



REAL ESTATE LICENSING & EDUCATION INTRODUCTION

Instructor Cees Holcombe

Class Information

Broker Class – 1 week – Sun - Sat – 60 Hrs - 8:30 am – 5:30 pm (1 hr lunch) There is no problem if you walk around the back of the room during class, if you leave the room during class do so quietly. If a block of time is missed it must be made up to receive your certificate.

PLEASE TURN OFF CELL PHONES DURING CLASSES!!!

If you fail either the national or state portions of the State Test or need more review prior to taking the test, you may repeat later Twilite Technology licensing class by contacting the school.

Goals For The Broker/Sales Class

- (1) Cover the material required for the 60 hour Certificate. This includes All Required National Information and Montana State Rules & Regulations.**
- (2) Cover additional material needed to pass the Exam.**
- (3) Present material in a way that relates to the real world of real estate by furnishing up to date Montana real estate information and sharing work experiences between instructor and students and students with students.**
- (4) Furnish broker candidates with basic understanding of the real estate world.**

**FURNISH INFORMATION TO TEACH EACH BROKER
CANDIDATE HOW TO BE A BROKER.**

**NOTE: THE PURCHASE OF A HOME IS MOST LIKELY THE
LARGEST PURCHASE A PERSON OR COUPLE WILL MAKE IN
THEIR LIFETIME, THIS IS A BIG RESPONSIBILITY.**

Brokerage & Real Estate Brokerage Overview

BROKERAGE, in general, is the business of bringing parties together for a specific purpose.

For example: mortgage brokers match lenders with borrowers, stock brokerage firms bring stock buyers & sellers together in the stock market.

Real Estate Brokerage includes individuals who work for someone else, receive valuable consideration and negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, lease, of real property, or collect rents or attempt to collect rents for the use of real property.

Real estate brokers or salespersons are licensed by the state to help parties buy, sell, exchange, or lease real property and to charge a fee for the services. They are referred to as licensees.

Real Estate Brokerage History

In the 1950's – there were mostly one office operations with a small staff, normally family run . The concept of “caveat emptor” (“let the buyer beware”) was the way the legal world looked at a buyer. If the buyer did not get what he or she thought that they were getting it was their problem as long as they were not cheated. During this time licensing requirements were simple, if you wanted to obtain a real estate license you sent a fee to the state. For example; \$5 to be a salesperson, \$10 to be a broker. There was no testing, pre-licensing courses or continuing education requirements.

In the 1960's – sharing of property information between real estate offices increased. Multiple Listing Services (MLS) were created. More rules were established with state licensing requirements, etc. During this time everyone worked for the seller by law, there was no buyer representation.

In the 1970's – agency relationships increased to include seller agency, buyer agency, dual agency, and statutory agency. Licensees are required to establish their agency relationship with both buyer and seller prior to beginning negotiations and to make sure all parties know and understand the relationships.

Now – all 50 states & D.C. license real estate brokers and salespersons based on each state's rules and regulations. The Association of Real Estate License Law Officials (ARELLO) furnish guidelines governing state licensing.

TO BE SUCCESSFUL IN REAL ESTATE, real estate professionals need to understand:



- (1) The many and varied aspects of the real estate profession, its language and practices **(the real estate world)**
- (2) The legal profession and its language **(the legal world)**
- (3) Appraisal profession and its language **(the appraisal world)**
- (4) Financing concepts and language **(the financial world)**
- (5) Property management concepts and terms **(the property management world)**
- (6) Title Insurance Companies and Settlement Procedures **(the title insurance world)**

Real Estate Profession

Brokerage

State Licensed persons (Licensees) who bring people together in a real estate transaction to buy or sell property

Property Management

State Licensed persons who manage and maintain real property for another & bring an owner and a tenant together to lease a property

Sub-divider Developer Dividing a larger piece of property into smaller pieces and taking the subdivided property and improving it on or off site.

Consultant Giving clients competent real estate advice, using sound judgment, based on professional knowledge.

Appraiser Estimating market value of a property, based on accepted methods, and with objective professional knowledge.

Financing Furnishing funds for real property transactions.

Home Inspector Conducting a thorough visual inspection of a real property's structural condition, operating systems, site conditions and submitting an analytical report concerning the findings that has value to a buyer or seller in a real estate transaction

Real Estate Education Real estate courses, seminars and training covering licensing and continuing education, conducting real estate pre-licensing classes

Assorted Miscellaneous Real Estate Assessors, attorneys and property tax specialists who work for local, state or national government, or corporations who fill specialized real estate needs.

