

# COMMISSION COMMENT

Spring

1995

## Real Estate Commission Welcomes New Chairperson



*Secretary of State Scott Moore*

In January, Scott Moore was sworn in as Nebraska's 24th Secretary of State replacing retiring Secretary of State, Allen Beermann. In his capacity as Secretary of State, Secretary Moore serves as Chairperson of the Real Estate Commission.

Secretary Moore was born in York Nebraska, where he grew up

on his family's farm in northern York county. Scott then attended the University of Nebraska-Lincoln where he earned a BA with a major in political science and a minor in agriculture.

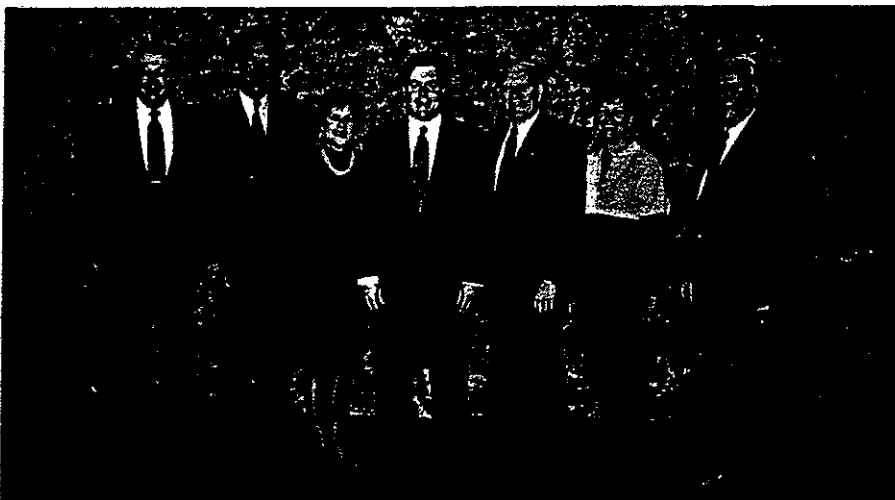
Secretary Moore began his career in state government, while in school, when he was a Page for the 1980 session of the Nebraska Legislature at the age of 19. The next year, Scott began working

full-time as a Legislative Aide and worked in that capacity until he filed to run for the Legislature in 1986. Scott was successful in his bid to represent the 24th Legislative District. Then Senator Moore was re-elected to a second term in 1990 and in January of 1991 was selected by his peers to chair the Legislature's Appropriations Committee, which is the committee charged with writing the Nebraska State Budget. Besides being the youngest member of the body

*Continued on page 3*



*Tom Dover and Chairperson Moore*



*Commissioners L to R: Jerry Schleich, Ron Hansen, Gayle Stock, Chairperson Moore, Tom Dover, Kathleen Fahy, Forrest Pollard.*

### On The Inside:

Attorney General  
Clarifies Law on Market  
Analysis .....page 8

HUD memo on Fair  
Housing and Ads .....pages 6-8

Commission to Provide  
Info Sessions on Agency  
Statute .....page 9

Rule Amendments Effective  
January 30, 1995.....pages 3-5

### Tentative Commission Meeting Schedule

April 13-14 TBA  
May 9-10 TBA  
June 19-20 TBA

## COMMISSION COMMENT

Official Publication of the  
Nebraska Real Estate Commission  
1200 "N" Street  
P.O. Box 94667  
Lincoln, Nebraska 68509-4667  
(402) 471-2004

EDITOR: Teresa Hoffman

### COMMISSION MEMBERS

#### CHAIRPERSON

Scott Moore  
Secretary of State  
State Capitol  
Lincoln, NE 68509  
(402) 471-2554

#### PUBLIC Member At Large

Kathleen A. Fahey  
1236 South 113th Plaza  
Omaha, NE 68144  
(402) 330-6646

#### SALESPERSON Member At Large

Gayle L. Stock  
11213 Davenport Street  
Omaha, NE 68154  
(402) 334-5500

#### BROKER MEMBERS

Thomas E. Dover  
1000 Norfolk Ave., P.O. Box 939  
Norfolk, NE 68701  
(402) 371-0200

