

# Garrett County Board of REALTORS®

GCBR News Briefs - January 2008

January 1, 2008

## *Membership Update*

### *New REALTOR® Members:*

Brandi Anderson, United Country Humberson Homes

### *Transfers:*

### *New Affiliate Members:*

Cindy Corley, Terminix International – Affiliate Member

### *Drops:*

Gary Cessna, Re/Max Lake Connections

John DeWitt, Coldwell Banker Deep Creek Realty

Lisa Ferrell, Long & Foster Real Estate, Inc.

Jarrod Hauser, United Country – Humberson Homes, Inc.

Robin Moreau, Long & Foster Real Estate, Inc.

John Simson, Railey Realty

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## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Interested in Wind Power in Garrett County? – mark your calendars for an important public meeting:**

The DNR has announced that it will be holding two public meetings to solicit public input on the issue of allowing the development of commercial wind power turbines on Maryland's public lands. This is a result of a two-year effort by the DNR and US Windforce (A Pennsylvania wind power company) to identify potential wind farm sites on Savage River and Potomac-Garrett State Forests.

Our Board has been working diligently to research the matter and to obtain detailed information for its members. Unfortunately, even though the idea has been under consideration for months, neither the DNR nor US Windforce have released any public information on the matter.

Verbally, both entities have supplied us with information similar to what was recently posted in the news media. It appears that approximately 100 turbines could eventually be built on the state forest ridge tops.

According to DNR Secretary John Griffin, "...our public lands belong to Maryland's citizens and it is critical they have a voice in a decision-making process that could forever change our rural landscape."

Those interested in voicing their opinions on the proposal should attend one of these two public meetings. The first will be held in Garrett County on Wednesday, January 23, at 6:30 PM at Grantsville Elementary School. A follow-up meeting is planned on Thursday January 24 in Anne Arundel County, at 6:30 PM at the Arundel Center at 44 Calvert Street, Annapolis.

At the urging of a number of members, the Board will consider whether or not GCBR should take a formal position on the matter either way at its meeting on January 3.

#### **TVRU ordinance – a new approach to allowing rentals to diverse groups:**

The county's zoning staff has proposed a new tact designed to end the restriction that TVRUs may only be rented to "single family" groups, as defined in the zoning ordinance. At the December Planning Commission meeting, the county proposed that the definition of a TVRU in the zoning ordinance should have the "single family" terminology deleted.

This is a positive development. If the county commissioners approve it, it will help many resort property owners with rental properties. Deep Creek Lake will become much more welcoming to typical small groups of senior citizens, church and small business retreats, and similar non-traditional tenants.

As noted, the matter must still be taken up by the county commissioners for approval. We anticipate hearings on the matter some time in January.

#### **Update on DNR Proposal to Change Personal Watercraft (PWC) Regulations:**

Since our last report, there has been no change in DNR's efforts to update its lake regulations dealing with how PWCs may be kept or moored at dock permit sites. We anticipate that this effort will start up again after the first of the year.

You may e-mail Paul Durham at [pdurham@cebridge.net](mailto:pdurham@cebridge.net) if you would like to have a copy of the DNR proposal sent to you.

#### **"Unsafe Structures" Ordinance Passes on County Level:**

The County Commissioners have approved their proposed unsafe structures ordinance. According to county staff, their enforcement approach will be on a case-by-case basis and will be mostly complaint driven. Farm structures are exempt from the ordinance.

The ordinance can be viewed on-line at

<http://www.co.garrett.md.us/PlanningLand/PlanningZoning/Planning.aspx>

#### **Deep Creek Power Station Repairs Completed:**

Brookfield Power has reported that the repairs to its plant are completed, the valves and turbines tested, and the station is back to its normal operational status. Because of the outage, the lake level in mid-December had exceeded the 2458' rule band. The power company generated daily to lower the lake. As of this writing, the lake is now within the permitted winter elevations.

Brookfield updates its lake level report daily. The report can be found on the internet at...

<http://www.deepcreekhydro.com/>



## Continuing Education

### Mark Your Calendars:

**FRIDAY, JANUARY 18, 2007**

#### Session 1

Topic A - "Real Estate Contracts" 10:00 - 11:30 am (1.5 hrs.)  
Instructor - Chuck Kaszy, MAR Director of Legal Affairs  
Course will include: Introduction to Contract Law, Contract Elements, Contract Performance, MAR Residential Contract and Question & Answer period

#### Session 2

Topic A - "Legal Hotline and "HOT" Topics" 1:00 - 2:30 pm (1.5 hrs.)  
Instructor - Chuck Kaszy, MAR Director of Legal Affairs  
Review of most asked legal questions to include: contracts, Agency, Procuring Cause, Disclosures, Advertising and Question & Answer period

REALTOR® Cost - \$15 per class or both classes for \$25

Non-REALTOR® Cost - \$30 per class or both classes for \$30

**Deadline to register is Friday, January 11, 2008**

Flyers have been sent out. For any questions please call the OCBR office at 301-334-8405.

NOTE: No reservation will be made until payment is received.

## MD Real Estate License Renewal Requirements

### Required Topic for ALL Licensees

1. Topic D - Real estate ethics or professional standards – 3 clock hrs.
2. Topic A – Federal, state or local legislative issues – 3 clock hrs.
3. Topic C – Fair Housing Law – 1.5 clock hrs.

### Hours Requirements

Less than 10 years of licensure – 15 clock hrs.

At Least 10 years of licensure – 9 clock hrs.

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Maryland Association  
of REALTORS®

## MAR TOWN HALL MEETING

Join your colleagues for an informal complimentary lunch, meet the 2008 Leadership and staff, and get the answers to those questions... whether it's a legislative, regulatory, legal, contract, "help me," or a "when or why" question, this is the time and place to get the answers. MONDAY, MARCH 17, 2008, MARTINS WESTMISTER, 140 Village Shopping Center, 505 Jermor Land Road, Westminster, Maryland 21157, 11:30 AM – 1:30 PM (INCLUDES LUNCH) Register with Katie Pantos at MAR – 410-841-6080, [katie.pantos@mdrealtor.org](mailto:katie.pantos@mdrealtor.org) and give her your name and the name of your Board.

## MAR Legislative Day

January 16, 2008 at the Loews Hotel in Annapolis.

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## NAR – National Association of REALTORS®

### 2008 Changes to the Code of Ethics and Standards of Practice

Changes to the Code of Ethics and Standards of Practice  
(underscoring indicates additions, strikeouts indicate deletions)

- Article 12 revised

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

- New Standard of Practice 12-12

REALTORS® shall not:

Use URLs or domain names that present less than a true picture, or register URLs or domain names which, if used, would present less than a true picture. (Adopted 1/08)

- New Standard of Practice 12-13

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled. (Adopted 1/08)

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The terms REALTOR® and REALTORS® are trademarks of the NATIONAL ASSOCIATION OF REALTORS®. The trademarks, along with the Code of Ethics and Standards of Practice, set members apart from other real state licensees. NAR has adopted certain rules intended to preserve the value of the REALTOR® trademarks for all members, current and future. Take this quiz to see how much you know about the proper use of the REALTOR® trademark.

**1. Which is true with regard to the color of the Block “R” Logo?**

- ☐ A. The official colors of the Block “R” Logo are red and green.
- ☐ B. The color of the block and the term REALTOR® below the block will always be the same.
- ☐ C. When using a single color, the logo may only be printed in blue or black.
- ☐ D. There are no limits on the number of colors that may be used to create the logo.

**CORRECT ANSWER: B. The color of the block and the term REALTOR® below the block will always be the same.** The official colors for the logo when it is reproduced in two colors are blue and gold (or red and gold for commercial members), but there may never be more than the two colors in the logo. When using a single color, the logo may appear in any color that clearly contrasts with the color of the paper or other background on which the logo appears.

**2. Which of the following is a true statement regarding how the Block “R” Logo may be used?**

- ☐ A. Combined with other geometric shapes to provide a more colorful appearance.
- ☐ B. As the first letter in a word beginning with the letter “R”.
- ☐ C. On advertising promotional materials as long as the member’s name and address also appear on those materials.
- ☐ D. On the business card of a non-member salesperson affiliated with a REALTOR® principal.

**CORRECT ANSWER: C. On advertising promotional materials as long as the member’s name and address also appear on those materials.** Members may use the Block “R” Logo in connection with their own name on advertising and promotional materials for their real estate business.

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# Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

Case #2-6: Misrepresentation (Reaffirmed Case #9-12 May, 1988. Transferred to Article 2 November, 1994.)

REALTOR® A, a cooperating broker, had shown four houses to Buyer B, and Buyer B's wife had asked to see one of them a second time. There was a third inspection, and a fourth. They seemed at the point of decision but said they would like to "sleep on it". When there was no word the next day, REALTOR® A called. Buyer B said he was a bit hesitant on the price; that some transfer of executives in his company had been rumored; that this could affect him within the year; that he hesitated to buy at a price that might mean taking a loss if he should be transferred within a year.

REALTOR® A tried to reassure the prospect by telephone. Then he dictated a letter stating that the house was an exceptional bargain at the asking price and "our office guarantees to get your money out of it for you any time in the next year if you should need to sell." Buyer B came in and signed the contract.

Six months later, Buyer B came to REALTOR® A as a seller. He was being transferred. He would need to get his equity out of the house to be able to afford a purchase in the new community. REALTOR® A listed the house at the price Buyer B had paid for it. After a month there had been no offers. Buyer B reminded REALTOR® A of his written assurance that his office had guaranteed he would get his money out of the house within the year.

REALTOR® A explained that the market had become much less active and that Buyer B might have to reduce his price by \$10,000 to \$15,000 to attract a buyer. Whereupon, Buyer B filed a complaint with the Board of REALTORS® charging REALTOR® A with misrepresentation, exaggeration, and failure to make good a commitment. After examination of the complaint, the Grievance Committee referred it to the Professional Standard Committee for a hearing.

In response to questioning by the Hearing Panel, REALTOR® A admitted that he had written the letter to Buyer B in good faith and, at the time the letter was written, he had been certain that his office could obtain a price for the property that would ensure Buyer B was "getting his money out of the house." However, REALTOR® A explained that although he had held such an opinion in good faith, the market had softened and now the circumstances were different. The Hearing Panel reminded REALTOR® A that the pertinent fact being considered was not his opinion at the time of the previous sale as compared to his opinion now, but rather his written "guarantee" to Buyer B and his current failure to make good his written commitment. It was the conclusion of the Hearing Panel that REALTOR® A had engaged in misrepresentation and was in violation of Article 2.

# Garrett County Board of REALTORS®

# GCBR News Briefs - February 2008

February 1, 2008

## Membership Update

***New REALTOR® Members:***

## Mark Russell – Wisp Resort Development

Paul Naylor – Deep Creek Appraisal Assoc., Inc.

David Nordeck – Deep Creek Appraisal Assoc., Inc.

**Transfers:**

None

***New Affiliate Members:***

Office name change *American Mortgage* has changed to

## First Home Mortgage

Shirley Bernard

317 East Oak Street, Suite 2

Oakland, MD 21550

301-533-0535 (office)

bernardsa@verizon.net

# Bank of America

Roger Raynor

849 Fairmount Ave Suite # 300

Towson, MD 21286

410-512-0741 (office)

410-375-1893 (cell)

410-512-0783 (fax)

[roger.s.raynor@bankofamerica.com](mailto:roger.s.raynor@bankofamerica.com)

***Drops:***

Stacie Larew - Coldwell Banker Deep Creek Realty

Keri Lucas – Railey Realty

Judi Fang – Re/Max Lake Connection

Micki Khademi – Long & Foster Real Estate, Inc.



## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Wind Power Issue – REALTOR® ALERT**

The publishing of this newsletter straddles two important public meetings, the results from which might effect the economic well-being and the quality-of-life in Garrett County for generations. As most you have probably heard by now, the DNR conducted a public meeting on Wednesday, January 30 at 6:30 PM at Garrett College to solicit public input on a proposal to allow wind power development on public lands. Most effected are several sites in Garrett County's own Savage River and Potomac-Garrett State Forests.

The Board has examined the issue closely and voted to take a position in opposition to building wind turbines on public lands. The Board is also consulting with MAR to see what help they might be able to provide us.

Many Realtors® have participated personally in the issue and are to be commended for their professionalism and very well researched comments and input.

Garrett County's economic base, which relies heavily on tourism and resource-based recreation, requires high quality and visibly appealing open space. Industrializing the State's portion of that open space, which up to now has benefited from the state's policies of protection and wise planning of its forest resources, jeopardizes an otherwise valuable aesthetic. The results place property values and tourism at risk.

According to DNR Secretary John Griffin, "...our public lands belong to Maryland's citizens and it is critical they have a voice in a decision-making process that could forever change our rural landscape."

If you have not already done so, please take a few minutes to register your opinion on this matter by going to the DNR's on-line

<http://www.dnr.state.md.us/sustainability/wpm/>

The comments that the DNR has already received can be viewed at

<http://dnrweb.dnr.state.md.us/sustainability/listings.asp>

As of JAN 23, out of 213 comments, 78.4% oppose wind mills on public land, 19.2% are in favor, with 2.3% remaining neutral.