Careers In Real Estate – Sales or Property Management

Single Family Residential

Licenseses may decide to list and sell only **single family residential property of one to four family units.** Located in cities, suburbs or rural areas, condos and townhouses included



Agricultural Rural licenseses may choose to sell only farms or ranches (wheat farms, cattle ranches, farm land, timberland, or orchards) **Parcels of 40 acres or more.**



Multi-Family Residential

Licenseses may specialize in apartments or apartment complexes. Multi-Family Residential (**More Than 4 Units**)



Commercial Real Estate

Specialization in only commercial real estate. Property used for business purposes, including offices, shopping centers, stores, theaters, hotels, and parking facilities just to name a few, not only locally but anywhere in the country.



Industrial Real Estate

Specialization in industrial use only property. Properties include warehouses, power plants, factories, & industrial district land.

Special Purpose Property

Licenses who list and sell post offices, closed schools, museums, cemeteries, parking lots and federal, state or local government land.

Recreation Property

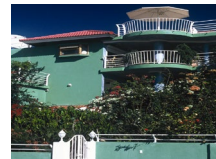
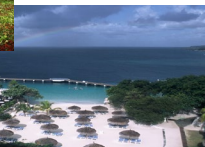
Those who sell resort/recreational use properties, resorts, Ski Areas, a Cabin In The Woods, (2nd, 3rd or 4th homes), Recreation Land

Time Share Units

Those who sell time share units for a specific property or a variety of properties (requires a special SEC license in Montana)

Worldwide Real Estate

It is possible to obtain a license in other countries All types of real property almost anywhere in the world – commercial property is a good example.





Many times the decision to work in a specific real estate field (residential, commercial, etc.) is based on the area population. Large populations with hundreds of thousands or millions of people make it impossible for licensees to know everything they need to know geographically and have expertise in different real estate fields.

Licensees in this situation normally concentrate on a specific geographic area and a specific field. A Large city may have a condominium complex so big that a licensee will only work in that specific condominium complex. For example, if the complex has 3,000 units (the size of many small towns) the licensee can generate listings and sales within that community without leaving it and make a good living doing it. Other examples are licensees who only list and sell commercial parking lots in the inner city or small town post offices throughout the nation.

Other licensees live in smaller communities where they may be the only licensee in the town or local area. This is small town USA where a licensee may be asked to list the local hardware store, a farm or ranch and homes in town. Geographically this is possible, but the difficulty of having the needed knowledge in differing real estate fields makes it risky for the licensee.

The real estate industry recommends licensees become experts in a specific field.



The Real Estate World (Listing & Selling Real Property)

The Real Estate World is governed by courts (Criminal and Tort Law), State Legislature Rules and Regulations, and Associations of Realtors' Bylaws.

The overriding control of the real estate world comes from the two different parts of the legal world. **Criminal Law**, where violations can result in jail time and/or monetary fines, and **Civil or Tort Law** (court cases) that determine acceptable and unacceptable actions in the eyes of the law that can result in monetary damages.

The 2nd level of control comes from state legislatures who establish laws concerning Licensing Rules & Regulations. Legislative actions determine who must have a license; what is necessary to keep a license; and how the public is to be treated. **THESE RULES PROTECT THE PUBLIC FROM LICENSEES.** Breaking these rules can result in fines and loss of license.

These legislative decisions are implemented by **State Boards of Realty Regulation** who approve licensees in the state where the Board is located to get a license. **With the license the licensee can work in the real estate field.**

The 3rd level of control comes from real estate associations. The largest one is the **National Association of Realtors (NAR)** whose members are **REALTORS** (a copy write trademark). Its rules govern relationships between Realtors and the public and Realtors' interaction with other Realtors. Penalties are exclusion from the organization. A licensee does not have to be a member of NAR to work in the real estate profession





World



There are situations where a licensee has been sued for an action they committed that had been done for years by all licensees and the licensee has lost. When this happens the rules and regulations are then changed to reflect the court decision.

The following slides show a court case in Montana that changed what the Board allowed.