Forrest J. Pollard  
1515 North Webb Road  
Grand Island, NE 68803  
(308) 384-4200

Gerald L. Schleich  
3901 Normal Blvd., Suite 203  
Lincoln, NE 68506-5250  
(402) 436-3112

John F. Hansen  
2200 Harvell Dr.  
Bellevue, NE 68005  
(402) 291-4800

#### DIRECTOR

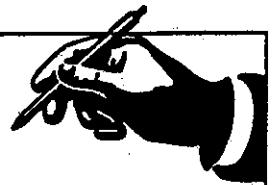
Les Tyrrell  
1200 "N" Street, Suite 402  
Lincoln, NE 68508  
(402) 471-2004

The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the Nebraska Commission Comment also appears with the article.

The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.

From the

## DIRECTOR'S DESK



With the publication of this issue of "Commission Comment" you will begin to receive issues on a quarterly basis instead of three times per year. In order to communicate with real estate licensees and other interested parties on a more timely basis the "Commission Comment" will be mailed on or about March 1, June 1, September 1 and December 1 in the future. It is the Commission's hope that the more frequent publication schedule will assist in communicating necessary information to all who read the "Commission Comment".

The "Commission Comment" is a primary tool for communicating notifications of upcoming public Rule & Regulation hearings, effective dates of new Rules and Regulations and other equally important notices to the real estate industry. Those who read this publication are alerted to industry developments and are not caught unaware.

Those of you who read each issue and are "in the know", encourage others to read the "Commission Comment", a newsletter that has been recognized as one of the best publications of its type in the nation.

### Legislation of Interest

Again this session, legislation has been introduced by Senator Jerome Warner to eliminate, over a three year period, the fifteen percent payment by Cash Fund Agencies to the General Fund. The legislation is LB-33 and is before the Appropriations Committee.

As a refresher, for many years the Real Estate Commission and other Cash Fund Agencies (agencies who operate on the money they generate through fees, etc.) have been required to remit fifteen percent of their annual gross revenues to the General Fund. During the past few years, legislation has been introduced which would eliminate this payment and last year it almost became law but was vetoed.

This year's legislation has a good chance of being enacted. Beginning in 1996-97 it will reduce the payment to 10%, then 5% in 1997-98 and beginning July 1, 1998 this payment would be totally eliminated.

Also introduced in this Session of the Legislature is a bill to amend the "Good Funds" legislation which was enacted this past year. The bill, LB 774, proposed to clarify certain language in the current statute. It also proposes to exempt certain real estate transactions from the good funds requirement: 1) political subdivisions when exercising the power of condemnation or eminent domain; 2) lease and rental transactions (put in to clarify they were not intended to be covered by the original bill); and 3) a closing that occurs within one business day of another closing to the extent that monies disbursed from the first closing are used in the second closing ("back-to-back" transactions). The legislation also proposes to allow that up-to \$500.00 used at a closing need not be good funds as defined in the statute.

Also introduced this session is LB 841 which proposes to allow real estate broker's real estate trust accounts to be placed in any financial institution not just banks. The funds still must be held in a non-interest bearing checking account just as they have been held in banks over the years.

We will "up-date" you on these pieces of legislation in the next "Commission Comment".

(Continued on page 3)

(Continued from page 2)

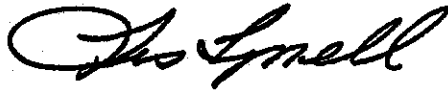
## New Look for License Act Publication

At a recent meeting, the Real Estate Commission decided to "revamp" the format in which the License Act will be made available to licensees.

The new publication will be 8 1/2 X 11 and loose-leaf. Each new licensee will receive a copy which they can place in a three-ring notebook.

When changes take place to Statute or Rule and Regulation those changes will be sent to licensees and the new pages inserted replacing the old pages just as is now being done with the Trust Account Manual. This will allow licensees to have a copy of the current License Act in a more timely manner.

