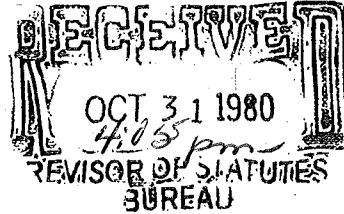


R E B 15



CERTIFICATE

STATE OF WISCONSIN)
) SS
REAL ESTATE EXAMINING BOARD)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

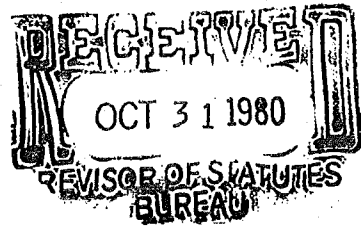
I, Cletus J. Hansen, director of the Bureau of Real Estate, and custodian of the official records of the Real Estate Examining Board do hereby certify that the annexed rules relating to conduct and ethical practices for real estate licensees, were duly approved and adopted by this board on October 28, 1980.

I further certify that said copy has been compared by me with the original on file in this board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin, this 28th day of October, A.D. 1980.



Cletus J. Hansen, Director
Bureau of Real Estate



STATE OF WISCONSIN
BEFORE THE
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE REAL ESTATE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD AMENDING
REAL ESTATE EXAMINING BOARD	:	AND ADOPTING RULES

Relating to rules concerning conduct and ethical practices for real estate licensees.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

This proposed revision to Chapter REB 15 is in response to the petition of Bronson C. LaFollette, Attorney General, for the adoption of rules relating to certain "tie-in" practices of real estate licensees, believed by the Attorney General to be in violation of s. 133.01 of the Wisconsin Statutes.

The conduct which would be prohibited by adoption of the rules suggested by the Attorney General is similar in nature to that contained in current Chapter REB 15. Accordingly, the rule suggestions of the Attorney General are proposed as an addition to Chapter REB 15. Analysis by section follows:

Section REB 15.02(2) is renumbered s. REB 15.01(3). This subsection has been removed from s. REB 15.02 Definitions because it relates more fittingly to the general principles in s. REB 15.01.

Section REB 15.01(4) links violations of REB 15.075 to s. 452.10(2)(k), Stats. The Attorney General suggested that the tie-in practices should be considered "improper, fraudulent or dishonest dealing."

Sections REB 15.02(1) through (3) and (5) define terms found in the tie-in prohibitions of s. REB 15.075.

Section REB 15.02(1) is renumbered s. REB 15.02(4) in the proposed rule to place definitions in alphabetical order.

Section REB 15.05(3) prohibits a licensee from knowingly failing to state the price of property, and the cost of services included in a sale, or failing to disclose any unknown requirement which is a condition of the sale of property or receipt of services prior to submitting an offer to purchase to a buyer or seller.

Section REB 15.07(3) prohibits a licensee from making statements about another licensee, or about property, which the licensee knows to be false.

Section REB 15.075 prohibits specific conduct which the Attorney General believes to be objectionable under the trade regulation law.

According to the petition of the Attorney General, the inquisitorial proceedings commenced under authority of s. 133.01, Stats., revealed that the following described practices tend to 1) restrain, restrict and suppress competition within the housing industry; 2) inflate the cost to consumers of purchasing and improving vacant land; and 3) compel the use of a broker's services whether those services are desired or not. Specifically,

Section REB 15.075(1) prohibits a licensee from selling real estate to a builder contingent upon the builder's agreement to enter into a listing contract with the licensee for the sale of a speculation home, and it prohibits a licensee from making the sale of property contingent upon the buyer's agreement to list his or her current home for sale with the licensee. In both cases the rule refers to the sale of property owned by the licensee or whose sale is effectively controlled by the licensee.

Section REB 15.075(3) prohibits licensees from conditioning the sale of property owned by them or whose sale is effectively controlled by them upon the buyer's agreement to have one or more specific builders build on the lot. However, three exceptions to the general policy are listed. As elsewhere in this proposed revision, in the first two exceptions, full disclosure is required.

Section REB 15.075(5)(c) permits the exclusion of one or more specific builders who do poor quality work or who are not able to build structures which maintain architectural uniformity.

Section REB 15.085 is a new section which prohibits a licensee from hiding any tie-in relationship between the licensee and a builder in a written document. In general, it prohibits a use of documents to falsely portray the interests of parties involved in a transaction.

Section REB 15.17(2) is revised to make violations of the law and rules administered by the board grounds for disciplinary action, in addition to violations of disciplinary orders.