### **GCBR Participates in Meeting Legislative Committee Meeting and Reception**

Board President Rich Orr, Executive Officer Barb Butler, and Government Affairs Director Paul Durham participated in MAR's pre-session legislative committee meeting and reception on JAN 16<sup>th</sup>. Senator George Edwards was able to attend and we had a very productive discussion on issues that effect real estate in Garrett County. MAR will be tracking a number of bills and issues in the 2008 session that effect Realtors®, including:

Lead Paint – innocent purchaser provisions, providing a limited time for new owners to repair and register property without incurring liability



[illegible]



## MAR TOWN HALL MEETING

Join your colleagues for an informal complimentary lunch, meet the 2008 Leadership and staff, and get the answers to those questions... whether it's a legislative, regulatory, legal, contract, "help me," or a "when or why" question, this is the time and place to get the answers. MONDAY, MARCH 17, 2008, MARTINS WESTMISTER, 140 Village Shopping Center, 505 Jermor Land Road, Westminster, Maryland 21157, 11:30 AM – 1:30 PM (INCLUDES LUNCH) Register with Katie Pantos at MAR – 410-841-6080, [katie.pantos@mdrealtor.org](mailto:katie.pantos@mdrealtor.org) and give her your name and the name of your Board.

## SPECIAL ANNOUNCEMENT

**You may now submit Legal Hotline questions via the Web-Question Form.** Go to [www.mdrealtor.org](http://www.mdrealtor.org), Login, Click on Legal Hotline from top menu.

Free, authoritative legal advice is available by calling the MAR Legal Hotline. Questions on all aspects of real estate law are answered. Sales agents may call the hotline up to four times per year; designated REALTORS® have unlimited calls. A written response is provided to the caller and the identified broker or office manager. For sales agent an email counts as a call to the hotline.

### Open

Monday, Wednesday & Friday

Hours of operation:

10:00 am – Noon

2:00 pm – 4:00 pm

Call 1-800-888-1272

## Maryland Real Estate Commission

### MEMO ON TEAMS

The Real Estate Commission frequently receives questions about "teams", "team members", and the relations of teams to the brokerage with which the licensees are affiliated. Here is some of the information that is provided to those who inquire.

- There is no provision in Maryland real estate licensing law for teams within brokerages. The only recognized entity in the law is the brokerage; the only licenses are broker, associate broker, and salesperson. So there are no special rules for teams. Members of teams must obey all the licensing laws with regard to their affiliation with their broker.

- A team group leader is not a supervisor, unless that person is the branch office manager or the broker. The branch office manager or broker is responsible for the supervision of all licensees affiliated with the broker. That person must comply with all the supervision requirements set forth in the regulations. A branch office manager or broker who fails to provide the required supervision could face disciplinary charges brought by the Commission.
- The name of the brokerage must be meaningfully and conspicuously displayed in all advertising. The telephone number of the broker or branch office manager must be included in all advertising.
- Real estate brokerage services may only be provided through the main office of the broker or a branch office approved by the Commission. A team may not operate out of any other office.
- The activities of unlicensed individuals, or individuals licensed with another brokerage, must be strictly monitored. The Do's and Don'ts on the Commission's websites sets forth the permissible, and impermissible, activities of these individuals.
- All trust money must be promptly submitted to the broker for deposit in the broker's escrow account, unless a written contract provision calls for a different disposition.
- Dual agency may only occur under narrowly defined conditions. The broker or a designee of the broker must obtain the written informed consent of all parties for the broker to act as the dual agent. The broker or the broker's designee then assigns one licensee to act as the intra-company agent for one party, and a second licensee to act as the intra-company agent for the other party. An intra-company agent must be either an associate broker or a salesperson. A broker may not be an intra-company agent. If the broker designates 2 members of a team to be intra-company agents for the parties, those individuals must exert great care in ensuring that disclosure of confidential information does not take place.
- If a broker offers any financial bonuses to licensees affiliated with the broker for the sale of a property listed with the broker, the broker must provide each party with a statement that discloses that bonuses are being offered. If there are similar financial incentives offered within the team, those must also be disclosed.

**There is no provision in Maryland real estate licensing law for teams or groups operating within a brokerage. The only license categories are broker, associate broker, and salesperson. The only recognized entity is a brokerage. Those licensees who choose to operate within a team or group must follow all applicable licensing provision.**

### **YES**

- ✓ The broker or branch office manager must supervise all team or group members, and is responsible for all real estate brokerage services that they provide.
- ✓ The name of the brokerage must be meaningfully and conspicuously displayed in all advertising.

- ✓ The main telephone number of the broker or branch office manager must be included in all advertising.
- ✓ All real estate brokerage activities must be provided through the main office of the broker or a branch office approved by the Commission.
- ✓ All records of real estate transactions must be kept in the broker's main office or an approved branch office.
- ✓ All trust money must be promptly submitted to the broker for deposit in the broker's trust account, unless a written contract provision calls for a different disposition.
- ✓ The broker or a designee of the broker must obtain written informed consent of all parties for the broker to act as a dual agent.
- ✓ The broker or the broker's designee must assign two licensees (associate brokers or salespersons) to act as intra-company agents for the parties to the transaction.
- ✓ The broker must provide all parties with a written disclosure concerning financial bonuses offered for the sale of property listed by the brokerage.

- ✦ A team or group leader is not a supervisor for the purposes of the licensing law unless that person is the broker or a branch office manager.
- ✦ A team or group may not offer real estate brokerage services at a location other than the broker's main office or a branch office approved by the Commission.
- ✦ Unlicensed individuals or licensed individuals affiliated with another brokerage may not provide real estate brokerage services. See the Do's and Don'ts on the Commission's website.
- ✦ A broker may not be an intra-company agent. Only associate brokers and salespersons may be designated as intra-company agents.
- ✦ A team or group member acting as an intra-company agent may not disclose confidential information about the party he or she represents to anyone other than the broker.
- ✦ Financial bonuses for sales of property listed by a team or group member may not be paid unless there is prior written notice of the incentive offer to all parties to the transaction.



## MRIS Secure Login

MRIS “cutover” for secure login happened at midnight on January 28, 2008. This means you will only be able to access the system with your token.

Transaction management versus agent’s responsibility to protect client info.

Why? When we think about the amount of content contained in the MLS, we probably think about all the information that is out there on the public Web sites. But there is more to it than that. Our customers rely on the content that we as real estate professionals have at our disposal. They appreciate the services we can provide to them through transaction management. Our customers trust in us to make sure that all parts of their transaction are being handled properly and securely. With Secure Login and the SAFEMLS® system, that trust is well placed. The Secure Login token is being used by over a quarter of a million real estate professionals – 34 MLSs—nationwide. It is fully mobile and can be used on any computer you use to conduct business. The token is a self-contained device; all of the passwords that you could ever need are stored in it, ready for access any where in the world. This is the best strong authentication device currently available for our industry. Look for other options in the near future, such as text messaging for cell phones, PDAs, and lockboxes.

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# NAR – National Association of REALTORS®

## Interpretations of the Code of Ethics

The Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® establishes a public and professional consensus against which the practice and conduct of REALTORS® may be judged. In joining a Board of REALTORS®, REALTORS®, signify their intention to abide by the Code and thereby enhance the public and professional image of themselves and all other REALTORS®. Adherence to the Code is the first great bond between REALTORS® throughout the country.

“Interpretations of the Code of Ethics” has been developed by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS® to help REALTORS® understand the ethical obligations created by the Code of Ethics, and as reference work for Grievance Committees, ethics and arbitration Hearing Panels, and Boards of Directors.

In this edition of the Garrett County Board of REALTOR® New Briefs provided for your review is a case interpretation related to Article 12 of the REALTOR® Code of Ethics.

REALTORS® shall be careful at all times to present a true picture in their advertising and representations to the public. REALTORS® shall also ensure that their professional status (e.g., broker, appraiser, property manager, etc.) or status as REALTORS® is clearly identifiable in any such advertising. (Amended 1/93)

REALTOR® X, a principal broker in the firm XYZ, was technologically savvy and constantly looking for ways to use the Internet to promote his firm and drive additional traffic to his web site.

REALTOR® X and his information technology staff concluded that one way to drive traffic to the firm's Web site would be to take advantage of the search engines commonly used by potential buyers and sellers. They realized that when potential buyers or sellers searched on key words like "real estate" or REALTORS®" or on similar words, lists of domain names would appear, and that when consumers searched the Internet for ABC, REALTORS®, one of the domain names that might appear would be REALTOR® X's domain name, abcREALTORS.com.

At the hearing, REALTOR® X defended himself indicating that, in his opinion, use of a domain name was not advertising or a “representation” to the public but simply a convenient way for Internet users to find relevant Web sites. Moreover, “When web surfers reach my home page, there is no question that it is my site since I clearly show XYZ’s name and our status as REALTORS®, he continued. “These complaints are just a lot of sour grapes from dinosaurs who aren’t keeping up and who don’t realize that on the Internet it’s every man for himself.”

REALTOR® X was found in violation of Article 12, presenting an untrue picture in his representation to the public.

[illegible]

The terms REALTOR® and REALTORS® are trademarks of the NATIONAL ASSOCIATION OF REALTORS®. The trademarks, along with the Code of Ethics and Standards of Practice, set members apart from other real state licensees. NAR has adopted certain rules intended to preserve the value of the REALTOR® trademarks for all members, current and future. Take this quiz to see how much you know about the proper use of the REALTOR® trademark.

**1. The Code of Ethics is based on the concept of?**

- ☐ A. Let the buyer beware.
- ☐ B. Let the seller beware.
- ☐ C. Let the public be served.
- ☐ D. Let the public fend for themselves.

CORRECT ANSWER: *C. Let the public be served.* When the Code of Ethics was adopted in the early 1900s, the rule of law was “caveat emptor” (“Let the buyer beware”). The Code took a different approach, based on the motto “Let the public be served.” One of the foundations of the Code is protection of the public.

**2. The code of Ethics was adopted?**

- ☐ A. To establish standards of conduct for the industry.
- ☐ B. Only as “recommendations” for proper conduct.
- ☐ C. In 1931
- ☐ D. Long after real estate licensing laws were in existence.

CORRECT ANSWER: *A. To establish standards of conduct for the industry.* There were no real estate licensing laws when the Code was adopted in 1913. One of the primary purposes of the Code was to establish professional standards of conduct for the real estate industry.



# Garrett County Board of REALTORS®

## GCBR News Briefs - March 2008

March 1, 2008

## Membership Update

***New REALTOR® Members:***

Justin Scarpelli, United County Humberson Homes

Judi Fang, Re/Max Three Corners

***New REALTOR® Office:***

RE/Max Three Corners

19105 Garrett Hwy.

Oakland, MD 21550

301-387-3484 (office)

301-387-5291 (fax)

Broker: Melita McCroskey

McCroskey & Associates

19105 Garrett Hwy.

Oakland, MD 21550

301-387-3484 (office)

301-387-5291 (fax)

Broker: Melita McCroskey

**Transfers:**

Lisa Mauricci, GRE Referral, LLC

***New Affiliate Members:***

None

***Drops:***

Bob Bodell, Chevy Chase Bank – Mortgage Division

**Government Affairs Committee Report - Paul Durham, G.A.D.**

**Government Affairs Director**

## Monthly Report

**Wind Power Issue - important PSC hearing scheduled for March 6:**

The Maryland Public Service Commission (PSC) will be conducting a public hearing for the purpose of receiving public comment on a recent application filed by Criterion Power Partners, LLC to construct 28 wind turbine facilities on Backbone Mountain.

The exact location of the turbines cannot be determined from the application. It is assumed to be in the vicinity of the former Clipper Windpower project off Route 560 near Bethlehem Road and Kelso Gap, south of Loch Lynn

The hearing will be on **Thursday, March 6, 2008, at 7:00 p.m.**, at Garrett College, Continuing Education Building, Classroom 224, 687 Mosser Road, McHenry, Maryland 21514. Should the college close due to inclement weather, the hearing will be rescheduled for Wednesday, March 12, 2008, at 7:00 p.m., in the same location.

***Realtors® who would like to comment on the application may do so by writing to the Commission at: Public Service Commission, 6 St. Paul Street, Baltimore, Maryland 21202 (RE: Case No. 8938) by the date of hearing.***

If you would like to see a copy of Criterion's application to the PSC, please e-mail Paul Durham directly at [pdurham@cebridge.net](mailto:pdurham@cebridge.net) to receive a copy by e-mail.

### **Wind Power Issue – county response to public land issue and the possibility of future regulation:**

At its meeting on FEB 6, the Board discussed the response of our elected officials to the state's proposal to allow industrial wind turbines on Maryland public lands. As you may recall, the GCBR Board adopted a position of opposition to the construction of wind turbines on public lands.

Our entire legislative delegation and the county commissioners have all adopted a position of opposition to the proposal. The Board has written the county commissioners expressing our appreciation for the position that they eventually took.

MAR is supporting our efforts through their lobbying staff, who are in contact with officials in the O'Malley administration to determine how strong and how fast this proposal is tracking in state government. The feedback that they received is that this idea is in a very preliminary phase and the state recognizes that there is very strong opposition. DNR promised to keep MAR informed if and when the issue progresses.

On the local level, there is language in the current draft of the new Comprehensive Plan, endorsed by the county commissioners, that expresses county support for wind turbine facilities in "appropriate locations" in the county. The GCBR Board reviewed this language and voted to convey to the commissioners a recommendation that they develop standards as to the appropriate location for wind turbines in Garrett County. That recommendation was conveyed to Commissioner Glotfelty, who chairs the Board of Commissioners and to the Planning Commission.