It is our hope that this format will further our efforts to keep licensees informed and up-to-date.



Les Tyrrell, Director Nebraska Real Estate Commission

(Continued from page 1)

during his entire tenure as a State Legislator, Scott was involved in key positions on the national level of both the Council of State Governments and the National Conference of State Legislatures.

In addition to his public career, Secretary Moore has remained active in the Moore & Sons family farm operation, near Stromsburg Nebraska, with his father and brother. In 1989, Scott married Danene Tushar who is a partner in the Lincoln law firm of Demars, Gordon, Olson, Recknor & Shively.

## Rule Amendments Effective

On January 30, 1995, the amendments to Title 299, Chapters 1,2,4,5 and 7 of the Nebraska Real Estate License Act and Rules and Regulations went into effect. These are the Rules and Regulations set out in the August "Commission Comment" and on which Public Hearings were held in August and September.

These amendments are intended to address the new law regarding seller property condition disclosure set forth in Neb. Rev. Stat. 76-2,120 which became effective January 1, 1995. Various other sections deal with the license transfer process, limited liability companies, licensee requirements to inform their client, in writing, of certain closing costs, requirements for financial statements needed to be filed by Subdivisions, and language clarifications. Some of the amendments also deal with changes to

make the Rules and Regulations consistent with the Agency Relationship legislation, Neb. Rev. Stat. 76-2401-76-2430 (LB 883).

The following sets forth only the sections of the Rules which have been amended and, where appropriate, excludes the sections preceding, between and following the amended sections that remain as before.

### TITLE 299 CHAPTER 1

012 When a licensee is transferring his/her license, the licensee shall not be deemed transferred until all required documents, fees and information have been received by the Commission. If the licensee has terminated his/her employment with an employing broker, through written notice to the employing broker and/or the Commission, the licensee will be considered to be on inactive status until such time as the requested transfer is completed.

### TITLE 299 CHAPTER 2

003.01 Each broker who is operating as an independent broker or sole proprietorship, without being a corporation or limited liability company or filing a trade name, shall advertise in his or her name as recorded with the Commission and include the word(s) "Broker" or "Real Estate Broker", e.g. Sara Stone, Broker or Sara Stone, Real Estate Broker.

003.05 Each broker who is operating under a limited liability company will advertise in the name of the limited liability company as registered with the Secretary of State and recorded with the Commission. If the limited liability company also registers a trade name with the Secretary of State, such trade name shall be recorded with the Commission and the limited liability company may advertise in either the limited liability company name or the trade name.

**RENUMBER PREVIOUS 003.05  
As 003.06**

(Continued on page 4)

(Continued from page 3)

**006** Every licensee is prohibited from soliciting or attempting to secure listings or to represent a purchaser or tenant without first advising the owner or prospective purchaser or tenant, respectively, that he or she is a licensee and that he or she is engaged in the real estate business.

**008** In the event that more than one written offer is made before the owner has accepted an offer, any other written offer presented to the broker whether by the prospective purchaser, or an agent of the prospective purchaser or a cooperating broker, shall be transmitted forthwith to the owner for his or her decision.

**009** A salesperson or associate broker shall not participate in the closing of any real estate transaction except under the supervision and with the consent of the broker under whom such salesperson or associate broker is licensed. A broker shall not authorize any person who is not licensed as a salesperson or associate broker to conduct the closing of a real estate transaction. Provided, this shall not prevent an unlicensed person, such as a closing secretary, from doing the preparatory work for the closing, subject to the approval of the licensee conducting the closing.

**010** A broker closing a real estate transaction shall be in compliance with Neb. Rev. Stat. Sections 76-2,121 through 76-2,123.

