columbia (a foreign corporation); AND
3. Your company, whether domestic or foreign, must file a two-year report with the Corporations Division by April 15th, beginning with the first year after incorporation or registration. The two-year report is a one page form which is mailed to the registered agent of each company at least 30 days prior to the April 15th filing deadline.

Each year, the Board encounters real estate companies which are not in compliance with the aforementioned rules.

The most common violations include:

1. A foreign company is conducting business (listing property and hiring D.C. licensees) without authority or registration to operate in the District of Columbia;
2. A company has not filed the required two-year report or completes the report form incorrectly;
3. A company fails to maintain a registered agent and registered office;

For assistance with the two-year report forms or for any questions regarding the status of your corporation, please contact:

Corporations Division
Business and Professional Licensing Administration
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Room 1100
Washington, DC 20002
202-442-4432 (Monday-Friday 9 am to 3 pm.)

Potential Discrimination and Misleading Advertising *by Connie Maffin*

In discussing recent trends in fair housing during the Board-sponsored *Fair Housing Instructor Development Workshop*, it became apparent that there are many changes occurring in how the organizations who monitor fair housing compliance are conducting their reviews. There appears to be a shift away from the testing of individuals, and instead, to looking at more systemic patterns of discrimination that may exist within offices or entire firms.

In this regard, the practice of using private exclusives came under sharp criticism because of the potential for discrimination. We all know that there are legitimate reasons to have a private exclusive --- a seller's poor health or repairs being made to a property come to mind. However, by the very nature of a private exclusive, large segments of the buying population are EXCLUDED from knowing about a property's availability. Wide usage of this practice within an office or an entire firm could lead to litigation.

The D.C. Board of Real Estate would strongly recommend that all firms have a policy dealing with private exclusives that address the potential discrimination issues and take

appropriate actions to ensure that their practices are in compliance with the spirit and the letter of fair housing laws.

In another area, the Board has seen an increase in complaints about misleading advertising and/or marketing materials. Most complaints deal with insufficient disclosures as to how and where the data was derived or compiled. While we all know the adage about "figures lie and liars figure," publishing incomplete or inaccurate materials to the public is misleading and therefore prohibited under Title 17 of the D.C. Municipal Regulations, Section 2615.2, which states "*institutional advertising may not contain false or misleading information.*"

Again, the Board would encourage all firms who conduct advertising campaigns to review their material for accuracy, sources should be identified, geographic areas delineated and dates should be provided. Additionally, care should be taken so as not to demean real estate competitors.



Amendments to Title 17 DCMR, Chapter 26

April 25, 2008

Final rulemaking was published today in the D.C. Register, amending Title 17, Chapter 26 (Real Estate Licenses and Amendments) of the District of Columbia Municipal Regulations (DCMR). This rulemaking amends the real estate licensing rules to require advertisements by real estate brokers and real estate salespersons to include the telephone number of the affiliated brokerage or company. In addition, it amends the name of the Chapter.

Title 17 DCMR, Chapter 26 is amended to read as follows:

The chapter title is amended to read as follows:
"Chapter 26 REAL ESTATE LICENSES"

Section 2609.4 is amended to read as follows:

"2609.4 A real estate broker shall not advertise without disclosing the broker's name and telephone number or the company's name and telephone number as it appears on the license."

Section 2609.5 is amended to read as follows:

"2609.5 A real estate broker shall not knowingly permit a real estate salesperson to use the salesperson's name in any advertisement without the name and telephone number of the brokerage company with whom the salesperson is affiliated."

Section 2609.6 is amended to read as follows:

"2609.6 A real estate salesperson shall not knowingly permit the use of the salesperson's name in any advertisement without the name and telephone number of the brokerage company with whom the salesperson is affiliated."

Washington Report: Fannie and Freddie Under Fire From Groups *by Kenneth R. Harney*

Two of the Nation's Capital's biggest companies -- Fannie Mae and Freddie Mac -- are under fire from consumer and industry groups over their controversial "declining markets" lending policies.

Both companies charge borrowers higher down payments and fees when properties are located in areas where the companies believe prices have dropped.

Private mortgage insurers -- who work hand in hand with Fannie and Freddie by writing coverage on loans with down payments less than 20 percent -- are enforcing even more extensive and restrictive lists of declining markets. Some industry estimates put the total number of Zip codes affected across the country at between 8,000 and 12,000.

Critics say such designations are simply a new form of red-lining: Timothy Sandos, president and CEO of the National Association of Hispanic Real Estate Professionals, says they make buying homes disproportionately more costly for minorities and moderate-income families who can't afford the higher down payments and fees.

Labeling an area as "declining" becomes a "circular, self-fulfilling prophecy," says Sandos -- lowering sales, and ultimately prices.

