

# COMMISSION COMMENT

Winter

2001

## Governor Appoints Larry Shepard to Commission

Governor Mike Johanns appointed Larry Shepard to a six-year term on the Real Estate Commission beginning September 2001. Larry is a life-long resident of the Fremont area having attended Hooper High School and graduating with a BA in Business Administration from Midland Lutheran College. He is the President/CEO of Don Peterson & Associates Real Estate Company.

Larry has nearly 30 years experience in the real estate field, receiving his real estate salesperson's license in 1972 and his broker's license in 1973. He also received his GRI (Graduate Realtors Institute) in 1976 and his CRS (Certified Residential Specialist) certificate in 1984. Additionally, Larry brings a broad range of experience to the Commission by being involved in residential, commercial, and farm brokerage as well as property

management, auctioneering, and residential development.

Larry has served the real estate industry by being an active member of the Fremont Board of Realtors, holding various offices including President in 1978. On the State level he also has been a member of various committees and has been a member of the Professional Standards Hearing Panel.

Larry serves his community as a member of the Trinity Lutheran Church and as a member of Fremont



*Commissioner Larry Shepard is congratulated by Secretary of State John Gale*

National Bank's Advisory Board. He and his wife, Linda, have been married 25 years and have three children. He enjoys antiquing and has a unique collection of antique high back saddles.

### Commission Meeting Schedule

December 18-19 . . . . .Lincoln  
January 24-25 . . . . .Lincoln  
February 26-27 . . . . .Lincoln

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## Bob Bell Appointed to Commission/ Resigned From Commission

Governor Mike Johanns appointed Bob Bell, to serve the remainder of Paul Landow's term as Public Member of the Real Estate Commission. Bob was sworn in by Secretary of State John Gale at the Commission's September meeting.

Eminently well qualified to serve on the Real Estate Commission, Bob's qualifications were further recognized and in October he was

offered and accepted a position with the Chancellor of the Nebraska Medical Center.

Stating that it was an honor to have been appointed to the Real Estate Commission, Bob felt unable to meet the commitments and responsibilities of such an appointment under his new circumstances. Bob resigned from the Real Estate Commission in October.

Nebraska Real Estate Commission  
**COMMISSION COMMENT**

Official Publication of the  
Nebraska Real Estate Commission  
1200 "N" Street, Suite 402  
P.O. Box 94667  
Lincoln, Nebraska 68509-4667  
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www.nol.org/home/NREC  
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 Printed with soy ink on recycled paper 

**FROM THE DESK OF OUR  
CHAIRPERSON**

**GREETINGS,**

As Chair of the Nebraska Real Estate Commission, I wish all the Commission members, our terrific Commission staff, and our real estate licensees, a hearty "seasons greetings!"

As you know, I was appointed in December 2000, to replace Scott Moore who resigned. My appointment made me the only constitutional officer from the Third District. That made 2001 a year of intensive education for me. Fortunately, while in private practice for thirty years in North Platte I handled many real estate transactions for both buyers and sellers. I developed many friends in the real estate industry and gained a high respect for the hard working licensees in my area. So, becoming a regulator was very new, but the real estate industry was quite familiar to me.

Serving as Chair for the Commission has certainly been an honor for me. I am deeply appreciative of the patience and assistance given to me by the Commission and the industry. I think we have developed a mutual respect and cohesion to better serve the Public Interest.

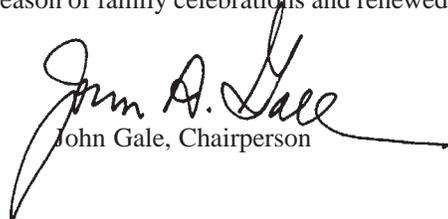
The Commission's web-site and web presence have proven to be the year's biggest accomplishment, providing virtually everything available through the office, online. The public now has access to all statutes and rules administered by the Commission, almost all forms that are available at the Real Estate Commission, and instructions for compliance with required processes. Also available are past and current Commission Meeting Minutes and Notices as well as a searchable licensee database and numerous links to other outside sites.

The acceptance of Visa and MasterCard credit payments in the office and online is an exciting advancement in our public service. Credit card payment has made it possible to complete online processes including Brokers, Salespersons and Branch Office Renewals.

In the new year the Commission looks forward to continued study and review of the laws administered by the Commission. The next few months will find the Commission engaged in the rule-making process and the subsequent revision of procedures and documents. We are reviewing our policies and guidelines on everything from the use of unlicensed persons to continuing education.

Our objective is to remain in step with progress and to remain proactive. Our goal is to be in a position to embrace the opportunities the new year will reveal. I hope that the new year will bring great opportunity to each of you in your personal and business lives. We are living in a time of great national tragedy and insecurity, but as President Bush has stressed, we need to move ahead confidently both in our own lives and as active citizens in order to secure our nation's future.