**RENUMBER ACCORDINGLY,  
PREVIOUS 010-013.02 AS 011-014.02.**

#### **TITLE 299 CHAPTER 4**

**003** The certified audited financial statement required by Neb. Rev. Stat. Section 81-885.34(7) shall be prepared in accordance with generally accepted accounting principles and shall be the report of

an independent certified public accountant, which report shall contain: a balance sheet reporting assets, liabilities, capital and surplus; cash flows; and a statement of changes in capital and surplus including all notes, references, and explanations of the accountant.

#### **TITLE 299 CHAPTER 5**

**003.07** Failure of a licensee to obtain a written acknowledgement, before or at the time the purchase agreement is signed by the purchaser, disclosing to the purchaser that all licensees involved in the transaction are agents of and are representing the seller, unless the licensee or the licensee's broker has contracted with the purchaser to represent the purchaser as the purchaser's agent and has obtained a written acknowledgement from the seller of said agency contract. Effective July 1, 1995, the following language shall supersede and replace the foregoing language. Failure of a licensee to comply with the requirements set forth in Neb. Rev. Stat. Sections 76-2401 - 76-2430.

**003.08** When the licensee is disclosing the fact that said licensee is acting in the dual capacity of agent and principal in a transaction as set forth in Neb. Rev. Stat. Section 81-885.24(9), such disclosure shall be made in writing prior to, but no later than, the time the other principal enters into an agreement to purchase the property from or sell the property to the licensee. Said written disclosure shall be signed by the other principal to the transaction. A copy of the signed disclosure shall be maintained in the transaction file in accordance with 299 NAC 3-001. Effective July 1, 1995, the written disclosure shall be made in accordance with Neb. Rev. Stat. Sections 76-2401 through 76-2430.

**003.10** Failure of the licensee to identify to the seller, in writing, at

the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the seller will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed by the seller and a copy of the signed document(s) shall be maintained in the transaction file in accordance with 299 NAC 3-001. This subsection shall not apply to the sale of new construction, lots, agricultural or commercial property, including residential property with five or more dwelling units. For the purposes of this subsection, the term "agricultural property" shall mean property zoned agricultural by a county in which any part of the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor.

**003.11** Failure of the licensee to identify to the prospective purchaser, in writing, at the time an offer is written by the purchaser or a counter offer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the purchaser will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed by the purchaser and a copy of the signed document shall be given to the purchaser and, when a transaction results, one copy shall be maintained in the transaction file in accordance with 299 NAC 3-001. This subsection shall not apply to the sale of agricultural or commercial property, including residential property with five or more dwelling units. For the purposes of this subsection, the term "agricultural property" shall

mean property zoned agricultural by a county in which any part of the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor.

**RENUMBER PREVIOUS 003.11-003.16 AS 003.12-003.17.**

**003.18** Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted.

**003.19** Failure to submit all written offers to an owner when such offers are received prior to the seller accepting an offer in writing and until the broker has knowledge of said acceptance. This subsection shall be repealed effective July 1, 1995.

**RENUMBER PREVIOUS 003.19-003.21 AS 003.20-003.22.**

**003.23** Failure by the agent of the seller to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or to the agent of the purchaser, on or before the effective date of any contract entered into on or after January 1, 1995, which binds the purchaser to purchase the residential real property.

**003.24** Failure by the agent of a purchaser to assure that a copy of the Seller Property Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into on or after January 1, 1995, which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser

**003.25** Failure by a licensee, who knows of an error, inaccuracy or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to not disclose the error, inaccuracy or omission,

in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement. This subsection shall become effective January 1, 1995.

#### **TITLE 299 CHAPTER 7**

**003.07** Continuing education activities of the same content, or if in the opinion of the Commission an activity is so similar as to be indistinguishable in content, cannot be used for a minimum of four years after the activity was taken to be applied toward meeting the continuing education requirement, except that activities meeting the required hours set forth in Section 001 of this Chapter may be repeated but not in the same two-year continuing education period.

**006.05** Records shall be maintained by each provider on each individual student for four years. Said records to include: name and real estate license identification number of the student, residence or business address of the student, the title and activity content number of the activity completed in full, the number of continuing education hours granted the activity and the date the student took the activity.