At its FEB 6 meeting, the Planning Commission deliberated on the language in the draft plan and also recommended several actions to the commissioners. The first was a call for a moratorium on the construction of wind turbines in the county. The second was for the county to adopt regulations on the siting of wind turbines, and they struck the language from the plan supporting wind turbines in "appropriate locations".

Paul Durham has contacted Historic Highlands Association of Realtors® and updated their GAD on the issue. GCBR Board members may meet with HHAR to brief them on the issue should HHAR see this as an issue to watch.

### **Comprehensive Plan – additional chapters released:**

The county has released the next seven draft chapters of the comprehensive plan. They are available for downloading on the county's web site at...

[http://www.garrettcountry.org/planningland/planningzoning/2008\\_Comp\\_Plan\\_DRAFT\\_Ch\\_6-8,10.pdf](http://www.garrettcountry.org/planningland/planningzoning/2008_Comp_Plan_DRAFT_Ch_6-8,10.pdf)

Click the link under “Events” to access the documents.

These chapters further explain the county’s new approach to subdivision regulation and land use protection on agricultural and forest resource lands. There is discussion on emergency services, transportation corridors, subdivision regulation, and sensitive areas. Members are encouraged to become acquainted with this information and to participate in a public hearing on these drafts (see below).

#### **Public meeting on draft comprehensive plan chapters scheduled:**

A reminder to those Realtors® who are tracking the Comprehensive Plan update -

The Planning Commission will be conducting a public information meeting to provide an opportunity for the public to review and comment on Chapters, 5 thru 11 of the Draft New Comprehensive Development Plan. The meeting will be held on March 3, 2008 at the Garrett College Auditorium, beginning at 7:00 PM.

These 7 chapters include: Chapter 5, Water Resources Element; Chapter 6, Transportation Element; Chapter 7, Sensitive Areas Element; Chapter 8, Community Facilities Element; Chapter 9, Housing Element; Chapter 10, Mineral Resources Element and Chapter 11, Economic Development Element. The county’s consultant, ERM, will provide a presentation on these 7 chapters and a question and comment period will be provided immediately following the presentation.

#### **MAR monitoring legislative session:**

Government Affairs Director Paul Durham is sitting in on weekly meetings with MAR’s legislative committee, who along with MAR staff and lobbyists are monitoring legislation that effects Maryland’s property owners and real estate professionals. Copies of the minutes of the meetings and the most recent positions taken by MAR on specific pieces of legislation can be obtained from Paul.

#### **TVRU Update:**

Deputy Pat Kelly reports that the county commissioners have not yet scheduled a public hearing on the proposed changes to the zoning ordinance dealing with TVRUs.

The county’s zoning staff and Planning Commission have proposed language designed to end the restriction that TVRUs may only be rented to “single family” groups, as defined in the zoning ordinance.

If the county commissioners approve this change, it will help many resort property owners with rental properties making their properties more appealing to such small groups as senior citizens, church and small business retreats, and similar non-traditional tenants.

#### **Update on DNR Proposal to Change Personal Watercraft (PWC) Regulations:**

DNR Lake Manager Carolyn Mathews reported this month that this issue is “status quo”. There has been no change in DNR’s efforts to update its lake regulations dealing with how PWCs may be kept or moored at dock permit sites.

The DNR Policy and Review Board will meet again in April and we hope that this issue is on the agenda. Unless the regulation changes, there are hundreds of PWC usually kept on shore that exceed DNR’s weight limits. This could present an enforcement issue this coming summer.

You may e-mail Paul Durham at [pdurham@cebridge.net](mailto:pdurham@cebridge.net) if you would like to have a copy of the current DNR proposal sent to you.

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## **MAR TOWN HALL MEETING**

Join your colleagues for an informal complimentary lunch, meet the 2008 Leadership and staff, and get the answers to those questions... whether it's a legislative, regulatory, legal, contract, "help me," or a "when or why" question, this is the time and place to get the answers. MONDAY, MARCH 17, 2008, MARTINS WESTMISTER, 140 Village Shopping Center, 505 Jermor Land Road, Westminster, Maryland 21157, 11:30 AM – 1:30 PM (INCLUDES LUNCH) Register with Katie Pantos at MAR – 410-841-6080, [katie.pantos@mdrealtor.org](mailto:katie.pantos@mdrealtor.org) and give her your name and the name of your Board.

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## **NAR - National Association of REALTORS®**

### **STIMULUS PACKAGE WITH GSE AND FHA LOAN LIMIT**

**INCREASES** ---The President signed the economic stimulus package passed last week. The package includes several important housing provisions, including temporary increases in the loan limits for Fannie Mae, Freddie Mac and FHA. The Limits will go into effect when HUD calculates and publishes them, which it must do no later than March 14<sup>th</sup>. NAR staff had developed estimates of the loan limits in Maryland. Go to [http://www.realtor.org/gapublic.nsf/pages/stimulus\\_package](http://www.realtor.org/gapublic.nsf/pages/stimulus_package) to see the NAR estimates.

**This link requires you to log in to the NAR site. Once successfully logged in, you will be directed straight to the information.**

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## **Education**

No surprises! No suspensions! No terminations! 2008 is the fourth and final year of the current quadrennial REALTOR® ethics training cycle, so be sure to take your quadrennial REALTOR® ethics training on line today at <http://www.realtor.org/mempolweb.nsf/pages/onlineethicstraining> or attend the **May 30, 2008 continuing education class with Al Monshower at Garrett College**. This course will satisfy both the Maryland license renewal requirement for Ethics/Predatory Lending as well as the quadrennial ethics required by NAR for membership. Registration flyers for the May 30<sup>th</sup> classes will be mailed out to all members in April.

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## Quiz: Code of Ethics

### 1. The Preamble to the Code?

- ☐ A. Sets out aspirational ideals the REALTORS® should strive to attain.
- ☐ B. Can be used as the basis for disciplinary action against a REALTOR®.
- ☐ C. Requires REALTORS® to meet the standards set forth in the Preamble.
- ☐ D. Is a summary of all the articles included in the Code.

CORRECT ANSWER: A. *Sets out aspirational ideals the REALTORS® should strive to attain.* The Preamble to the Code is the aspirational basis for the ethical concepts that REALTORS® believe in. Included are the core concepts of honesty, integrity, fairness, and moral conduct in business relations. Near the end of the Preamble, the timeless, universal principle of the Golden Rule is cited. Because the Code sets the ideals that we strive to attain, it is subjective in nature. As such, it cannot be used as a basis for disciplinary action against a REALTOR®. Only the Articles of the Code are used as the basis for discipline of REALTOR® membership.

### 2. The Code is primarily enforced through:

- ☐ A. The NATIONAL ASSOCIATION OF REALTORS®.
- ☐ B. State associations of REALTORS®.
- ☐ C. Local associations of REALTORS®
- ☐ D. None of the Above.

CORRECT ANSWER : C. *Local associations of REALTORS®.* The enforcement of Code is handled mainly by the local REALTORS® associations. Real estate is one of the few industries that have a Code of Ethics that is enforced. Many industry codes of ethics are aspirational in nature and are not enforced by the organization sponsoring the code. The REALTOR® Code of Ethics has an enforcement process available to anyone who believes a REALTOR® has violated the Code of Ethics.

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## Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

Case #12-2: Exaggeration in Advertising (Reaffirmed Case #19-4 May, 1988. Transferred to Article 12 November, 1994. Revised November, 2001.)

Prospect A noted REALTOR® B classified advertisement describing a home with five acres “about 20 miles from the city” giving directions to the “modern 3-bedroom home, well maintained, and set in a charmingly landscaped site.”

After visiting the property, Prospect A clipped out the ad and pasted it to a letter to the Board of REALTORS® complaining of the gross exaggeration it contained, which had induced him to waste time and money in inspecting the property. The property, he said, was actually 36 miles from the city limits. Its wood-lath support for plaster, which was visible in many large breaks in the walls, indicated it to be 40 years old or more. There was no evidence of painting in recent years. Several windows were broken; half of the back steps were missing. The house was located at the end of a crude dirt road in a small cleared area that had become densely overgrown in weeds – a picture of extreme neglect.

REALTOR® B was asked to respond to the charge of misleading advertising, and hearing was called on the complaint by the Professional Standards Committee. REALTOR® B criticized the complainant for bringing the matter to the Board, pointing out that Prospect A had failed to mention that the property was priced at only \$30,000; that at such a price it was an exceptionally good buy to anyone looking for a small place with a few acres; that to get attention to such properties it was necessary to do a bit of “puffing” to attract attention in advertising; that as a matter of fact the general lines of the house were similar to many of modern design; that the house had been well enough maintained to be salvageable by anyone who would do a reasonable amount of work on it; and that, in his opinion, the site was truly “charming” in its rugged simplicity.

The Hearing Panel concluded that REALTOR® B had used gross exaggeration in his advertisement and was found in violation of Article 12 of the Code of Ethics.

# Garrett County Board of REALTORS®

GCBR News Briefs - April 2008

April 1, 2008

## *Membership Update*

### ***New REALTOR® Members:***

Sandi Flockhart, Coldwell Banker Deep Creek Realty

### ***Transfers:***

Jim Wilmont, Re/Max Three Corners

### ***New Affiliate Members:***

Andy Niedenthal, A. Niedenthal Appraisal Services

Travis Adams/Denise Homberg, Thrasher Engineering, Inc.

### ***Drops:***

Kelly Bender, Railey Realty

Cliff Frohn, Wells Fargo Home Mortgage

Brandi Anderson, United County – Humberson Homes

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## **Government Affairs Committee Report - Paul Durham, G.A.D.**

### **Government Affairs Director**

### **Monthly Report**

#### **Garrett County Commissioners Enact Local Property Tax Credit Program:**

On March 18, the county commissioners approved a local supplemental homeowner's property tax credit program for certain owner-occupied homes. The program provides for an additional 25% of the state credit that can be applied toward a homeowner's property tax bill. Eligible property owners need to be at least 65 years of age, meet the income criteria set by the state, and have resided in Garrett County for 10 years or longer.

The county reviewed the 2007 tax year applications for the state program as a potential scenario to demonstrate the effect of the local program. Of the 549 applicants in 2007, 205 would be eligible for the local supplemental credit and of those people, 180 would have actually received the credit. The other 25 would not have received a local credit because the state credit covered the entire property tax bill.

The program will be administered by the local assessment office. Eligibility will be determined based on the information that a property owner supplies on their state application.

Garrett County now joins nine other counties that have a similar program in place. Questions can be directed to the assessment office at 301-334-1950.

#### **Wind Power Issue – PSC review of Criterion Power Partners application continues:**

The Public Service Commission held a public hearing on March 6 to receive public comment on a proposal by Criterion Power Partners, LLC to construct 28 wind turbines





# *Maryland Real Estate Commission*

## Maryland Real Estate Commission

### “Understanding Whom Real Estate Agents Represent”

Information obtained from the Maryland Real Estate Commission web site  
[www.dllr.state.md.us](http://www.dllr.state.md.us)

### Agents Who Represent the Seller

**Seller's Agent:** A seller's agent works for the real estate company that lists and markets the property for the sellers, or landlords, and exclusively represents the sellers or landlords. That means that he or she may assist the buyer or tenant in purchasing or renting the property, but his or her duty of loyalty is only to the sellers or landlords. The seller pays the seller's agent's fee as specified in a written listing agreement.

**Cooperating Agent:** A cooperating agent works for a real estate company different from the company for which the seller's agent works. The cooperating agent can assist a buyer or tenant in purchasing or renting a property, but his or her duty of loyalty is only to the sellers or landlords. The cooperating agent's fee is paid by the sellers or landlords through the seller's agent's company.

### Agents Who Represent the Buyer

**Presumed Buyer's Agent (no written agreement):** When a person goes to a real estate agent for assistance in finding a home to buy or rent, the agent is presumed to be representing the buyer and can show the buyer properties that are *not* listed by the agent's real estate company. A presumed buyer's agent may *not* make or prepare an offer or negotiate a sale for the buyer. The buyer does not have an obligation to pay anything to the presumed agent.

If for any reason the buyer does not want the agent to represent him or her as a presumed agent, *either initially or at any time*, the buyer can decline or terminate a presumed agency relationship simply by saying so.

**Buyer's Agent (by written agreement):** A buyer or tenant may enter into a written contract with a real estate agent which provides that the agent will represent the buyer or tenant in locating a property to buy or rent. The agent is then known as the buyer's agent. That agent assists the buyer in evaluating properties and preparing offers, and negotiates in the best interests of the buyer or tenant. The agent's fee is paid according to the written agreement between the agent and the buyer or tenant. If you as a buyer or tenant wish to have an agent represent you exclusively, you must enter into a written buyer agency agreement.

### Dual Agents

The possibility of **dual agency** arises when the buyer's agent and the seller's agent both work for the same real estate company, and the buyer is interested in property listed by that company. The real estate company, or broker, is called the "dual agent." Dual agents do not act exclusively in the interests of either the seller or buyer, or landlord or tenant, and therefore cannot give undivided loyalty to either party. There may be a conflict of interest because the interests of the seller and buyer may be different or adverse.

**If both seller and buyer, or landlord and tenant, agree to dual agency** by signing a Consent For Dual Agency form, then the real estate company (the "dual agent") will assign one agent to represent the seller or landlord (the seller's "intra-company agent") and another agent to represent the buyer or tenant (the buyer's "intra-company agent"). Intra-company agents may provide the same services to their clients as exclusive seller's or buyer's agents, including advising their clients as to price and negotiation strategy, provided the clients have both consented to be represented by dual agency.