Joining with the National Association of Real Estate Brokers, which represents black realty professionals, and the Asian Real Estate Association of America, Sandos' group recently asked Fannie Mae and Freddie Mac to "reverse" their punitive policies, or to create a single, transparent list that all industry participants could follow.

The National Association of Realtors, in letters last week to Fannie's and Freddie's chief executives, went a step further: N.A.R. president Richard Gaylord asked the companies to "discontinue the policy of stigmatizing entire Zip codes or

metropolitan areas" as declining since they "typically include widely differing" local neighborhood conditions.

The Realtors carry a lot of weight with Fannie and Freddie - and have been among their most steadfast defenders on Capitol Hill. A Fannie spokesman said the company has heard the critiques on declining markets designations, "and we take (them) seriously."

Freddie Mac said through a spokesman that it is "re-evaluating" its policy.

So, should buyers, sellers and real estate professionals expect any big changes in the numbers of areas tagged as declining and hit with higher down payments and fees?

Not overnight. But Fannie and Freddie are politically-savvy. They know it's never in their interest to have Hispanic, black and Asian groups upset with them.

Nor is it smart to ignore the 1.3 million-strong Realtors, who have direct access to the Senate and House leaders who control Fannie and Freddie's destinies.

Look for some form of overhaul of the declining markets system in the months ahead ... and perhaps some finer tuning on how to handle metropolitan areas that contain both appreciating AND depreciating sub-markets within their boundaries.

We'll keep you posted.

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For the most updated Board information:

Please visit us on the web at

www.dkra.dc.gov

Click on *Licenses*

Click on
Occupational and Professional Licenses

Click on *Real Estate*

2008 Conference Calendar

REEA Annual Conference

June 21-25, 2008 Bonita Springs, Florida

ARELLO Annual Conference

October 18-20, 2008 Indianapolis, Indiana

NAREB Annual Conference

August 8-11, 2008 Memphis, Tennessee

NAR Annual Convention

November 5-10, 2008 Orlando, Florida

Stay Ahead of the Renewal Rush...

It may seem as if the renewal cycle just ended; however, it's never too early to start thinking about the next one.

For Brokers and Property Managers, your license expires in less than a year. Salespersons, you have well over a year to get ready, but as we all know, it goes by quickly.

Word to the wise: Get started on your CEs now!

Why, you ask?

Well, for starters, you avoid the overcrowded classes, or worse yet, the 9-hour CE marathon days at the last minute. Think about it this way, if you completed one 3-hour CE per quarter of the renewal cycle, you'd be done with time to spare—time that could be better spent working with clients! Or, taking classes that you really want to take!

The 15-hour CE requirement for the 2007-2009 cycle, which expires on February 28, 2009 for Brokers and August 31, 2009 for Salespersons, is as follows:

3.0-hrs	Fair Housing
3.0-hrs	DC Legislative Update
3.0-hrs	Ethics
6.0-hrs	General electives

As of this writing, the Board has not yet finalized its 2008 course schedule; however, once the schedule has been finalized, a notice will be posted on the website and published in the next newsletter. For more information, you may contact the Board's Education Specialist, at Staci.Mason@dc.gov.

Legal Actions

John T. Taylor

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17 (2001) for operating as a real estate associate broker when unlicensed and not renewed.

Thierry J. Liverman

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17(13) (2001) for aiding the unlicensed activities of an associate real estate broker when not renewed.

Chatlel Real Estate, Inc.

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17(13) (2001) for aiding the unlicensed activities of an associate real estate broker when not renewed.

Mark F. Minich

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17(16) (2001) for operating as an associate real estate broker when unlicensed and not renewed.

James M. Underhill

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17 (2001) for aiding the unlicensed activities of an associate real estate broker when not renewed.

Cushman & Wakefield of D.C., Inc.

By consent order, the board imposed a fine of \$2,500 for violation of DC Official Code Section 47-2853.17 (2001) for aiding the unlicensed activities of an associate real estate broker when not renewed.

Oliver A. Cowan

The respondent's license was revoked due to his voluntarily surrendering his license upon a pending proceeding involving allegations of misconduct in accordance with D.C. Official Code Section 47-2853.20.

Real Estate Guaranty and Education Fund Payments

The Board authorized three payments from the Guaranty Fund. The licensee involved in actions taken by the Board was Eduardo R. Potillo. Mr. Potillo's license was revoked on December 9, 2003. The amount of the payments totaled \$143,295.

The claims were paid as a result of the respondent's embezzlement of funds entrusted to his care and committed "defalcation" against the claimants in "deliberate misappropriation or misuse of funds."

Active Licensee Counts <i>(As of May 1, 2008)</i>	
Associate Broker	801
Broker Company	569
Broker Owner	40
Independent Broker	641
Principal Broker	997
Property Manager	270
Salesperson	8192

May is Historic Preservation Month!

Learn More Inside...



District of Columbia Board of Real Estate
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