**006.07** By January 31st of each year all approved providers shall submit to the Commission a chronological list to include the title and content number, number of continuing education hours granted, date, location, instructor and number of attendees for each continuing education activity conducted during the preceding year.

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

*(Does Not Include Cases on Appeal)*

**Real Estate Commission vs. Donald Louis Sampson, Broker**  
Regulation and Consent Order of Commission. (Violated ES-ART 24(2)(b) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act by violating 299 N.E.A.C. 3-003.23 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted, and ES-ART 24(2)(b) by demonstrating negligence, incompetence or unfitness to act as a broker when he failed to make the deposits as required.) September 23, 1994

**Real Estate Commission vs. Curtis F. Culbreth, Broker**  
Regulation and Consent Order. License suspended 45 days, followed by 115 days probation, plus 3 hours additional continuing education in real estate law. (Violated Section ES-ART 24(2)(b) by demonstrating negligence, incompetence or unfitness to act as a broker, and Title 299, Chapter 3-003.21, failure by a broker to supervise his subordinates.) January 25, 1995

**Real Estate Commission vs. Kimberly Ann Hoffmann, Salesperson**  
Regulation and Consent Order. License suspended 30 days, plus 3 hours additional continuing education in real estate law. (Violated Section ES-ART 24(2)(b) by demonstrating negligence, incompetence or unfitness to act as a salesperson.) January 23, 1995

# HUD Memo On Fair Housing and Ads

*(Editor's Note: This article has been reprinted with permission from the "Publishers Auxiliary" January 30, 1995 edition.)*

The following is a memo from Roberta Achtenberg, HUD assistant secretary for fair housing and equal opportunity, to enforcement staff clarifying policy regarding the Act and real estate ads.

The purpose of this memorandum is to provide guidance on the procedures for the acceptance and investigation of allegations of discrimination under Section 804 (c) of the Fair Housing Act (the Act) involving the publication of real estate advertisements.

Recently, the number of inquiries involving whether or not potential violations of the Act occur through use of certain words or phrases has increased, and these issues cannot, in some situations, be answered by referring to decided cases alone. In some circumstances, the Advertising Guidelines, published at 24 C.F.R. Part 109, have been interpreted (usually by persons outside of HUD) to extend the liability for advertisements to circumstances which are unreasonable.

This guidance is meant to advise you of the Department's position on several of these issues.

Previous guidance already requires that Intake staff review a potential complaint, gather preliminary information to ascertain whether the complaint states a claim under the Act, and consult with counsel on any legally ques-

tionable matters before the complaint is filed. Likewise, jurisdictional issues such as standing and timeliness should also be established prior to filing.

If the Advertising Guidelines, this memorandum, or a judicial decision clearly indicate that the language used in the advertisement is a potential violation of Section 804(c) and the criteria for establishing jurisdiction are met, the complaint should be filed and processed. Any complaint concerning an advertisement which requires an assessment of whether the usage of particular words or phrases in context is discriminatory, requires the approval of Headquarters FHEO before a complaint is filed. If the advertisement appears to be discriminatory, but the Advertising Guidelines, the memorandum, or a judicial decision do not explicitly address the language in question, supervisory staff must also obtain approval of Headquarters FHEO before the complaint is filed. Potential complaints regarding advertisements which do not meet the above descriptions should not be filed.

Where there is a question about whether a particular real estate advertising complaint should be filed, relevant information regarding the factual and/or legal issues involved in the complaint should be gathered, and counsel should be consulted prior to contacting the potential respondent publisher. The matter should then be referred to the Office of

Investigations for review. Such referrals may take the form of a short memo, reciting the applicable advertisement language, and any factual or legal analysis which is appropriate.

Section 804 (c) of the Act prohibits the making, printing and publishing of advertisements which state a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin. The prohibition applies to publishers, such as newspapers and directories, as well as to persons and entities who place real estate advertisements. It also applies to advertisements where the underlying property may be exempt from the provisions of the Act, but where the advertisement itself violates the Act. See 42 U.S.C 3603 (b).