**If either party does not agree to dual agency**, the real estate company may withdraw the agency agreement for that particular property with either the buyer or seller, or both. If the seller's agreement is terminated, the seller must then either represent him or herself or arrange to be represented by an agent from another real estate company. If the buyer's agreement is terminated, the buyer or tenant may choose to enter into a written buyer agency agreement with an agent from a different company. Alternatively, the buyer or tenant may choose not to be represented by an agent of his or her own but simply to receive assistance from the seller's agent, from another agent in that company, or from a cooperating agent from another company



**BEWARE! THIRD PARTY WARNING ON SHORT SALES AND PREFORECLOSURE TRANSACTIONS** – The MAR Legal Hotline receives numerous calls seeking advice on the proper way to interact with third parties involved in short sales and preforeclosure transactions. The third party is typically inserted between the lender and the listing broker, and called a “facilitator,” consultant” or similar term. **EXERCISE CAUTION** when dealing with someone in this position. Remember the owner is the client, and there are limits on the control a third party such as a lender can exercise over transaction. In some cases the “consultant” purports to be empowered to engage the listing broker. In others, the “facilitator” requests the listing agent to show an offer to other prospective buyers, to generate a higher sale price – a violation of the duty imposed by Maryland law to treat all parties fairly. Remember that the issue of compensation is always present. The third party may claim entitlement to share of the commission being paid by the seller to the listing broker. Remember that it is illegal to pay compensation to an unlicensed individual. If confronted with these or any related issues, the nature of your agency relationship. Questions? Call the MAR Legal Hotline, or go to [www.mdrealtor.org](http://www.mdrealtor.org) and click “Legal Hotline” for directions on how to contact us.

# NAR - National Association of REALTORS®

## **Learn Why 'All Real Estate is Local'**

The most important factor in buying or selling a home isn't what is going on nationally - it is what is going on in your local market. Evaluating present and future trends and influences in your region or neighborhood is essential to creating long term wealth, whether you are in a buyer's or a seller's market. 'All Real Estate is Local' shows you how to determine the conditions in your neighborhood. A must have for agents and home buyers and sellers. To order, go to...

[http://www.realtor.org/prodser.nsf/products/141-95?OpenDocument&WT.mc\\_t=LS013008&WT.mc\\_n=Sales](http://www.realtor.org/prodser.nsf/products/141-95?OpenDocument&WT.mc_t=LS013008&WT.mc_n=Sales)

## **Learn How to 'Stage Your Home for Profit'**

'Stage Your Home for Profit' is a 50-minute DVD that shows real estate professionals and home sellers the techniques to easily and profitably prepare a home for sale. Make a small room feel large, an outdated bathroom look upgraded, and a boring family room look spectacular...all using your existing home furniture and accessories. Buy your copy today...

[http://www.realtor.org/prodser.nsf/products/141-183?OpenDocument&WT.mc\\_t=LS013008&WT.mc\\_n=Sales](http://www.realtor.org/prodser.nsf/products/141-183?OpenDocument&WT.mc_t=LS013008&WT.mc_n=Sales)

## **Make Safety a Priority in 2008**

As a REALTOR® you face many potential dangers on the job, at home and on the road. Make a commitment to your safety in 2008 and utilize the complete set of resources available from NAR. Visit [www.REALTOR.org/Safety](http://www.REALTOR.org/Safety) today to discover tips, resources and products to help keep you safe throughout the year. For more information, visit...

[http://www.realtor.org/safety?&WT.mc\\_t=LS021308&WT.mc\\_n=About](http://www.realtor.org/safety?&WT.mc_t=LS021308&WT.mc_n=About)

## **NAR Brochure Helps Your Clients Learn How to Avoid Foreclosure**

'Learn How to Avoid Foreclosure and Keep Your Home' is a brochure produced by NAR, the Center for Responsible Lending, and NeighborWorks®. It helps explain the types of mortgages that are placing families at risk, provides suggestions for getting help by talking to a REALTOR® and a reputable counseling organization, and urges borrowers to work with experts and their lender as soon as possible. Sold in packs of 50. To order, go to...

[http://www.realtor.org/prodser.nsf/products/126-126?OpenDocument&WT.mc\\_t=LS020608&WT.mc\\_n=Sales](http://www.realtor.org/prodser.nsf/products/126-126?OpenDocument&WT.mc_t=LS020608&WT.mc_n=Sales)

## **Education**

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<http://www.realtor.org/mempolweb.nsf/pages/onlineethicstraining> or attend the **May 30, 2008 continuing education class with Al Monshower at Garrett College**. This course will satisfy both the Maryland license renewal requirement for Ethics/Predatory Lending

as well as the quadrennial ethics required by NAR for membership. Registration flyers for the May 30<sup>th</sup> classes will be mailed out to all members in April.

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## Quiz: Code of Ethics

**1. The two basic type of complaints that are handled by local associations are:**

- ☐ A. Ethics complaints and license law complaints.
- ☐ B. License law complaints and mediation matters.
- ☐ C. Ethics complaints and requests for arbitration.
- ☐ D. License law complaints and requests for arbitration.

**CORRECT ANSWER:** *C. Ethics complaints and requests for arbitration.* An ethics complaint is a complaint about a REALTOR®'s conduct that has allegedly violated one of the Articles of the Code of Ethics. Under Article 17 of the Code, REALTORS® are required to arbitrate certain types of monetary disputes they have with other REALTORS®. So, a second type of matter handled most frequently by local associations is a request for arbitration falling under Article 17 of the Code.

**2. The three committees or groups that are involved in the Code enforcement process are:**

- ☐ A. Grievance Committee, Appeals Committee, and Board of Directors
- ☐ B. Professional Standards Committee, Arbitration Committee, and Mediation Committee
- ☐ C. Professional Standards Committee, Mediation Committee, and Board of Directors
- ☐ D. Grievance Committee, Professional Standards Committee, and Board of Directors

**CORRECT ANSWER:** *D. Grievance Committee, Professional Standards Committee, and Board of Directors.* The Grievance Committee is a screening committee that initially reviews ethics complaints and requests for arbitration. The Grievance Committee do not hold hearing but simply determines, on the basis of the written information presented in the complaint/request, whether a possible violation of the Code may exist or whether the request for arbitration presents a matter that can be arbitrated within Article 17.

If the Grievance Committee believes that a possible violation may exist or that a matter can be arbitrated, it forwards the complaint/request to the Professional Standards Committee. The Professional Standards Committee appoints a hearing panel (usually three or five members of the Committee) to conduct a hearing. The hearing is a "due process" hearing similar to a court proceeding. The hearing panel decides whether a violation of the Code occurred and makes a recommendation for discipline, if any. In an arbitration request, the hearing panel decides which party is entitled to the monetary award. In either case, a right of appeal or review exists to the Board of Directors.

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# Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

Case #2-4: Obligation to Ascertain Pertinent Facts (Revised Case #9-10 May, 1988. Transferred to Article 2 November, 1994.)

Shortly after REALTOR® A, the listing broker, closed the sale of a home to Buyer B, a complaint was received by the Board charging REALTOR® A with an alleged violation of Article 2 in that he had failed to disclose a substantial fact concerning the property. The charge indicated that the house was not connected to the city sanitary sewage system, but rather had a septic tank.

In a statement to the Board's Grievance Committee, Buyer B stated that the subject was not discussed during his various conversations with REALTOR® A about the house. However, he pointed out that his own independent inquiries had revealed that the street on which the house was located was "sewered" and he naturally assumed the house was connected. He had since determined that every other house on the street for several blocks in both directions was connected. He stated that REALTOR® A, in not having disclosed this exceptional situation, had failed to disclose a pertinent fact.

REALTOR® A's defense in a hearing before a Hearing Panel of the Professional Standards Committee was:

- (1) that he did not know this particular house was not connected with the sewer;
- (2) that in advertising the house, he had not represented it as being connected;
- (3) that at no time, as Buyer B conceded, had he orally stated that the house was connected;
- (4) that it was common knowledge that most, if not all, of the houses in the area were connected to the sewer; and
- (5) that the seller, in response to REALTOR® A's questions at the time the listing was entered into, had stated that the house was connected to the sewer.

The panel determined that the absence of a sewer connection in an area where other houses were connected was a substantial and pertinent fact in the transaction; but that the fact that the house was not connected to the sewer was not possible to determine in the course of a visual inspection and, further, that REALTOR® A had made appropriate inquiries of the seller and was entitled to rely on the representations of the seller. The panel concluded that REALTOR® A was not in violation of Article 2.

# Garrett County Board of REALTORS®

GCBR News Briefs - May 2008

May 1, 2008

## *Membership Update*

### *New REALTOR® Members:*

Lori Malcolm, Coldwell Banker Deep Creek Realty  
John DeWitt, Realty Direct Deep Creek Lake/Western Maryland  
Melissa Mitchell, United County Humberson Homes

### *Transfers:*

Heather Bosley, Goodfellow Real Estate Services, LLC.  
Heather Christner, Goodfellow Real Estate Services, LLC  
Lisa Goodfellow, Goodfellow Real Estate Services, LLC  
Cindy Mahoney, Goodfellow Real Estate Services, LLC  
Mary O'Neil, Goodfellow Real Estate Services, LLC  
Don Hodges, Wachovia Mortgage

### *New Affiliate Members:*

### *Drops:*

Jeff Gosnell, Railey Realty  
Sherry Gosnell, Railey Realty  
Danny Bosley, Railey Realty  
Michael Saturday, Coldwell Banker Deep Creek Realty  
Glenn Seaman, Railey Realty  
Violet (Sis) Railey, Railey Realty

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## **Government Affairs Committee Report - Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Update on Comprehensive Plan:**

The Planning Commission put its final touch on the draft Comprehensive Plan at its April 16 meeting. The GCBR has commented on many aspects of the plan, affecting some adjustments that could benefit property owners while also offering recommendations from a real estate perspective. In other areas, we had some influence but a changing land use and regulatory philosophy appears to have held sway on the county level.

Here are a few of the most recent changes that Realtors® will find in the draft plan.



There are major changes to subdivision patterns in rural resource (RR) and agricultural resource (AR) zones, some of which have been controversial in the farming community.

A stricter cluster housing approach that includes *maximum* rather than minimum lot sizes is proposed.

Significant final changes were made in the plan in the area dealing with sensitive areas, particularly how the county should protect scenic ridgelines. The plan calls for the county to amend its sensitive areas ordinance or to enact other ordinances, or zoning, to accomplish this goal. One land use particularly discussed in need of control is industrial wind turbines. John Nelson has already sought grant funding to implement these ideas.

The plan discusses a so-called “lake effect” on land values throughout the county. ERM solicited specific comments from the GCBR in this subject area. While the section of the plan dealing with land values was adjusted to include some of GCBR’s comments, it appears that the so-called “lake effect” discussion remains in the plan.

According to John Nelson, the draft of the plan now goes to the state’s Department of Planning for review and approval. That process could take up to two months. The county’s goal is to hold a public hearing and adopt the plan some time around July.

#### **Maryland Home Builder Requirements:**

An issue has emerged where the county is requiring that Home Builders must first be registered with the state before receiving a building permit. What prompted the issue is a state requirement that sellers of new homes are classified as “home builders” under the Home Builder Registration Act. According to the Maryland Attorney General, “The Act requires persons to register who build new homes or who enter into contracts to sell new homes to consumers.”

A number of Realtors® have long-standing relationships with clients who regularly purchase lots, contract to have a new home built, and then sell the new home using a Realtor’s services. It appears that the mere act of selling a new home triggers the “Home Builder” registration requirement.

Jim Torrington with the county’s Permits and Inspection Division confirmed that indeed the county will withhold a building permit when they believe that the individual should be registered with the state. They recommend that potential Home Builders contact the Office of the Attorney General’s Home Builder Registration Unit at (877) 259-4525 to see if the nature of their activities requires them to register. If the registration requirement is waived by the state, the county will take that into consideration. Information on the state’s requirements can be found on the internet at...

<http://www.oag.state.md.us/homebuilder/#3>

There is also a new law that went into effect recently dealing with Home Builder sales agents. Effective October 1, 2007, sales agents of new home builders in Maryland must hold real estate licenses issued by the Maryland Real Estate Commission.

Attached are links to the new law, [Chapter 274, Laws of Maryland 2007](#), and to a [Frequently Asked Questions](#) document prepared by the Real Estate Commission and the Home Builder Registration Unit. For questions not answered by the FAQ document, or for the requirements for obtaining licenses, please contact the Real Estate Commission. The Commission's website is [www.dllr.state.md.us/license/occprof/recomm.html](http://www.dllr.state.md.us/license/occprof/recomm.html)

#### **Wind Power Issue – PSC review of Criterion Power Partners application completed:**

According to media reports and information posted by the Public Service Commission, the PSC has finished its review of Criterion Power Partners' application requesting approval to construct an industrial wind turbine facility on Backbone Mountain, just east of Oakland. The PSC has closed the hearing process but did not say when it would make its decision.

A last minute development in the issue was a plea from the mayors of Loch Lynn Heights and Mountain Lake Park for the PSC to delay its decision until such time as a geologic study is done to determine the effects that blasting would have on the water quality in the area. According to county sources, the strata in the area are similar to a site along I-68 that experienced serious water quality problems after the construction of the interstate.