With best wishes for a season of family celebrations and renewed bonds of friendship!



John Gale, Chairperson



**MEET THE REAL ESTATE  
COMMISSION STAFF**

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff, if you have comments or suggestions as to how we may better serve you, please contact our office.

**COMMUNICATIONS GUIDE**

Ask for person indicated if you have questions in the following areas.

- Commission Meeting Information . . . Heidi Burkland  
InfoTech@nrec.state.ne.us
- Complaint Procedures . . . . . Terry Mayrose  
DDEnf@nrec.state.ne.us
- Continuing Education History or  
Inquiries . . . . . Julie Schuur  
EdEnf@nrec.state.ne.us
- Curriculum Design (Education &  
Instructor Approval) . . . . . Teresa Hoffman  
DeputyD@nrec.state.ne.us
- Errors and Omissions Insurance  
Inquiries . . . . . Teresa Hoffman  
DeputyD@nrec.state.ne.us
- License Applications Packet  
Requests . . . . . General Staff
- License Applications Process . . . Nancy Glaesemann  
Applic@nrec.state.ne.us
- Licensing and Education  
Requirements . . . . . Teresa Hoffman  
DeputyD@nrec.state.ne.us
- New Licenses in Process . . . . . Nancy Glaesemann  
Applic@nrec.state.ne.us
- Specialized Registrations . . . . . Monica Wade  
Finance@nrec.state.ne.us
- Transfer of License . . . . . Christy Arfman  
LicTsf@nrec.state.ne.us
- Trust Account Matters . . . . . Terry Mayrose  
DDEnf@nrec.state.ne.us  
John Clark  
Patricia Stehly  
Ron Pierson

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**Disciplinary Actions Taken by The Real  
Estate Commission**

(Does Not Include Cases on Appeal)

2001-023 Pace Woods vs. Larry F. Zitek, broker. License censured. [Violated Neb.Rev.Stat. § 81-885.24(18) by compensating an unlicensed person for performing the services requiring a real estate license and Neb.Rev.Stat. § 81-885.24(29) by allowing an unlicensed individual to participate in real estate activities requiring a real estate license.]

August 20, 2001

2001-025 Jerry J. & Mark K. Owens vs. Dale Martin Engel, salesperson. Stipulation and Consent Order. License censured plus an additional three (3) hours of contin-

uing education in the area of contracts to be completed by March 25, 2002. [Violated Neb.Rev.Stat. § 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a salesperson for failing to deliver the offer timely; and § 76-2418(1)(b) and (c)(ii) by failing to exercise reasonable skill and care for the client and by failing to promote the interest of the client with the utmost good faith, loyalty and fidelity, including presenting all written offers from the client in a timely manner.]

September 26, 2001

**IMPORTANT REMINDER!!**

During the past year all licensees received an orange form stapled to their 2001 pocket cards. When replacing your 2001 pocket card, **please remember, if you have not already done so, to remove the orange form that was stapled to this card and keep it in a secure place. You will NOT receive a new form with the 2002 pocket card.** Only licensees receiving licenses for the first time on January 1, 2002, and thereafter, will receive the orange form.

This form contains your password information that allows you access to your continuing education history and errors and omissions insurance information through the website at: [www.nol.org/home/NREC](http://www.nol.org/home/NREC).

If you have misplaced this information, you will need to contact: Monica Wade in our office to retrieve this information. You must make this contact yourself and be prepared to verify personal data in order to receive this information.



**We've Got Mail!!**

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population.

With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.

# MORTGAGE FRAUD

*(Editor's note: The following article has been reprinted with permission from the Summer 2001 Pennsylvania Real Estate Commission Newsletter. The author of the article is Mr. Joseph McGettigan, a Commissioner, educator and broker/appraiser in the State of Pennsylvania. The original article has been altered to cite Nebraska Statutes and Rules in order to emphasize that this subject matter is pertinent to Nebraska licensees as well.)*

Some mortgage originators are finding new, creative and sometimes illegal, ways for borrowers to qualify for residential mortgage loans. Licensees should be aware that some of these "qualifying techniques" may be fraudulent and could violate the Real Estate Settlement Procedures Act (RESPA), various federal lending regulations and the Nebraska Real Estate License Act.

The following scenario is an example involving the intentional inflation of the purchase price to increase the loan to value ratio also known as a "phantom mortgage."