Publishers and advertisers are responsible under the Act for making, printing, or publishing an advertisement that violates the Act on its face. Thus, they should not publish or cause to be published an advertisement that on its face expresses a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin. To the extent that either the Advertising Guidelines or the case law do not state that particular terms or phrases (or closely comparable terms) may violate the Act, a publisher is not liable under the Act for advertisements which, in the context of the usage in a particular advertise-

ment, might indicate a preference, limitation or discrimination, but where such a preference is not readily apparent to an ordinary reader. Therefore, complaints will not be accepted against publishers concerning advertisements where the language might or might not be viewed as being used in a discriminatory context.

For example, Intake staff should not accept a complaint against a newspaper for running an advertisement which includes the phrase **female roommate wanted** because the advertisement does not indicate whether the requirements for the shared living exception have been met. Publishers can rely on the representations of the individual placing the ad that shared living arrangements apply to the property in question. Persons placing such advertisements, however, are responsible for satisfying the conditions for the exemption. Thus, an ad for a female roommate could result in liability for the person placing the ad if the housing being advertised is actually a separate dwelling unit without shared living spaces. See 24 CFR 109.20.

Similarly, Intake staff should not file a familial status complaint against a publisher of an advertisement if the advertisement indicates on its face that it is housing for older persons. While an owner-respondent may be held responsible for running an advertisement indicating an exclusion of families with children if his or her property does not meet the "housing for older persons"

exemption, a publisher is entitled to rely on the owner's assurance that the property is exempt.

The following is policy guidance on certain advertising issues which have arisen recently. We are currently reviewing past guidance from this office and from the Office of General Counsel and will update our guidance as appropriate.

**1. Race, color, national origin.** Real estate advertisements should state no discriminatory preference or limitation on account of race, color, or national origin. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms (i.e., white family home, no Irish) will create liability under this section.

However, advertisements which are facially neutral will not create liability. Thus, complaints over the use of phrases such as **master bedroom, rare find, or desirable neighborhood** should not be filed.

**2. Religion.** Advertisements should not contain an explicit preference, limitation or discrimination on account of religion (i.e. **no Jews, Christian home**). Advertisements which use the legal name of an entity which contains a religious reference (for example, **Roselawn Catholic Home**), or those which contain a religious symbol, (such as a cross), standing alone, may indicate a religious preference. However, if such an advertisement

includes a disclaimer (such as the statement "This Home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status") it will not violate the Act. Advertisements containing descriptions of properties (**apartment complex with chapel**), or services (**kosher meals available**) do not on their face state a preference for persons likely to make use of those facilities, and are not violations of the Act.

The use of secularized terms or symbols relating to religious holidays such as **Santa Claus, Easter Bunny, or St. Valentine's Day** images, or phrases such as **"Merry Christmas", "Happy Easter"**, or the like does not constitute a violation of the Act.

**3. Sex.** Advertisements for single family dwellings or separate units in a multi-family dwelling should contain no explicit preference, limitation or discrimination based on sex. Use of the term **master bedroom** does not constitute a violation of either the sex discrimination provisions or the race discrimination provisions. Terms such as **"mother-in-law suite"** and **"bachelor apartment"** are commonly used as physical descriptions of housing units and do not violate the Act.

**4. Handicap.** Real estate advertisements should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (i.e., **no wheelchairs**). Advertisements

*(Continued on page 8)*

(Continued from page 7)

containing descriptions of properties (great view, fourth-floor walk-up, walk-in closets), services or facilities (jogging trails), or neighborhoods (walk to bus-stop) do not violate the Act. Advertisements describing the conduct required of residents ("non-smoking", "sober") do not violate the Act. Advertisements containing descriptions of accessibility features are lawful (wheelchair ramp).

**5. Familial status.** Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles. Advertisements describing the properties (two bedroom, cozy, family room), services and facilities (no bicycles allowed) or neighborhoods (quiet streets) are not facially discriminatory and do not violate the Act.