#### **Local Citizens Petition for "Performance Zoning":**

A petition from two Garrett County residents, backed by a list of more than 250 citizens in support, has been submitted to the county calling for the enactment of a countywide Performance Zoning ordinance. The petition was drafted and presented by attorney William Wantz from Hagerstown at the April 16 Planning Commission meeting. An initial review by the county attorney indicates his belief that the ordinance cannot be implemented as proposed for a number of technical reasons.

There are no performance standards proposed in the draft ordinance. The ordinance proposal targets industrial wind turbines as a prohibited land use. Supporters believe that this is one mechanism that the county can use to prohibit wind turbines utilizing their existing zoning authority.

The Planning commission, in a tight vote of 4/3, did not support the proposal. It will now be forwarded to the County Commissioners for consideration. There is no indication yet on when the commissioners will hold a public meeting or hearing on the matter. GCBR takes no position on the proposal. It has previously asked the County Commissioners to enact local controls regarding the appropriate location of wind turbine facilities.

GCBR did forward the proposal to NAR's Land Use Initiative program for a review. This service from NAR provides local boards and associations with a legal review of new local land use ordinances or changes. NAR's Bob McNamara, recognizing this as an initial citizen petition, suggested that their review of the proposal be put on hold pending the county actually formally pursuing a performance zoning ordinance. In light of the county's initial response, it might be a while before that occurs and there may also be significant adjustments to the proposal.

#### **Planning Commission Recommends Referendum on Countywide Zoning:**

On the heels of the Performance Zoning discussion at the April 16 meeting, the Planning Commission recommended that the county hold a referendum vote on the issue of countywide zoning generally. The vote was 6/1 in favor of the proposal. There was much discussion by commission members about the need for additional land use controls to address various issues that have arisen in recent years.

#### **DNR to Propose PWC Regulation Changes on Deep Creek Lake:**

DNR Lake Manager Carolyn Mathews reports that she is in the process of drafting a number of changes to the lake regulations dealing with how and where (or where not) personal watercraft (PWCs) may be kept at docks or on the shore. The expressed goal is to eventually remove all PWCs from being beached or stored on the shore. The proposal is the result of deliberations by a committee of the PRB, and according to Ms. Mathews the idea has the support of the PRB and the POA. A limited number of PWCS will be allowed to be moored at docks in addition to the existing powerboat limitations.

One sticking point will be the status of the various PWC stands that landowner shave purchased in recent years with a permit from DNR. Ms. Mathews said that there will be a grandfathering period after which the stands will no longer be allowed. People contemplating purchasing a stand should consider waiting until the new regulations are in place, as their purchase this year might soon become an illegal use.

DNR advises that the regulations will not be ready for comment or in effect for this coming season.

#### **TRAIL Power Line Status:**

As you may recall, we have been monitoring the status of the proposed Trans-Allegheny Interstate Line "TRAIL" power line that is planned to connect Southwestern PA with Mount Storm, WV and then travel into Virginia. It is being planned for the purpose of connecting an anticipated bottleneck in transmission capacity between power plants serving customers on the eastern seaboard. TRAIL is also considering the impact of wind turbine development in the region and how it will necessitate additional transmission capacity.

Originally, several routes were under consideration with some routing going through the southern county. The TRAIL website indicates that the route is now limited to PA, WV and VA. There had been some local media reports that the line passed through Garrett County, but the mapping available from TRAIL (see below) does not show that to be the case.

Information from TRAIL is available at  
<http://www.aptrailinfo.com/index.php?page=overview>





renting the property, but his or her duty of loyalty is only to the sellers or landlords. The seller pays the seller's agent's fee as specified in a written listing agreement.

**Cooperating Agent:** A cooperating agent works for a real estate company different from the company for which the seller's agent works. The cooperating agent can assist a buyer or tenant in purchasing or renting a property, but his or her duty of loyalty is only to the sellers or landlords. The cooperating agent's fee is paid by the sellers or landlords through the seller's agent's company.

### **Agents Who Represent the Buyer**

**Presumed Buyer's Agent (no written agreement):** When a person goes to a real estate agent for assistance in finding a home to buy or rent, the agent is presumed to be representing the buyer and can show the buyer properties that are *not* listed by the agent's real estate company. A presumed buyer's agent may *not* make or prepare an offer or negotiate a sale for the buyer. The buyer does not have an obligation to pay anything to the presumed agent.

If for any reason the buyer does not want the agent to represent him or her as a presumed agent, *either initially or at any time*, the buyer can decline or terminate a presumed agency relationship simply by saying so.

**Buyer's Agent (by written agreement):** A buyer or tenant may enter into a written contract with a real estate agent which provides that the agent will represent the buyer or tenant in locating a property to buy or rent. The agent is then known as the buyer's agent. That agent assists the buyer in evaluating properties and preparing offers, and negotiates in the best interests of the buyer or tenant. The agent's fee is paid according to the written agreement between the agent and the buyer or tenant. If you as a buyer or tenant wish to have an agent represent you exclusively, you must enter into a written buyer agency agreement.

### **Dual Agents**

The possibility of **dual agency** arises when the buyer's agent and the seller's agent both work for the same real estate company, and the buyer is interested in property listed by that company. The real estate company, or broker, is called the "dual agent." Dual agents do not act exclusively in the interests of either the seller or buyer, or landlord or tenant, and therefore cannot give undivided loyalty to either party. There may be a conflict of interest because the interests of the seller and buyer may be different or adverse.

**If both seller and buyer, or landlord and tenant, agree to dual agency** by signing a Consent For Dual Agency form, then the real estate company (the "dual agent") will assign one agent to represent the seller or landlord (the seller's "intra-company agent") and another agent to represent the buyer or tenant (the buyer's "intra-company agent"). Intra-company agents may provide the same services to their clients as exclusive seller's or buyer's agents, including advising their clients as to price and negotiation strategy, provided the clients have both consented to be represented by dual agency.

**If either party does not agree to dual agency**, the real estate company may withdraw the agency agreement for that particular property with either the buyer or seller, or both. If the seller's agreement is terminated, the seller must then either represent him or herself or arrange to be represented by an agent from another real estate company. If the buyer's

agreement is terminated, the buyer or tenant may choose to enter into a written buyer agency agreement with an agent from a different company. Alternatively, the buyer or tenant may choose not to be represented by an agent of his or her own but simply to receive assistance from the seller's agent, from another agent in that company, or from a cooperating agent from another company.

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GOVERNOR O'MALLEY SIGNS EMERGENCY LEGISLATION TO PROTECT HOMEOWNERSHIP – The Governor jointed with Senate President Thomas V. Mike Miller Jr., House Speaker Michael E. Bush, Lieutenant Governor Anthony G. Brown, community advocates and other officials Thursday, April 3<sup>rd</sup>, to sign emergency legislation that would help thousands of Maryland homeowners who are at risk of losing their homes and to prevent future generations of homeowners from losing their homes due to foreclosure. MAR participated in the Governor's Homeownership Preservation Tasks prior to this General Session and the emergency, signed foreclosure bills are an effort to ensure impacted homeowners have a better opportunity for maintaining their homes. The measures include the following – Real Property – Recordation of Instruments Securing Mortgage Loans and Foreclosure of Mortgages and Deeds of Trust on Residential Propertybill; The Real Property – Maryland Mortgage Fraud Protection Act; and The Protection of Homeowners in Foreclosure – Prohibition on Foreclosure Rescue Transactions – Enforcement. For greater detail, please go to [www.mdrealtor.org](http://www.mdrealtor.org)



BE AN EARLY BIRD – REGISTER NOW!  
MAR ANNUAL CONFERENCE & TRADESHOW September 8-10,  
2008 Ocean City MD WE'RE LOOKING FOR REALTOR®  
“STARS” This conference is the best yet! Register [www.mdrealtor.org](http://www.mdrealtor.org)

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## NAR – National Association of REALTORS®

Have you taken advantage of NAR's Benefit Program? If not, you may want to check-it-out! Go to [www.realtor.org](http://www.realtor.org) and click on Realtor® Benefits on the left side of the main menu. Some benefits include:

- REALTORS® Platinum Visa – offering Free Rewards, An automatic \$64 account credit after very first purchase, Introductory annual percentage rate (APR) of 0% up to 6 months, Earn rewards on every purchase, Receive a 5% discount at the [www.Realtor.org](http://www.Realtor.org) store and No annual fee.
- Travel – Hertz, Budget and Avis discounts
- Office Solutions – FedEx, Pitney Bowes and Xerox discounts
- Technology – Dell discounts

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## RPAC - Realtors® Political Action Committee

### WHAT HAS RPAC SAVED YOU FROM ...

- Getting caught in the middle of property defect disclosure suits between buyers and sellers.
- Unreasonable regulations to implement the provisions of the “Lead Paint Law”.
- Losing your commission for commercial real estate deals by securing passage of the commercial lien law.
- Bureaucratic rules and regulations which would have raised the cost of owning or constructing a single family house.
- Losing your home mortgage interest deductibility.
- MORE TAXES ON YOUR COMMISSION (on top of the income tax you already pay.)
- Getting charged with criminal penalties for landlord/tenant obligations.
- Having to disclose every airport within a 5 mile area.
- Tripling the cost of phone calls due to the phone company’s attempt to mandate “measured time”.

### How RPAC works with you:

- RPAC works with you to support elected officials who support real estate!
- The process works like this:
- Maryland’s RPAC Trustee determine – with local REALTORS® input – which candidates receive RPAC support.
- Their decisions are non-partisan, and reflect simple criteria. The Candidate must support REALTORS® on real estate issues.
- RPAC follows specific Maryland Election Laws and Federal Election Commission guidelines that maintain it as a legitimate, voluntary expression of democracy.
- RPAC is a voluntary program for all members.
- RPAC is and always will be fair, bipartisan and legal way for REALTORS® to speak in a unified voice.



## RPAC WORKS WITH HELP FORM REALTORS® LIKE YOU!!!!

Jennifer Baum	Doug McClive
Debbie Beitzel	* Melita McCroskey
Brian Bender	Jerry McGinnis
Heather Bosley	Pat McLaughlin
Barb Butler	Arlene Murray
Heather Christner	Kym Newmann
Marcia Collins	Don Nuce
Larry DeBerry	* Rich Orr
Karen Doerr	Denise Perry
Paul Durham	Steven Richards
Andrew Eiswert	Barb Rodeheaver
Kayla Ely	Jamie Rodeheaver
* Tracey Espada	Debra Savage
Sandi Flockhart	Lydell Savage
Nancy Jo Fratz	Vicki Savage
Jasmine Friend	Ruth Seib
Nancy Geisler	Bob Sheetz
Lisa Goodfellow	Goldie Shugars
Coelian Green	Ann Smith
Linda Harr	Larry Smith
Brian Homberg	Betsy Spiker
Bob Huebner	Venus Stark
Kathy Johnson	Bob Stuck
Scott Johnson	Nancy Trotta
* Pat Kane	Mike Wallace
Sue Liller	Marcia Warnick
Pat Malone	* Bill Weissgerber

\* \$99 Club Contributor

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## Education

MD Real Estate License Renewal Requirements

### Required Topics for ALL Licensees

- Topic D – Real estate ethics or professional standards – 3 clock hrs
- Topic A – Federal, state or local legislative issues – 3 clock hrs
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*PLEASE NOTE: if your license expires on or after October 2, 2008, ALL LICENSEES (regardless of years of licensure) must obtain 15 clock hours.*  
NO surprises! NO suspensions! No terminations! 2008 is the fourth and final year of the current quadrennial REALTOR® ethics training cycle, so be sure to take your quadrennial REALTOR® ethics training on line today at <http://www.realtor.org/mempolweb.nsf/pages/onlineethicstraining> or attend the **May 30, 2008 continuing education class with Al Monshower at Garrett College**. This course will satisfy both the Maryland license renewal requirement for Ethics/Predatory Lending as well as the quadrennial ethics required by NAR for membership. Registration flyers for the May 30<sup>th</sup> classes have been mailed out to all members.

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## Quiz: Code of Ethics

**1. A request for mandatory arbitration is based on:**

- ☐ A. A monetary dispute between REALTORS® (principals) in different firms.
- ☐ B. A legal claim for damages between REALTORS® in different firms.
- ☐ C. A monetary dispute between salespersons in different firms.
- ☐ D. A legal claim for damages between a salesperson and his/her broker.

CORRECT ANSWER: A *.monetary dispute between REALTORS® (principals) in different firms.*  
Generally, a request for mandatory arbitration is based on a monetary dispute. The dispute must be of a contractual or specific non-contractual nature, and it must be between REALTORS® (principals) in different firms arising out of their relationship as REALTORS®. Article 17 specifies the types of disputes that are required to be arbitrated.

**2. A request for arbitration is most commonly based on a dispute about:**

- ☐ A. A listing commission
- ☐ B. A cooperative (selling) commission
- ☐ C. An earnest money dispute
- ☐ D. A claim for damages

CORRECT ANSWER: A. *cooperative (selling) commission.* The most common type of monetary dispute between REALTORS® (principals) in different firms relates to a cooperative (selling) commission, sometimes also known as a co-brokerage commission. In the residential field, the offer of compensation is most commonly made by a listing broker in the context of filing with the MLS. In the commercial field, offers of compensation are often made directly among brokers in a market.

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# Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

Case #10-1 Equal Professional Services by the REALTOR® (Reaffirmed May, 1988.)