The real estate professional must understand the legal world which is based on:

- (1) Contract Law & Terminology
- (2) Agency Law
- (3) Legal Concepts, Practices & Customs
- (4) State & Federal Legal Case History
- (5) English Common Law
- (6) State & Federal Rules & Statutes
- (7) Constitutional Police Powers

THIS COURSE IS DESIGNED TO GIVE STUDENTS A WORKING KNOWLEDGE OF ABBREVIATED LEGAL TERMS AND CONCEPTS USED IN THE REAL ESTATE PROFESSION, AND IS NOT LEGAL TRAINING IN ANY FORM

Polson Law Suit



opinion Zuazua v. Tibbles « State Law Library of Montana.url

Justice W. William Leaphart delivered the Opinion of the Court.

- ¶1 The plaintiff, Amador F. Zuazua, brought this action in the United States District Court for the District of Montana to recover damages, in part, for Defendants Tom and Carol Tibbles, Coldwell Banker Gateway Realty, and Patti Stone's failure to fulfill their duties to Zuazua under § 37-51-313(4), MCA. Zuazua moved for partial summary judgment, alleging that § 37-51-313(4), MCA, precludes a buyer agent from simultaneously representing more than one buyer competing for the same property.**
- ¶3 Does a buyer agent breach his obligation to a buyer under § 37-51-313(4), MCA, when a buyer agent simultaneously represents more than one buyer competing for the same property?**
- ¶4 Our answer is yes, a buyer agent breaches his obligation to a buyer under § 37-51-313(4), MCA, when a buyer agent simultaneously represents more than one buyer competing for the same property.**

¶18 A conflict of interest is created when the buyer agent simultaneously represents multiple-buyers for the same property in at least two ways. First, if the buyer agent is prevented from revealing confidential information (as Coldwell Banker claims is the case under § 37-51-313(4)(c)), then the buyer agent is prevented from revealing the most important piece of information she has to her buyers, i.e., the other buyer's competing bid. For example, assume a buyer agent represents buyer A and buyer B who, at the same time, wish to purchase property C. Buyer A submits a bid first, through the buyer agent, for \$100,000. B then asks the buyer agent for advice concerning what B should bid for property C. Assuming no contingencies, B will only "win out" over A's bid if B bids more than \$100,000. The buyer agent, however, is constrained from revealing the most vital piece of information that B needs to obtain the property, how much A has already bid, because A's bid price and terms are confidential. Even worse, the buyer agent, unlike a dual agent, is under no obligation to disclose the conflict of interest. *See § 37-51-313(7)(a), MCA.*

¶19 Second, using the same scenario presented above but assuming the buyer agent is allowed to inform buyer B of A's bid, then the buyer agent is in a position to drive up the price by pitting B against A, with the result that the buyer agent receives a higher commission. Again, the buyer agent, unlike the dual agent, would not be obligated to disclose the conflict to either A or B.

CONCLUSION

¶31 We hold that a buyer agent breaches his obligation to a buyer under § 37-51-313(4), MCA, when a buyer agent simultaneously represents more than one buyer competing for the same property.

In defense of the salesperson, Mr. Zuazua had not returned the salesperson's phone calls in the past and she assumed that he was no longer working with her. She had a Buyer's Agency agreement with him that was in effect when she wrote the contract on the property. This was the basis for the court determining that she was representing both buyers at the same time on the same property.

This court decision caused a change in the Relationship in Real Estate Form as follows:

95

96 Seller Agent
97 By checking this box, the undersigned consents
98 to the licensee representing multiple sellers.

99

00 Statutory Broker

01

02

03

Buyer Agent
 By checking this box, the undersigned consents
to the licensee representing multiple buyers.
 Dual Agent (by checking this box, the undersigned
consents to the licensee acting as a dual representative.)

PURPOSES OF REAL ESTATE LAWS PROTECT THE PUBLIC

- (1) Establish basic requirements for obtaining a real estate license & establish continuing education requirements**
- (2) Defining activities in real estate that then determine who must have a real estate license**
- (3) Establish acceptable standards of conduct and practice for licenses**
- (4) Enforce the standards with a disciplinary system.**

NOTE: The laws and regulations are not designed to interfere with licenses conducting their business successfully or to interfere with legitimate transactions. The rules and regulations have the same force and effect as law.

PROFESSIONAL REAL ESTATE ASSOCIATIONS (REAL ESTATE WORLD)



LOCAL REAL ESTATE ASSOCIATIONS – Are formed by real estate agencies joining together, sharing listing information and splitting real estate commissions. The listing agent receives an agreed upon commission % and the buyer agent receives an agreed upon %. Property information is entered into a **MULTIPLE LISTING SERVICE (MLS)** where property description and sales information is shared.