A buyer is shown a \$100,000 property by a licensee. The buyer makes an offer subject to a mortgage contingency, that the seller accepts. The buyer then applies for financing. The mortgage originator advises the buyer that he does not qualify for that type loan without a substantial down

payment (20% of the sale price). The buyer states that he does not have this type of cash available. The mortgage

mortgage shortly thereafter to the secondary mortgage market, who assumes that they have a substantial

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**A licensee who knowingly participates in mortgage fraud not only places his/her license at risk, but also subjects himself/herself to criminal prosecution.**

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originator says, "We can still make the deal work, with a little bit of cooperation of the seller." Of course, the anxious seller is only too happy to make things work out.

The mortgage originator suggests that the licensee re-list the seller's property at a higher asking price of \$125,000 and then get the buyer to make a full price offer with a standard mortgage contingency of \$100,000. The seller is then asked to provide a "second mortgage loan" to the buyer of \$25,000.

With the assistance of the licensee, the mortgage originator has helped the seller inflate the purchase price to create a more favorable loan to value ratio which allows the loan to be processed under more lenient lender guidelines, (i.e., no tax/insurance escrows, no private mortgage insurance requirements, etc.). The difference between the actual sale price (\$100,000) and the inflated sale price

equity position with the loan.

This example is nothing short of mortgage fraud, and as such constitutes a Federal crime.

This activity could also violate portions of Nebraska License Act and Rules, possible violations include:

Neb.Rev.Stat. §81-885.24 (22) "Making any substantial misrepresentations;" (29) "Demonstrating negligence, incompetency, or unworthiness.... ." and Title 299, Chapter 5, Section 003.02 which addresses, "Conspiring with an applicant to represent to any lender, guaranteeing agency, or any other interested party,...an amount in excess of the true and actual sale price of the real estate... ." Additionally, if convicted of Mortgage Fraud, a licensee could have action taken against the license based on Neb.Rev.Stat. §81-885.24 (28) which allows for disciplinary action to be taken against a licensee for conviction of a felony in addition to any penalty imposed by the Federal Authority.

A licensee who knowingly participates in mortgage fraud not only places his/her license at risk, but also subjects himself/herself to criminal prosecution. The Nebraska Department of Banking is actively investigating these cases. Remember, what may seem like a simple and innocent request to close a sale, may amount to conspiracy to commit fraud—an unprofessional act by any standard.



## Association of Real Estate License Law Officials Installs Joan Nigro and Teresa Hoffman

The Association of Real Estate License Law Officials (ARELLO) is comprised of the official governmental agencies and other organizations around the world that issue real estate licenses and/or registrations in addition to regulating real estate practice and enforcing real estate law. At its Annual Conference in October ARELLO elected Joan Nigro as a member of its Board of Directors and Teresa Hoffman as its President-Elect.

The Nebraska Real Estate Commission has always strongly supported participation in ARELLO. They believe that the international perspective of the organization, the opportunities for collective approaches, and consultation with noted experts deliver dividends to our real estate licensees and citizens.

Joan Nigro will represent the Central District on the ARELLO Board of Directors. Joan was unanimously voted to this position first by the Central District and again by a vote of the full membership of the organization. Joan has faithfully

been involved in the organization since she began her term on the Real Estate Commission in July, 1996. She has won the organization's confidence through her willingness to contribute and her commitment to committee work.

Most notable is Joan's tenure on the Fair Housing Committee/ Training Board. In this last year, under Joan's tutelage as Chair of this committee, there have been great gains toward streamlined, efficient operation and quality control of workshops and education programs. Congratulations Joan!

Teresa joined the staff of the Nebraska Real Estate Commission in January, 1988, and has actively served ARELLO and the Commission since that time. She has earned the respect and support of her colleagues through a tradition of study and service that includes the following:

She served on the Board of Directors from 1991—1996 and as the Central District Vice-President in 1996 at which time Nebraska hosted



*Teresa Hoffman, President-Elect of Association of Real Estate License Law Officials (ARELLO)*

the District Meeting in Omaha.

Teresa's Task Force involvement includes the following topics: Property Management, Errors & Omissions Insurance, Technology, Consumer Education, and Controlled Business. As a part of this work she has authored and co-authored several published Association documents and advisories. This research has been utilized when studying these issues for application in Nebraska.

She has served as a Charter Member of both the Examination Certification Council and the Distance Education Certification Council, serving subsequent terms in each as well. By formally recognizing these Certifications in Nebraska, licensees benefit from verified standards that insure integrity in licensing examinations and education delivered in distance education format.

In addition, Teresa has served on and Chaired many of ARELLO's standing committees.

Teresa and Joan are following in a long tradition of Nebraskans who have served in Leadership positions in ARELLO. We are confident that they will serve our interests and ARELLO's to their mutual benefit.