A minority couple called on REALTOR® A and expressed interest in purchasing a home in the \$130,000 to \$145,000 price range with a least three bedrooms, a large lot, and located in the Cedar Ridge area of town. Being familiar with Cedar Ridge through handling of numerous listings in that area, REALTOR® A explained that houses in Cedar Ridge generally sold in the price range from \$180,000 to \$220,000. The couple thereafter indicated that they would then like to see "what was available" within their economic means. After further discussion with the couple concerning their financial circumstances and the maximum price range they could afford, REALTOR® A concluded that the couple could not afford more than \$137,500 as an absolute maximum. The couple was then shown homes which met the criteria they had described to REALTOR® A. However, although REALTOR® A discussed with the couple the amenities and assets of each of the properties shown to them, they expressed no interest in any of the properties shown. A few days later, the minority couple filed charges with the Secretary of the Board, charging REALTOR® A with a violation of Article 10 of the Code Ethics, alleging that REALTOR® A had violated the Article by an alleged act of racial steering in his service to the minority couple.

The Secretary promptly referred the complaint to the Grievance Committee, which conducted a preliminary review and referred the complaint back to the Secretary, instructing that a hearing be arranged before a Hearing Panel of the Professional Standards Committee. REALTOR® A was duly noticed and provided with an opportunity to make his response to the complaint.

At the hearing, the minority couple elaborated upon their charge of the alleged racial steering by REALTOR® A, telling the Hearing Panel that they had specifically expressed an interest in purchasing a home in the Cedar Ridge area, but were not shown any homes in Cedar Ridge. REALTOR® A responded by producing written records documenting the housing preference of the couple as they had described it to him, including price range and demonstrating that he had shown them a number of listings that met the requirements as expressed by them, although admittedly one of the properties shown were located in Cedar Ridge. However, REALTOR® A explained that he had advised the minority couple that there were no listings available in Cedar Ridge falling within a price range expressed by them. Further, REALTOR® A produced listing and sales information concerning numerous homes in Cedar Ridge which confirmed an average sales price of \$180,000 to \$220,000. REALTOR® A told the Hearing Panel that he had, in fact, offered equal professional service to the minority couple by showing them properties which met the criteria they had presented to him. He pointed out to the Hearing Panel that the couple was charging him with "racial steering" which presumably they were relating to the denial of equal professional service. REALTOR® A stated, "If there were listing in Cedar Ridge in the \$130,000 to \$145,000 price range with at least three bedrooms and a large lot, and I had refused to show them such listings, then they might have a point in their charge. But there are no such listings available now, nor have there been at any time since the original development of the Cedar Ridge area five years ago. I could not show them what did not and does not exist."

The Hearing Panel concluded that REALTOR® A had properly met his obligation to offer equal professional service and was not in violation of Article 10.

# Garrett County Board of REALTORS®

GCBR News Briefs - June 2008

June 1, 2008

## ***Membership Update***

### ***New REALTOR® Members:***

Sandra Bello, Manager, Re/Max Sails

Paula Thomas, Re/Max Sails

### ***Transfers:***

### ***New Affiliate Members:***

### ***Drops:***

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## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Garrett County Budget Close to Being Finalized – real property taxes still top the list of revenue sources:**

The Garrett County Commissioners are close to putting the finishing touches on the proposed FY09 county budget. Of the anticipated \$59,376,615 in local revenue, \$38,891,455, or *more than 65% of the total county revenue, will come from real estate related taxes*. This represents an increase of over \$8.5 million compared to FY07. The next highest source of revenue is income taxes, which represents about a third of the revenue obtained from real estate.

In FY07, real estate related taxes represented about 58% of the county's revenue sources. A decade or so ago, the percentage was within the 50% range. This increase over time demonstrates the strong value of the real estate industry on the local level and the county's increasing reliance on it to balance the county budget.

The real property tax rate has remained unchanged at \$1.00 per \$1000 in assessed value. According to the Maryland Department of Assessment and Taxation, a constant yield rate of .918 would have applied had the commissioners adopted that tax strategy.

The proposed county budget is available on line at...

<http://www.garrettcountry.org/Commissioners/budget09/FY09requested.pdf>

### **Governor O'Malley Signs Final Bills from '08 Session – some related to real estate:**

The Governor held his final bill signing ceremony on Thursday May 22nd. A summary of many of the bills that the MAR Legislative Committee followed during the session is available by e-mail from Paul Durham.

### **TVRU Ordinance Update:**

Deputy Pat Kelly reports that the proposed improvements and changes to the county's TVRU ordinance are still under evaluation. An initial draft received a legal review and some modifications will be required before the county proceeds to a public hearing. We anticipate a few more months may pass before that occurs.

### **Comprehensive Plan Status:**

The Planning Commission is awaiting the results of the Maryland Department of Planning's review of the comprehensive plan, which should probably be coming in during the month of June. The County Commissioners anticipate holding a public hearing on the plan in July.

### **Wind Power Issue – PSC review of Criterion Power Partners continues:**

After a public hearing on Criterion Power Partners' (CPP) application for an exemption from the CPCN process, the Public Service Commission issued a letter order requiring CPP to address certain operational and maintenance issues. In addition, the interconnection agreement between CPP and Allegheny Power had been suspended and the PSC is investigating this aspect of the project.

On the county level, an agreement between CPP and the county has resulted in a geological study (funded by CPP) on the effects of dynamiting and construction on local water sources in the Landon's Dam area. Concerns have been expressed by the towns of Mountain Lake Park and Loch Lynn Heights about damage to critical public water sources due to the unique rock strata in the area. This is the same area where county property was leased for the wind turbine project. The county is entering the building permit phase through the office of Planning and Land Development. The County Commissioners still publicly support the project.

### **TRAIL Power Line Status:**

As reported in last month's GAD update, it appears that the TRAIL power line is not being planned to pass through southern Garrett County. In nearby West Virginia, Governor Joe Manchin recently announced his desire to impose additional taxes on the line and equipment. Details of this issue could evolve and we will watch it closely in case the routing changes.

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### **Maryland Association of REALTORS® - Legislative Update**

#### **GOVERNOR SIGNS NEW REAL ESTATE LEGISLATION INTO LAW**

#### **SB 181 – Summary Suspension of Real Estate License**

**Effective April 25, 2008**

Requires a real estate licensee to notify the Real Estate Commission about a felony conviction, and gives the Commission the authority to suspend a license immediately. Prior law was limited in giving the Commission authority to suspend a license, and required a hearing to be conducted before a suspension based on a felony conviction could occur. Now, the suspension for a felony can occur immediately, and a hearing will be held quickly to determine whether the suspension should continue.

#### Maryland Association of REALTORS®

MAR Annual Conference & Tradeshow, September 8-10, 2008

Early bird deadline extended to May 30 – register now! Go to the MAR web site at [www.mdrealtor.org](http://www.mdrealtor.org) login and register online.



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2008 Ocean City MD WE'RE LOOKING FOR REALTOR®  
“STARS” This conference is the best yet! Register [www.mdrealtor.org](http://www.mdrealtor.org)

## **Maryland Real Estate Commission**

MD Real Estate License Renewal Requirements

### Required Topics for ALL Licensees

- Topic D – Real estate ethics or professional standards – 3 clock hrs
- Topic A – Federal, state or local legislative issues – 3 clock hrs
- Topic C – Fair housing Law – 1.5 clock hrs

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## **NAR – National Association of REALTORS®**

**Lowe's Launches Brand-New Homeowner's Handbook**

Home improvement giant offers Realtors ability to send monthly tips and advice to their entire client base

May 5, 2008-In a brand-new strategy to help Realtors reach their consumer base via e-mail, last week Lowe's successfully launched its brand-new "Homeowner's Handbook" for buyers and sellers, in conjunction with Lowe's Realtor Benefits program. This professionally designed newsletter contains helpful hints and tips, new and innovative products, and periodic money-saving coupons at Lowe's.

Lowe's Homeowner's Handbook offers Realtors the ability to automatically send out to their entire client base: whether they're past client, someone they're working with now or someone they hope to work with again in the future.

Each e-mail comes with the following features to help Realtors personalize their message.

Monthly tips on selling, buying and moving

The ability to educate your clients about innovative products and projects around the home that yield the highest return

Important home maintenance tips

Biannual Project Starter Coupons for special savings at Lowe's

A direct link to your website and profile as well as the ability to have clients contact you directly via your e-mail

The Lowe's Realtor Benefits program is free for Realtors and offers personal marketing tools from Lowe's and the National Association of REALTORS®.

For more information, visit [www.lowsrealtorbenefits.com](http://www.lowsrealtorbenefits.com)

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## Quiz: Code of Ethics

**1. The concept of procuring causing is used to decide commission disputes in arbitration cases. Which of the following statements is true about the concept of procuring cause?**

- ☐ A. No predetermined rules of entitlement are allowed to be used by a hearing panel.
- ☐ B. A hearing panel should not consider the entire course of conduct in the transaction and should decide the case on one factor.
- ☐ C. Whether an agent abandoned to estranged a buyer is not an important factor in determining which party will receive an award.
- ☐ D. Generally, a hearing panel should split an award and should not make the award all to one party or the other.



CORRECT ANSWER: A. *No predetermined rules of entitlement are allowed to be used by a hearing panel.* The concept of procuring cause is the basis upon which the typical commission dispute about a cooperative a commission is decided. The “Arbitration Guidelines: in the Code of Ethics and Arbitration Manual (Appendix II to Part 10) set out a comprehensive set of guidelines by which hearing panels decide “Arbitration Guidelines.”

**2. REALTORS® have an obligation to protect and promote the interests of their clients but also have an obligation to treat all parties:**

- ☐ A. Fairly
- ☐ B. Honestly
- ☐ C. Fairly and honestly
- ☐ D. Politely

CORRECT ANSWER: B. *Honestly.* Article 1 of the Code sets out these fiduciary concepts. The obligation to protect and promote the clients’ interests is balanced by the obligation to treat all parties honestly.

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## Case Studies

### Interpretation of the Code of Ethics

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Case #12-14 Advertising Property as “Offered Exclusively” (Adopted November, 1995.)

REALTOR® B, an exclusive buyer agent, filed an ethics complaint against REALTOR® A claiming that her “for sale” signs violated Article 12’s call for “...a true picture in advertising and ...representations to the public.”

At the hearing, REALTOR® B elaborated on the charge in her opening statement. “REALTOR® A’s ‘for sale’ signs often include the words ‘Offered Exclusively’ on a rider attached to them’ she said, “and buyers are misled into believing that they can only purchase these properties by dealing with REALTOR® a or one of her associates. Advertising like that is unfair to other brokers who are trying to cooperate in the sale of her listings.”

REALTOR® A responded expressing her belief that while there might b a rare exception, most potential home purchasers were sufficiently sophisticated to realize that regardless of their wording, “for sale” signs were just that, announcements that property was on the market and that they could generally deal with any real estate broker that they chose. “Everybody realizes how MLS works and that we all cooperate with each to her on almost all of our sales. My use of ‘offered exclusively’ or ‘exclusively with’ or

‘exclusively by’ or just plain ‘exclusively’ like other brokers use doesn’t mislead anyone. And, as a practical matter, I do have an exclusive right to sell listing, and I am the seller’s exclusive agent, each and every time I put one of those signs on listed property so I have to believe that I am meeting Article 12’s true picture’ test.”

Agreeing with REALTOR® A reasoning, the Hearing Panel concluded that she had not violated Article 12.

# Garrett County Board of REALTORS®

GCBR News Briefs - July 2008

July 1, 2008

## *Membership Update*

*New REALTOR® Members: None*

*Transfers: None*

*New Affiliate Members: None*

*Drops: None*



The Garrett County Board of REALTORS® Officers and  
Directors are pleased to announce the

**Garrett County Board of REALTORS®  
2008 Realtor® of the Year Award Recipient  
Rich Orr**

Rich will represent Garrett County at the Maryland Association  
of REALTORS® Conference at Ocean City in September.

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**Government Affairs Committee Report - Paul Durham, G.A.D.  
Government Affairs Director  
Monthly Report**

### **Comprehensive Plan Status:**

The County's Department of Planning and Land Development (PLD) reports that the county commissioners will be holding a public hearing on the updated comprehensive plan in July. Garrett County Realtors® are encouraged to review the draft plan and become familiar with a number of the proposals that are in it, including changes in minimum/maximum lot sizes in various zoning and subdivision districts.

PLD Director John Nelson has also informed us that the County Commissioners provided funding in the next budget year (FY09 beginning July 1) of \$85,000 to update the Sensitive Areas Ordinance and \$100,000 to update the Water and Sewer Master Plans.

We will be watching these issues closely over the coming year. Of particular interest are the recommendations in the Comprehensive Plan that calls for the following changes to the Sensitive Areas ordinance:

- limiting development and establishing buffers around “Source Water Protection Areas”
- new site layout regulations for AR and RR land classification areas and to channel development away from environmentally sensitive areas
- adopting new stormwater standards to reflect those being developed by the MD Department of the Environment
- establishing a regulatory framework for the control of ridgetop development, including wind power projects

#### **Wind Power Issue – County Commissioners Hold Public Hearing on Performance Zoning Petition:**

On June 24, the County Commissioners conducted a public hearing regarding a citizen petition to enact countywide performance zoning and, in particular, to prohibit industrial wind turbines. More than 30 people spoke during the two-hour hearing, both for and against the proposal. About 60 to 70 people attended the hearing. The majority of those who spoke were in favor of expanded zoning and controls to address the wind turbine issue. Several property owners spoke against the proposal and against expanding zoning generally throughout the rest of the county.