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to authority vested in the Real Estate Examining Board in ss. 15.08(5), 227.014 and Chapter 452, Wis. Stats., the Real Estate Examining Board hereby amends and creates and adopts rules interpreting s. 452.10(2)(i) and (k) of the Wisconsin Statutes as follows:

1. Section REB 15.01(3) of the Wisconsin Administrative Code is renumbered s. REB 15.01(5).

2. Section REB 15.01(4) of the Wisconsin Administrative Code is created to read:

(4) If a licensee violates the rules set forth in s. REB 15.075 of this chapter, the licensee has engaged in improper, fraudulent or dishonest dealing as those terms are used in s. 452.10(2)(k), Stats. However, the terms "improper, fraudulent or dishonest dealing" are not limited in their meaning to violations of s. REB 15.075.

3. Section REB 15.02(2)(title) of the Wisconsin Administrative Code is repealed.

4. Section REB 15.02(1) of the Wisconsin Administrative Code is renumbered s. REB 15.02(5).

5. Section REB 15.02(2) of the Wisconsin Administrative Code is renumbered s. REB 15.01(3).

6. Sections REB 15.02(1) through (4) and (6) of the Wisconsin Administrative Code are created to read:

(1) "Builder" means any person engaged in the business of constructing speculation homes or contract homes.

(2) "Commonly controlled corporation" means the same person or persons own stock in both corporations, possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of both corporations.

(3) "Contract home" means a home built by a builder under contract with a buyer.

(4) "Effectively controlled" means having the power or authority to cause the transfer of an interest in real estate for oneself or another but does not include the authority conferred by a real estate listing contract.

(6) "Speculation home" means a home built by a builder to be placed on the market without a prior contract with a buyer.

7. Sections REB 15.05(3) and (4) of the Wisconsin Administrative Code are renumbered to read ss. REB 15.05(4) and (5), respectively.

8. Section REB 15.05(3) of the Wisconsin Administrative Code is created to read:

(3) DISCLOSURE OF FEES AND COMMISSIONS. Licensees shall disclose to the buyer of any property owned or effectively controlled by them; (a) the price of such property; (b) any commissions or fees payable directly or indirectly to them as a result of the sale; and, (c) any requirement imposed by them as a condition to the sale of such property to the buyer and any commissions or fees payable directly or indirectly to them for imposing such requirement. This disclosure must be in writing and must be given before any agreement to purchase the property signed by the buyer is accepted.

9. Section REB 15.07(3) of the Wisconsin Administrative Code is created to read:

(3) FALSE INFORMATION. Licensees shall not knowingly give false information about another licensee or property listed with another licensee.

10. Section REB 15.075 of the Wisconsin Administrative Code is created to read:

15.075 Tie-in arrangements. Licensees shall not:

(1) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee to a buyer upon the buyer's agreement to purchase another parcel or real estate.

(2) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to list the real estate or other real estate owned by the buyer with the licensee.

Note: The following are two common examples of activities which would violate this subsection: (1) requiring a builder to list a speculation home with the licensee; and (2) requiring a buyer to list a present home with the licensee.

(3) Condition the sale of vacant real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to employ one or more specific builders to make improvements on the real estate unless:

(a) The builder owns a bona fide interest in the real estate; and there is full disclosure as specified in s. REB 15.05(3).

(b) The builder and the licensee or the builder and the owner of the real estate are the same person or are commonly controlled corporations and whose business is selling improved property and not vacant land; and there is full disclosure as in s. REB 15.05(3).

(c) The agreement is a bona fide effort to maintain development quality or architectural uniformity and no consideration passes from contractor to licensee for soliciting this agreement.

11. Section REB 15.085 of the Wisconsin Administrative Code is created to read:

REB 15.085 False portrayal of interest, prohibited. No licensee shall draft or use any document which the licensee knows falsely portrays an interest in real estate.

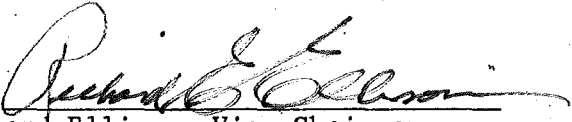
12. Section REB 15.17(2) of the Wisconsin Administrative Code is amended to read:

(2) VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND DISCIPLINARY ORDERS. Licensee shall not violate any provisions or terms or conditions of, or aid or abet the violation of Chapter 452 of the Wisconsin Statutes, Chapters REB of the Wisconsin Administrative Code or any formal disciplinary order of the real estate examining board.

The rules contained in this order shall take effect on the first day of the month, following publication in the Wisconsin administrative register, pursuant to s. 227.026, Stats.

Dated this 28 day of October, 1980.

BY:


Richard Ellison, Vice Chairman
Real Estate Examining Board

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