## Attorney General Issues Opinion; Clarifies Law On Market Analysis

*(EDITOR'S NOTE: This article is an amalgamation of two articles which appeared in the third and fourth quarter publications of "The Nebraska Appraiser" and appears, here, with appropriate language adjustments and with permission of the Real Estate Appraiser Board. While these articles originally addressed those who hold both an appraiser license and a salesperson or broker license, we have found that many of our licensees who do not also hold an appraiser license have sought this information as well.)*

Appraisers who are also brokers or salespersons licensees have asked for interpretation of the Appraiser Act exemption section. Section 76-2221 (2) exempts "A person who in the ordinary course of...business, gives an opinion as to the price of real estate for the purpose of a prospective listing or sale..."

An AG opinion directs us to the law for the answer: "...such opinion...shall not be referred to as an appraisal. No compensation fee, or other consideration shall be charged for such opinion, other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved."

Appraisers who are also brokers or salespersons put themselves in the risky position of violating USPAP when issuing a broker's price opinion (BPO) or market analysis. The Board recommends that appraisers who also are brokers or salespersons put their appraiser hats on the top shelf, out of sight, out of mind, when they accept a request to give a BPO or market analysis. **Good Advice: Don't list your appraiser**

classifications on cover letter or on the BPO or MA. Don't even attach a resume that states you are an appraiser. That's advice, not law. **More Good Advice:** To protect yourself further, use a disclaimer, such as: This is a market analysis, and is not an appraisal. **Remember...** the Appraiser Act requires an appraiser to follow Uniform Standards at all times in preparing an opinion of value.

### Be Certain You Know Which Hat You're Wearing On The Job Today

When you're wearing your broker or salesperson hat, be prepared. You are giving your services to your potential client. That's right. A real estate licensee has the right to give a broker's price opinion or market analysis as to a listing price or sale price, but no compensation shall be charged for such opinion other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved. The opinion shall not be referred to as an appraisal. [NEB.REV. STAT. 76-2221 (2)]

A salesperson or broker who also is an appraiser, owns two hats. He or she must decide which hat to wear, and when. It's not enough to say: "This is a broker's price opinion or market analysis. It is not an appraisal." **REMEMBER...NO FEE MAY CHANGE HANDS**

# Real Estate Commission To Provide Information Sessions On New Agency Statute And Regulations

In order for licensees to have the opportunity to ask questions and to receive additional information concerning agency relationships in real estate transactions and the implementation of LB 883 and related regulations, a series of information sessions has been scheduled for April 24 through May 2, 1995.

Representatives from the Commission along with Legal Counsel will be providing information at each location but the primary objective of these sessions will be to answer your questions and address your concerns on this topic.

The schedule for the information sessions follows this article. We request you to complete and return the Registration Form below to the Commission Office, as soon as possible, if you will be attending one of the Information Sessions. We encourage those of you planning to attend to return the form so that we can try to have enough space at each location for all who wish to attend.

## Times and Locations

### Monday, April 24

1:30 - 4:00 P.M.

Western Nebraska Community College  
Pioneer Room  
1601 East 27th Street  
Scottsbluff, NE

### Tuesday, April 25

8:00 - 10:30 A.M.

Best Western Stagecoach Inn  
I-80 & Hwy 26 at Exit #126  
Ogallala, NE

1:30 - 4:00 P.M.

MidPlains Community College  
McDonald-Belton Campus Theater  
North Platte, NE  
(Directions: I-80 & Hwy 83-at the  
North Platte Interchange then 1 1/2  
miles south and 1/4 mile west)

### Wednesday, April 26

8:30 - 11:00 A.M.

Holiday Inn  
301 Second Avenue  
Kearney, NE

1:30 - 4:00 P.M.

Interstate Holiday Inn  
I-80 Exit #312  
Grand Island, NE

### Thursday, April 27

1:30 - 4:00 P.M.

Northeast Community College  
801 East Benjamin Avenue  
Norfolk, NE

### Friday, April 28

8:30 - 11:00 A.M.