The Commissioners did not act on the petition. Commissioner Glotfelty stated that the commissioners would discuss what they had heard at the hearing and get back with the community on the outcome.

The GCBR Board of Directors sought a legal review of the proposal using NAR’s “Land Use Initiative” which provides a review of proposed land use regulations through Robinson and Cole, a law firm on contract with NAR. The county’s attorney had advised the Commissioners and the Planning Commission that, in his opinion, the proposal could not be implemented as proposed in the citizen petition. His opinion is that comprehensive countywide zoning would need to be in place before performance zoning could be implemented. Recognizing that reaction on the county level, NAR recommended that we put the legal review on hold pending the county itself actually proposing a specific ordinance on the issue.

### **Department of Public Utilities (DPU) Rates to Increase:**

DPU Director Linda Lindsey reports that there will be a comprehensive increase in DPU sewer and water rates effective July 1. The rate increases were reviewed and approved by the County Commissioners at their June 24 meeting.

Customers will not receive a formal notification of the rate increases. However, DPU will post the changes in The Republican newspaper. The new rates are also posted on the county's web site at:

<http://www.co.garrett.md.us/PublicUtilities/waterrate.aspx>

Most of the increases involve rates in the Deep Creek system.

### **DNR Personal Watercraft Regulation Changes – Status:**

DNR Lake Manager Carolyn Mathews reports that their internal review of a number of regulation changes that effect how and where PWCs may be kept at dock permit sites on the lake has been delayed by about a month. The review was scheduled to be sent to Annapolis for review in July, but that time frame has been extended to August. GCBR will have an opportunity to review the proposal once it is made available for public comment.

Ms. Mathews did say that the goal is to change the regulations to prohibit the storage of PWCs on the buffer strip and to instead allow a limited number to be moored at docks, in addition to any other permitted powerboats. Commercial sites will not receive any additional PWC mooring rights over what they are already permitted.

The effect on property owners could be positive or negative depending on the number of PWCs they have traditionally stored on shore at their permit site. DNR also intends to phase out the previously permitted PWC stands that some property owners use.

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**2006 Continuing Education Audit – fines and penalties collected as of April 16, 2008 are \$11,200.00**

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## **Quiz: Code of Ethics**

**1. If a listing broker tells another broker, "I'll cooperate with you," the other broker:**

☐ A. May assume that the listing broker will pay him/her a cooperative commission.

☐ B. May not assume that the listing broker will pay him/her a cooperative commission.



- ☐ C. Has an arbitration claim against the broker if the listing broker fails to pay a cooperative commission.
- ☐ D. Has a legal claim for the cooperative commission against the listing broker if the listing broker refuses to pay a cooperative commission.

CORRECT ANSWER: B. *May not assume that the listing broker will pay him/her a cooperative commission.* Article 3 clearly states, "The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker." The cooperating broker must ascertain the terms of compensation, if any before beginning efforts to cooperate.

**2. A cooperating broker in a transaction may:**

- ☐ A. Claim to have "sold" the property involved in the transaction.
- ☐ B. Post a "sold" sign on the property involved in the transaction after the closing (with the buyer's permission).
- ☐ C. Not claim to have "sold" the property but may state that they have "participated" or "assisted" in the transaction.
- ☐ D. Both A and B.

CORRECT ANSWER: D. *Both A and B.* According to the Standard of Practice 12-7, "Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have 'sold' the property. Prior to closing, a cooperating broker may post a 'sold' sign only with the consent of the listing broker." Thus, a cooperating broker involved in a transaction may claim to have sold the property in the transaction. The only time limitation in the Standard of Practice relates to the cooperating broker posting a "sold" sign before closing. After closing, permission of the listing broker is not necessary for cooperating broker to post the 'sold' sign.

**3. Disciplinary action in an ethics complaint may NOT include:**

- ☐ A. A fine not to exceed \$5,000.
- ☐ B. A letter of reprimand.
- ☐ C. A requirement that the respondent attend a course of education.
- ☐ D. A written apology

CORRECT ANSWER: D. *written apology.* The Code of Ethics and Arbitration Manual lists the appropriate sanctions that a hearing panel may recommend to discipline a REALTOR® who has violated the Code of Ethics. Only those authorized sanctions are permissible. All of the disciplinary actions noted above other than the written apology are on the list of authorized sanctions. An apology of any sort cannot be mandated by a hearing panel or association.

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# Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

Case #16-1: Confidentiality of Cooperating REALTOR®'S Participation (Revised Case #21-5 May, 1988. Transferred to Article 16 November, 1994.)

When Client A listed his home for sale with REALTOR® B, he explained that he wanted the sale handled without advertising and without attracting any more attention than was absolutely necessary. He said he understood that he would have to have some contacts with prospective buyers and possibly with other REALTORS®, but that he did not want the property filed with the MLS, advertised, or in any way publicly announced as being on the market. He asked REALTOR® B to impress the same restrictions on any other REALTOR® who might become involved in the transaction.

REALTOR® B, having reason to think that REALTOR® C was in touch with prospective buyers to whom the property would appeal, approached REALTOR® C to invite his cooperation, and explained fully the Client's instructions. REALTOR® B discussed the matter with no other REALTOR® and refrained from any kind of advertising of the property. But a few days later REALTOR® B learned that REALTOR® D was discussing the property with prospective buyers, knew the REALTOR® C was working on it, knew the price at which the property had been listed and other details about it. Questioning revealed that REALTOR® C had told REALTOR® D that he was working on the sale of the property.

On the basis of the information from REALTOR® D, REALTOR® B charged REALTOR® C with unethical conduct in a complaint to the Board of REALTORS® specifying that REALTOR® C's breach of confidence under the circumstances was a failure to respect his, REALTOR® B's, exclusive agency, and that this action had jeopardized his relationship with his client.

The complaint was referred to the Board's Professional Standards Committee, a hearing was scheduled, and REALTOR® C was directed to answer the charge of unethical conduct in violation of Article 16.

At the hearing, REALTOR® B detailed the instructions of the client and the manner in which he had conveyed them to REALTOR® C in inviting his cooperation. REALTOR® D told the Hearing Panel that REALTOR® C defended himself against the charge of violating Article 16 by saying that while he had discussed the matter briefly with REALTOR® D, he had not expressly invited his cooperation, and, therefore, had not violated Article 16.

At the conclusion of the hearing, the panel held that REALTOR® B's complaint was valid; that proper respect for his exclusive agency and the circumstances under which it

existed required REALTOR® C to observe the confidence entrusted to him and that REALTOR® C's discussion of the matter with REALTOR® D was in violation of Article 16.

# Garrett County Board of REALTORS®

GCBR News Briefs - August 2008

August 1, 2008

## *Membership Update*

### **New REALTOR® Members:**

None

### **Transfers:**

Cindy Sanders to Goodfellow Real Estate Services

### **New Affiliate Members:**

None

### **Drops:**

Andy Niedenthal, Affiliate

Paul Naylor, Appraisal Associates

### **Address Change:**

RGS Title

Gary Sabo, Esq.

24449 Garrett Highway, Unit 4

McHenry, MD 21541

### **Business Name Change:**

Glen's Home Inspections

Glen Champlin

316 Hemlock Meadow Drive

Granstville, MD 21536

Dever Appraisals

Mike Dever

34 Crabtree Hill

Oakland, MD 21550

301-387-2683

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## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director**

**Comprehensive Plan Status – Public Hearing Slated:**

The State has completed its comments on the county's draft comprehensive plan. This means that the County can proceed forward with a public hearing.

**The County Commissioners and the Planning Commission will conduct a joint hearing on the draft plan on Thursday August 21 at 7:00 PM at the Garrett College auditorium.**

Both entities will take public comment. After that, the county commissioners will need to vote on the plan. Some additional information not included in the draft plan dealing with the "water resource element" will be provided at the meeting. These last minute additions are the result of State MDE comments.

The draft can be reviewed on-line at:

<http://www.co.garrett.md.us/PlanningLand/PlanningZoning/Planning.aspx>

**DNR to Increase Conservation Easement Enforcement on Lake Buydown Parcels:**

Lake Manager Carolyn Mathews recently announced the DNR's intention to address a number of easement violations through court action. Most cases involve alleged illegal dumping or fill on the buydown parcel. The cases are a civil matter and action will be through circuit court.

Ms. Mathews reported that they are experiencing an increasing number of cases involving improper construction of drains, pipes and improvements that are prohibited by the DNR's easement. The Office of the Attorney General will represent the DNR in court.

**Garrett County to Update Sensitive Area Ordinance, Stormwater Ordinance and its Master Water and Sewer Plan:**

Anticipating implementation of some of the recommendations of the updated Comprehensive Plan, the County Commissioners provided funding in the FY09 budget for consulting contracts to update the Sensitive Area Ordinance and the county's Master Water and Sewer Plan.

The Sensitive Area Ordinance will need to reflect several new protection strategies, including a proposal for the protection of scenic ridge tops and viewsheds and the protection of water resource/source areas, among other things. The Water and Sewer Plan will need to be updated to incorporate expended growth areas near municipalities and a "lake influence area" north of McHenry.

The Department of Planning and Land Development also recently reported that the State is in the process of changing its stormwater standards. Reggie Breeding reported that the county will need to update its stormwater ordinance to comply with new standards being developed by MDE (as a result of the 2007 Stormwater Management Act). The ordinance changes will include new site design criteria – primarily non-structural, low impact development, and utilizing forested buffer as stormwater credits. The ordinance changes will occur in 2009.

Some of the changes may impact individual homeowners. At the July 22 Commissioner meeting, Mr. Breeding noted that there is a growing stormwater management problem with homes being built close to the rear yard line around the lake, as a result of the county's "relaxed variance" standard. It is difficult to retrofit or to provide on site stormwater management when the home is built so close to the property line.

The county has asked the DNR to consider allowing stormwater control features on the buydown sites. However, the conservation easement appears to prohibit this. No final answer back yet from DNR.

### **Garrett County Commissioners Sanction Formation of a “Sign Task Force”:**

A legislative issue arose in the last session when Delegate Wendell Beitzel pushed for legislation that would provide for a local countywide sign ordinance. The county commissioners opposed the legislation. Delegate Beitzel recently approached the county again and encouraged local regulation of signs, especially along county roads.

At its July 22 meeting, the Commissioners voted to sanction the formation of a task force to include representatives from the Planning Commission, the Chamber of Commerce and the Economic

Development Corporation. The Task Force will have the goal of studying the issue independently and providing an advisory opinion to the county commissioners some time next year on the issue of sign regulation in the county. The idea had the support of the Planning Commission.

The Garrett County Board of Realtors® had asked the Commissioners for a seat on the task force, noting its members' reliance on signing to promote its business and the needs of its customers. That request was denied. It was the opinion of the Commissioners that a representative from the Chamber could be appointed to task force who would be able to carry the opinions of the Board of Realtors and therefore a designated representative from GCBR is not required.

### **Wind Power Issue – No Formal Response Yet From County Commissioners on Performance Zoning:**

At the close of the June 24 county hearing, Commissioner Glotfelty noted that the commissioners would discuss what they had heard at the hearing and get back with the community on the outcome. Some preliminary press reports indicate that the commissioners will rely on the advice of the county attorney and not proceed with the proposal. That advice is that performance zoning cannot be implemented in the absence of countywide comprehensive zoning.

### **DNR Personal Watercraft Regulation Changes – Status:**

The DNR has almost finished its redraft of the lake regulations dealing with how PWCs may be moored at docks around Deep Creek Lake (and ultimately removed from beaching on the shoreline). We will obtain a copy of the new proposal once it becomes available.

Details on items that might be included in the new regulations can be viewed on line at the Policy and Review Board's site at <http://www.dnr.state.md.us/publiclands/prbminutes.html>

### **Subdivision and Building Permits – county statistics released:**

The county's Department of Planning and Land Development has released its first half 2008 statistical report on subdivision and building permit trends in the county. New single-family housing starts are down about 40% when compared to 2004. Subdivision requests are down also, with only 39 building lots being approved since January 1. Only two major subdivisions have been approved for a total of eight new lots.

Building permits for 2008 to date include 97 single-family homes, down from a recent high of 169 in the first half of 2004. In the DCL watershed, a total of 51 housing units were permitted, or 51% of the units permitted in the first half of 2004 (100 units).

If you would like to see a copy of the reports, please e-mail Paul Durham, Government Affairs Director, at [pdurham@cebridge.net](mailto:pdurham@cebridge.net). Both reports require 3mb of e-mail bandwidth.

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### **Maryland Association of REALTORS®**

MAR Annual Conference & Tradeshow, September 8-10, 2008

Go to the MAR web site at [www.mdrealtor.org](http://www.mdrealtor.org) login and register online.



MAR ANNUAL CONFERENCE & TRADESHOW September 8-10, 2008 Ocean City MD WE'RE LOOKING FOR REALTOR®  
"STARS" This conference is the best yet! Register [www.mdrealtor.org](http://www.mdrealtor.org)

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## **Maryland Real Estate Commission**

### **SB 181 - Summary Suspension of Real Estate License**

Requires a real estate licensee to notify the Real Estate Commission about a felony conviction, and gives the Commission the authority to suspend a license immediately. Prior law was limited in giving the Commission authority to suspend a license, and required a hearing to be conducted before a suspension based on a felony conviction could occur. Now, the suspension for a felony can occur immediately, and a hearing will be held quickly to determine whether the suspension should continue.

