

COMMISSION CORNER

By Bruce D. Osborne

Field Investigator, Maine Real Estate Commission

UNLICENSED ASSISTANTS

Commission staff members are often asked what an unlicensed office assistant in a real estate agency is allowed to do. The most direct answer is that they may not engage in real estate brokerage without a current real estate brokerage license issued by the Maine Real Estate Commission.

Under Maine law (32 M.R.S. § 13001), “Real Estate Brokerage” is defined as “a single instance of offering, attempting to conduct or conducting services on behalf of another for compensation, or with the expectation of receiving compensation, calculated to result in the transfer of an interest in real estate. Real estate brokerage includes, but is not limited to, the following activities conducted on behalf of another:

- a. Listing real estate for sale or exchange;
- b. Promoting the purchase, sale or exchange of real estate;
- c. Procuring of prospects calculated to result in the purchase, sale or exchange of real estate;
- d. Advertising or holding oneself out as offering these services;
- e. Negotiating the purchase, sale or exchange of real estate;
- f. Buying options on real estate or selling real estate options or the real estate under option;
- g. Acting as a finder to facilitate the purchase, sale or exchange of real estate; and
- h. Buying, selling or exchanging real estate.”

Thus, some examples of activities an unlicensed assistant **cannot** perform:

- 1. Prepare a listing agreement or buyer representation agreement for a client except as directed by the licensee;
- 2. Show any property or host an open house;
- 3. Make cold calls by telephone or in person to potential sellers or buyers;
- 4. Explain or discuss listings, offers, contracts, or other transaction documents;
- 5. Offer opinions, advice, interpretations, or engage in negotiations;
- 6. Perform a walk-through inspection;
- 7. Be paid a commission on transactions closed by the licensee;
- 8. Provide advice in response to questions on title, financing, or closings (other than the time and place);
- 9. Sign real estate transaction documents; or
- 10. Perform other activity for which a license is required under Maine law.

Permissible tasks by an unlicensed assistant include:

1. General clerical duties such as typing of letters and filing;
2. Answering phone calls, arranging appointments and showings;
3. Assemble documents for closing;
4. Write and place ads with approval of licensee and the designated broker;
5. Type contract form as dictated by licensee;
6. Gather information for a comparative market analysis to be prepared by broker from public sources (such as the registry of deeds or the town office);
7. Obtain documents (other public information) such as from a courthouse, municipality, or utility district for the property file;
8. Answer questions about properties listed for sale with factual information obtained from approved printed information (such as the MLS synopsis);
9. Placing or removing signs as directed by licensee;
10. Make and deliver copies of any public record;
11. Perform company bookkeeping;
12. Receive, record and deposit earnest money (if allowed by the designated broker);
13. Have keys made for agency listings, order surveys, home inspections, waste water disposal system inspections or other such similar tasks;
14. Prepare flyers and promotional information for approval by licensee;
15. Hand out objective, written information (such as property disclosure information, the deed and tax map) on a listing;
16. Install or remove lock boxes from a listing as directed by licensee; and
17. Enter information into the MLS at the direction of the licensee.

Additional questions about tasks that unlicensed assistants may perform should be addressed with the company's designated broker.

IMPORTANT REMINDERS

MAIL

Mail from the Commission is sent to your agency address with a copy to your designated broker. Check your mail on a regular basis. Mail from the Commission is important. Designated brokers should alert licensees immediately when they receive mail from the Commission. Certified mail signed for at the agency office should not simply be placed in a licensee's mailbox without also providing prompt notice to the licensee that it has been received.

REPORTING REQUIREMENT

According to 10 M.R.S. § 8003-G, licensees (and applicants) must report in writing to the Commission no later than 10 days after:

- A. Change of name or address;

- B. Criminal conviction;
- C. Revocation, suspension or other disciplinary action taken in Maine or any other jurisdiction against any occupational or professional license held by the applicant or licensee;
- D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the Commission.