# COMMISSION'S WEBSITE WINS FIRST RUNNER-UP RECOGNITION

This year the Association of Real Estate License Law Officials (ARELLO) bestowed its first Communication Awards in the category of Website. The competition was fierce for this first recognition with contenders from Canadian Provinces and several States in the running. It was, therefore, with pride that the Nebraska Real Estate Commission's website: [www.nol.org/home/NREC](http://www.nol.org/home/NREC) received recognition as the First Runner-Up for the Award. Congratulations to our Webmaster, Monica Wade.

## The Purpose of the Awards

The purpose of the communication systems recognition awards program is (1) to recognize on an annual basis outstanding communication systems that contribute to the real estate industry and promote the protection of the public, and (2) to increase the awareness of other member jurisdictions to outstanding communication systems that might be adapted on behalf of that jurisdiction's own licensees and members of the public.



Nebraska's Webmaster, Monica Wade, accepts the ARELLO Award for Website design.

## The Criteria

Submissions were judged on the basis of:

(a) Program design - Has a need been identified? Is the communication tool designed to effectively meet clearly identified goals? Is the communication tool timely and current in concept? Is the tool organized in a user-friendly manner? Does the tool enhance the professional image of the regulatory body?

*Our response: Our objective is to provide service to real estate licensees and the public around the clock. To meet this objective we've developed a comprehensive and utilitarian website that makes all processes and information available through the Commission accessible 24 hours a day, 7 days a week, 365 days per year. To serve the disabled, the main pages of our site are Bobby Approved and our site is linked to their site. Information-on-demand is key to EVERYONE in today's world and our sources tell us that the Nebraska Real Estate Commission is succeeding in this objective.*

(b) Communication System Standards - Have effective methods of quality control been established? Are appropriate gathering/verification methods utilized? Are the rights of the individual respected?

*Our response: The State of Nebraska has a contract with Nebraska Online (NOL) to host our website. NOL provides system administration and maintenance, a monthly sanitary check on the server, and an automated paging system so they are immediately notified if there are any problems. They also focus on data and network security, with a good fire-*

*wall, a secure database and webserver, and they provide data backup and archiving and all data is placed in escrow.*

*We have respected the rights of the individual in every aspect. The information that is displayed on the website for individual licensees has been selected by the Commission to appear on the site. The information that is displayed on the website is the only information that has been transferred to the server so there is no possibility of corrupt information or accessing their personal information. The only information that is available to the licensees through the website that the public cannot view is their continuing education history and their errors and omissions insurance, in which case licensees would need their user name and password to access these records. Should they lose their user name and password they would need to contact our office and answer a selected number of personal questions in order to verify their identity. Users are also respected, if an individual should search for licensees in the searchable database, that person would not be identified "behind the scenes".*

(c) Innovation - Does the program involve the effective use of innovative technology or construction in communicating? Was the program creative in its concept? Are the aesthetics of the tool complementary or distracting?

*Our response: We have received 1 Simple Guide's Merit Award. The stated purpose of their program and criteria are as quoted: "to reward the creative &*

*(Continued to page 7)*

**Commission Website Wins . . . (Continued from page 7)**

*innovative webmasters who have taken their own time, hard work & dedication shown in creating a respectable, well designed, useful, informative, interesting & unique site. ...The awards were given based on a number of categories including content, presentation, usefulness, navigation, creativity, information, entertaining & something special on it."*

*Our site also received the 2001-2002 Golden Web Award. "In recognition of creativity, integrity and excellence on the Web."*

(d) Resources - Does the program make effective and efficient use of available funds, personnel and other resources? Do the benefits justify the costs incurred?

*Our response: The website has not, to this point, cost anything to develop other than approximately \$550.00 in software and time of one staff member (approximately 20% FTE). With implementation*

*of online filings there is a cost of approximately 4.5% of each transaction that will be paid to the website host (NOL) and the credit card company, which is a small price for 24 hour service.*

*The benefits justify the costs incurred due to the decrease in telephone calls, staff time spent on simple questions, looking up licensees and their individual data, sending out information, etc.*

(e) Benefit - How did the program benefit the target group? Were the goals of the program realized? How was the effectiveness of the program evaluated?

*Our response: The licensee population as well as the public have been pleased with the site content, which has resulted in a reduction of staff time spent on information that is obtainable on the website, and a reduction in the volume of telephone calls. As the awareness of the website and all*

*of the functions available are discovered by the public and by the licensees we anticipate increased efficiency in doing "more with less".*

*The effectiveness of the program is evaluated by: the Service Satisfaction Survey; the comments section available on the website; through discussions with licensees and our website host, NOL; analysis of user data; and in the awards bestowed on the site (detailed in the Innovation section) which we are proud to display on our site.*

Congratulations also go to the Winner of this year's award the Texas Real Estate Commission's site, and to the Idaho Real Estate Commission whose site was chosen Second Runner-Up. Please take a moment to visit our award-winner, become familiar with the site and start reaping the benefits it was designed to provide.





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