Villager Motel  
5200 'O' Street  
Lincoln, NE

### Tuesday, May 2

Two Sessions:

8:30 - 11:00 A.M.

1:30 - 4:00 P.M.

Holiday Inn Central  
I-80 & 72nd Street  
Omaha, NE

## Registration Form AGENCY INFORMATION SESSIONS April 24 - May 2, 1995

Please check check in front of location you plan to attend:

April 24 - Scottsbluff

April 25 - Ogallala

April 25 - North Platte

April 26 - Kearney

April 28 - Grand Island

April 27 - Norfolk

April 28 - Lincoln

May 2 - 836 Omaha

May 2 - 836 Omaha

Name:

Address:

PLEASE RETURN BY APRIL 3, 1995, TO:

Nebraska Real Estate Commission

P.O. Box 3900

Lincoln, NE 68503

(This form may be reproduced)

# Future Real Estate Examinations

The following is the schedule of the dates on which the real estate licensing examinations are administered in Nebraska, and the deadline dates for filing of broker and salesperson original applications, retake applications, proof of education and examination cancellation requests for the applicable Examination Date.

Examinations for both salesperson and broker applicants are administered eleven times a year as set out on this schedule. The examination is adminis-

tered in Lincoln, North Platte and Omaha on each Examination Date and in Scottsbluff on only the January, May and September Examination Dates. All applicants for a particular examination will receive notice of the time and place of the examination approximately one week prior to that Examination Date.

Applications, proof of education, and cancellation requests are due on the date of the deadline!

The Examination Date and the deadlines are subject to change by order of

the Nebraska Real Estate Commission. Affected applicants will be notified of any changes in a timely manner.

Applications and other pertinent information regarding the real estate licensing and examination process may be obtained from the Nebraska Real Estate Commission, P. O. Box 94667, Lincoln NE 68509-4667. Telephone Number: (402) 471-2004. TDD users may use the Nebraska Relay System at (800) 833-7352.

## Real Estate Examination Schedule 1995

| <u>Examination Date</u> | <u>Broker<br/>Original Application</u> | <u>Salesperson<br/>Original Application</u> | <u>Education<br/>Deadline</u> | <u>All Retake<br/>Applications</u> | <u>Cancellation<br/>Deadline</u> |
|-------------------------|----------------------------------------|---------------------------------------------|-------------------------------|------------------------------------|----------------------------------|
| March 18, 1995          | January 31, 1995                       | February 13, 1995                           | February 27, 1995             | March 3, 1995                      | March 7, 1995                    |
| April 22, 1995          | March 7, 1995                          | March 20, 1995                              | April 3, 1995                 | April 7, 1995                      | April 11, 1995                   |
| May 20, 1995            | April 4, 1995                          | April 17, 1995                              | May 1, 1995                   | May 5, 1995                        | May 9, 1995                      |
| June 17, 1995           | May 2, 1995                            | May 15, 1995                                | May 30, 1995                  | June 2, 1995                       | June 6, 1995                     |
| July 15, 1995           | May 30, 1995                           | June 12, 1995                               | June 26, 1995                 | June 30, 1995                      | July 5, 1995                     |
| August 19, 1995         | July 5, 1995                           | July 17, 1995                               | July 31, 1995                 | August 4, 1995                     | August 8, 1995                   |
| September 16, 1995      | August 1, 1995                         | August 14, 1995                             | August 28, 1995               | September 1, 1995                  | September 5, 1995                |
| October 21, 1995        | September 5, 1995                      | September 18, 1995                          | October 2, 1995               | October 6, 1995                    | October 10, 1995                 |
| November 18, 1995       | October 3, 1995                        | October 16, 1995                            | October 30, 1995              | November 3, 1995                   | November 7, 1995                 |

Nebraska Real Estate Commission  
PO Box 94667  
Lincoln, NE 68509-4667

Bulk Rate  
U.S. Postage  
PAID  
Permit No. 212  
Lincoln, NE