Local associations may cover part of a city; the entire city; multiple cities; a county; or a group of counties. The size of the geographic area covered by the **MLS depends on the area's population. There are parts of the United States with small populations where there are no associations.** To function effectively a MLS service cannot become too large.

Local associations not only share information but govern how members deal with clients, customers and each other.

STATE ASSOCIATIONS - Local Associations join together to form state associations which promotes training, **continuing education**, and helps local associations.

NATIONAL ASSOCIATION OF REALTORS – (NAR) ties state and local associations into a nationwide group. Members of this group use the copy write name REALTOR. Additional information concerning NAR **can be found at www.realtor.org**

PROFESSIONAL REAL ESTATE ASSOCIATIONS (REAL ESTATE WORLD)

There are a variety of real estate associations that help licensees gain specific knowledge in the differing real estate fields. The following associations are just a sampling.

NAREB – National Association of Real Estate Brokers is comprised of African American professionals in the real estate industry. www.nareb.com

ASA – American Society of Appraisers is the only professional valuation organization that accredits members in every appraisal discipline. It works to grow the appraisal profession and fosters professional excellence in its membership through education, accreditation, publication and other services with an emphasis on professional ethics to protect the public.
www.appraisers.org

REEA – Real Estate Educators Association mission is to provide resources and opportunities for professional development to individuals and organizations involved in Real Estate education to better serve their customer base. www.reea.org

BOMA – Building Owners & Managers Association – Is a network of professionals involved in *building ownership, management, development and leasing*. www.boma.org

PROFESSIONAL REAL ESTATE ASSOCIATIONS (REAL ESTATE WORLD)

ASREC – American Society of Real Estate Counselors - A professional organization of real estate investment counselors and consultants. Affiliated with the National Association of Realtors®. Awards the designation of Counselor of Real Estate (CRE) and publishes the journal *Real Estate Issues*.
<http://www.answers.com/topic/american-society-of-real-estate-counselors-asrec>

CCIM – Certified Commercial Investment Member - A Certified Commercial Investment Member (CCIM) is a recognized expert in the disciplines of commercial and investment real estate. A CCIM is an invaluable resource to the commercial real estate owner, investor, and user, and is among an elite corps of more than 9,000 professionals who hold the CCIM designation across North America and more than 30 countries. Nearly 10,000 additional professionals are pursuing the CCIM designation. www.ccim.com

ARELLO - Association of Real Estate License Law Officials is an international organization whose members are primarily real estate policy makers. Most states utilize ARELLO certification of real estate training materials or programs as an accepted standard for their licensing mandates. ARELLO membership is composed of commissioners from state real estate licensing agencies; formerly National Association of Real Estate License Law Officials (NARELLO). www.ARELLO.Org

Reciprocity

In real estate, license reciprocity is an agreement between states to issue licenses to applicants from other states with credit for their courses or license level to reduce requirements. Reciprocal licensing arrangements exist between states that allow an agent or broker to get a license based on their current license in another state.

Reciprocity agreements exist only with Alberta Canada.

I've Got A Broker License – Now What?

The Very 1st Thing is to Meet With Licensees

As a broker with salespersons working for you, they will look to you for guidance and assistance so that they can become successful. One of the most critical areas is that the salespeople must understand that they are basically self employed and are starting a business of their own.

You can help by giving them direction in their real estate activities, by helping them set goals, work and training schedules. How do you do this?

(1) Help Them Set Goals Based On Their Expectations (What Is The Desired Earnings Level The 1st Yr, 2nd Yr, etc?)`

2) Determine Specific Steps To Achieve The Goals – How Many Listings/Sales per year?

3) Determine Specific Steps To Get The Number Of Sales/Listings Needed. – How many contacts, business cards, phone calls do they need each day. How many newsletters should be published, if newsletters are part of the marketing plan?

(4) Start A Training Program For Your Salespersons – **THEY MUST LEARN THE FORMS, View Properties Listed In The Office – Learn About As Many Properties For Sale As Possible – Go To Open Houses – Go To MLS Meetings.**

(5) Work To Become An Authority In The Real Estate Area Chosen – Residential, Farm & Ranch, Commercial, Multifamily, etc. – Take Appropriate Continuing Education Classes, Work With Experts.

(6) Work with each salesperson to help them **Set A Work Schedule And Stick To It. 8 Hours a day, minimum, 5 days a week?**

(7) Meet Regularly With Salespersons Review Their Progress and What They Are Doing and Need To Do. Be Honest With The Salespersons And Give The Help Needed.