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## **NAR - National Association of REALTORS®**

### **Sweeping Housing Relief Bill Sent to President Bush**

Last Saturday, July 26, Congress sent President Bush legislation which is designed to help homeowners avoid foreclosure, spur home buying, and prop up struggling



mortgage giants Fannie Mae and Freddie Mac. The president intends to sign the bill as soon as he receives it.

[Read more >>](#)

The "Housing and Economic Recovery Act of 2008," passed the House on July 23<sup>rd</sup> by a vote of 272-152. Key provisions of the bill passed by the House and expected to also be included in the final Senate legislation awaiting signature by the President are as follows:

- **GSE Reform** - including a strong independent regulator, and permanent conforming loan limits up to the greater of \$417,000 or 115% local area median home price, capped at \$625,500. The effective date for reforms is immediate upon enactment, but the loan limits will not go into effect until the expiration of the Economic Stimulus limits (December 31, 2008).
- **FHA Reform** - including permanent FHA loan limits at the greater of \$271,050 or 115% of local area median home price, capped at \$625,500; streamlined processing for FHA condos; reforms to the HECM program, and reforms to the FHA manufactured housing program. The effective date for reforms is immediate upon enactment, but the loan limits will not go into effect until the expiration of the Economic Stimulus limits (December 31, 2008).
- **Homebuyer Tax Credit** - a \$7500 tax credit that would be available for any qualified purchase between April 8, 2008 and June 30, 2009. The credit is repayable over 15 years (making it, in effect, an interest free loan).
- **FHA foreclosure rescue** - development of a refinance program for homebuyers with problematic subprime loans. Lenders would write down qualified mortgages to 85% of the current appraised value and qualified borrowers would get a new FHA 30-year fixed mortgage at 90% of appraised value. Borrowers would have to share 50% of all future appreciation with FHA. The loan limit for this program is \$550,440 nationwide. Program is effective on October 1, 2008.
- **Seller-funded downpayment assistance programs** - codifies existing FHA proposal to prohibit the use of downpayment assistance programs funded by those who have a financial interest in the sale; does not prohibit other assistance programs provided by nonprofits funded by other sources, churches, employers, or family members. This prohibition goes into effect October 1, 2008.
- **VA loan limits** - temporarily increases the VA home loan guarantee loan limits to the same level as the Economic Stimulus limits through December 31, 2008.
- **Risk-based pricing** - puts a moratorium on FHA using risk-based pricing for one year. This provision will be effective from October 1, 2008 through September 30, 2009.
- **GSE Stabilization** - includes language proposed by the Treasury Department to authorize the Treasury to make loans to and buy stock from the GSEs to make sure that Freddie Mac and Fannie Mae remain solvent.
- **Mortgage Revenue Bond Authority** - authorizes \$10 billion in mortgage revenue bonds for refinancing subprime mortgages.
- **National Affordable Housing Trust Fund** - Develops a Trust Fund funded by a percentage of profits from the GSEs. In its first years, the Trust Fund would cover

costs of any defaulted loans in FHA foreclosure program. In out years, the Trust Fund would be used for the development of affordable housing.

- **CDBG Funding** - Provides \$4 billion in neighborhood revitalization funds for communities to purchase foreclosed homes.
- **LIHTC** - Modernizes the Low Income Housing Tax Credit program to make it more efficient.
- **Loan Originator Requirements** - Strengthens the existing state-run nationwide mortgage originator licensing and registration system (and requires a parallel HUD system for states that fail to participate). Federal bank regulators will establish a parallel registration system for FDIC-insured banks. The purpose is to prevent fraud and require minimum licensing and education requirements. The bill exempts those who only perform real estate brokerage activities and are licensed or registered by a state, unless they are compensated by a lender, mortgage broker, or other loan originator.

Through the NAR REALTOR® Action Center, more than 90,000 REALTORS® contacted the US Senate to urge passage of the Housing Bill. It is believed that none of this would have been possible without members mobilizing in support of this crucial housing legislation. **THANK YOU FOR MAKING A DIFFERENCE!**

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## GCBR Fall Semester Education Courses

### Benefits of taking C.E. classes locally

- Take your C.E. classes locally to SAVE GAS!
- Support your association
- Assist in not raising local dues

## Mark Your Calendars:

**September 26, 2008**

Place: Garrett College

Instructor: Don Martin

4.5 hours Continuing Education

### Session 1

*"Fair Housing"*

10:00am - 11:30pm

1.5 hours Topic C

### Session 2

*"Risk Reduction"*

12:30 - 3:30 pm

3 hours Topic F

and

**October 24, 2008**

Place: Garrett College

Instructor: Al Monshower

6 hours Continuing Education

*Topic A Courses to be announced*

More information will follow

After October 1, 2008 **ALL** licensees will be required to complete 15 clock hours of continuing education. Of the required hours, 3 hours must be in Topic A Legal/Legislative, 3 hours in Topic D Ethics/Predatory Lending and 1.5 hours in Topic C Fair Housing. Additional hours can be acquired in Topics A, B, C, D, E, F and G and all courses **MUST** have been approved for continuing education by the MD Real Estate Commission.

You **MUST** maintain a file of all original C.E. Certificates. Very soon the Commission will implement audits with online license renewal. If you are audited, you will be requested to send your original certificates to the Commission within a certain number of days. Fines for failure of non-compliance are extremely high.

There is a \$5.00 charge for reissue of any GCBR C.E. Certificates and a \$10.00 charge for reissue of any MAR C.E. Certificates.

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## MRIS

### NEW SAFEMLS TOKEN WILL ARRIVE IN MAIL



Clareity Security (MRIS's token provider) and Secure Computing (the token manufacturer) have acknowledged a manufacturing issue with existing tokens that is causing a higher than expected failure rate. To provide MRIS customers with the most reliable device to protect MLS content, MRIS subscribers are being sent replacement tokens - the newest and most upgraded model - at the subscribers' home mailing

addresses that MRIS has on file.

The new, smaller token clips onto keychains, purses, or belt loops, and features a clearer display. It is all numeric, eliminating confusion between letters and numbers which look similar. The new token works just like the old one - just press a button to retrieve the next password.

You should receive your new token in the next few days.

When you receive your new token, the package will include activation instructions. Please take a minute to register and activate your new token. Once your new token is activated, you can dispose of the old token - there's no need to send it back. Even if your current one functions properly, still register your new token to avoid any future token failure.

If you have reported a lost or broken token in the last month, you have already received the newer model. No further action will be necessary on your part.

**Thank you in advance for your patience and cooperation!**  
**Any questions, please call MRIS at 301 838-7100.**

## Case Studies

# Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #12-5: True Picture in Use of "Sold" Sign** (Revised Case #19-7 May, 1988.  
Transferred to Article 12 November, 1994.)

REALTOR® A, the listing broker, was charged by REALTOR® B with giving a false picture in his advertising by putting up a "sold" sign on the property that had not been sold. REALTOR® A was notified of the complaint and of the date of a hearing on it scheduled before a Hearing Panel of his Board's Professional Standards Committee.

Undisputed testimony offered during the hearing revealed that REALTOR® A was an exclusive agent, offering Client C's home for sale. An offer to buy was obtained from Prospect D and a counter proposal by Client C was accepted. An earnest money deposit was made, and a date for settlement was agreed upon. At that point, REALTOR® A put up his "sold" sign. Several days later, Prospect D received an unexpected notice from his employer that he was to be transferred to another city. Prospect D immediately contacted REALTOR® A and Client C about his predicament. In an amicable discussion it was agreed that everyone had acted in good faith; the property was readily marketable; that the earnest money deposit would be refunded; and that REALTOR® A would put the property on the market again. A week later, when REALTOR® B was showing a number of houses to a prospective buyer, they drove by Client C's property, and the prospect casually said that she didn't understand the "sold" sign, since she had been taken to see the house that morning by REALTOR® A.

REALTOR® B contended that a "sold" sign is a measure of a REALTOR®'s advertising, and that it cannot give a true picture if it is put up prior to the settlement and actual transfer of ownership.

The Hearing Panel's decision agreed with REALTOR® B's contention that the use of a "sold" sign constitutes advertising by a REALTOR® but did not agree that a "sold" sign could be put up only after the actual settlement and transfer of ownership. The decision indicated that after the client's acceptance of a bona fide offer, REALTOR® A could consider that he had brought about a sale and would not be a violation of the requirement to give a "true picture" by putting up a "sold" sign. However, once it was clear that the sale had fallen through; the "sold" sign should have been immediately removed since allowing the sign to remain in place no longer provided a "true picture."

REALTOR® A was found by a panel to have violated Article 12.

# Garrett County Board of REALTORS®

GCBR News Briefs - September 2008

September 1, 2008

## *Membership Update*

### **New REALTOR® Members:**

Jeremy Gosnell – Coldwell Banker Deep Creek Realty

### **Transfers:**

### **New Affiliate Members:**

### **Drops:**

Paul Macy – United Country Humberson Homes

Justin Scarpelli – United Country Humberson Homes

James Sherbin – United Country Humberson Homes

### **Address Change:**

### **Business Name Change:**

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## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Comprehensive Plan – Public Hearing Held:**

The County Commissioners and the Planning Commission held a joint hearing on the draft comprehensive plan on August 21st at the Garrett College auditorium. The hearing was lightly attended and most of the comments centered on the planned housing project next to the Garrett County airport, the Oakland bypass and just general questions.

The public comment period is still open and written comments will be accepted through September 4th. Realtors® are encouraged to become familiar with the plan. The draft can be reviewed on-line at:

<http://www.co.garrett.md.us/PlanningLand/PlanningZoning/Planning.aspx>

### **MAR Gears up for Legislative Session**

Government Affairs Director Paul Durham attended a Grassroots/RPIC meeting at MAR's headquarters in Annapolis on August 26th. Meeting topics included federal topics ranging from

the recently passed Housing Bill, NAR Calls to Action as well as state initiatives, such as utilizing new grassroots software and identifying REALTOR political profiles with our Grassroots Survey. GADs from across the state also met to discuss upcoming local issues as well as new advocacy tools available to them.

#### **Legislative Alerts and Calls for Action:**

As Congress reconvenes and as we move into Maryland's legislative session, Realtors® will be occasionally alerted to important issues through "legislative Alerts" and "calls for action" e-mails. Recently, we saw several alerts that dealt with legislation in congress dealing with the Housing and Economic Recovery Act of 2008 and RESPA (Real Estate Settlement Procedures Act) rules.

MAR has been utilizing the Legislative Action Center since 2001. This grassroots mobilization tool has been useful on the federal, state and local level and continues to be a great tool for keeping Realtors® informed of issues and for local boards to encourage political participation.

Stay tuned for more as the legislative session draws near.

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#### **Maryland Association of REALTORS®**

MAR Annual Conference & Tradeshow, September 8-10, 2008

Go to the MAR web site at [www.mdrealtor.org](http://www.mdrealtor.org) login and register online.



MAR ANNUAL CONFERENCE & TRADESHOW September 8-10, 2008 Ocean City MD WE'RE LOOKING FOR REALTOR®  
"STARS" This conference is the best yet! Register [www.mdrealtor.org](http://www.mdrealtor.org)

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## **NAR - National Association of REALTORS®**



Have you ever visited the NAR Realtor® Store? There are many products and publications available the following new brochures:

**IT IS A GREAT TIME TO BUY!** Is a resource for REALTORS® to share with consumers about the strength of the 2008 market, the 15 year high in seller inventory, near 40 year low in interest rates, increase in FHA loan availability and much more.

**GETTING IT SOLD** is another informative consumer-focused piece about preparing a home for sale. As the saying goes, you never get a second chance to make a first impression and the same holds true for selling a home.

Interested? Visit [www.REALTOR.org/Store](http://www.REALTOR.org/Store)

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## GCBR Fall Semester Education Courses

### **Remember – The Best Realtors® Never Stop Learning!**

#### Benefits of taking C.E. classes locally

- Take your C.E. classes locally to SAVE GAS!
- Support your association
- Keep local dues costs down

## Mark Your Calendars:

**September 26, 2008**

Place: Garrett College

Instructor: Don Martin

**4.5 hours Continuing Education and Lunch  
Package**

**Session 1**  
***"Fair Housing"***  
10:00am - 11:30pm  
1.5 hours Topic C

**Session 2**  
***"Risk Reduction"***  
12:15 - 3:15 pm  
3 hours Topic F

Lunch 11:30 - 12:00

**Registration Flyers will be mailed by the end of the first week of September. Cost will be \$49 Realtor® Member and \$59 Non-Realtor® Member**

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**October 24, 2008**  
Place: Garrett College  
Instructor: Al Monshower  
6 hours Continuing Education  
***Topic A Courses to be announced***  
More information will follow

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There is a \$5.00 charge for reissue of any GCBR C.E. Certificates and a \$10.00 charge for reissue of any MAR C.E. Certificates.

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## Maryland Real Estate Commission

After October 1, 2008 **ALL** licensees will be required to complete 15 clock hours of continuing education. Of the required hours, 3 hours must be in Topic A Legal/Legislative, 3 hours in Topic D Ethics/Predatory Lending and 1.5 hours in Topic C Fair Housing. Additional hours can be acquired in Topics A, B, C, D, E, F and G and all courses **MUST** have been approved for continuing education by the MD Real Estate Commission.

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## Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #12-20: Misleading Use of "MLS" in URL (Adopted November, 2007)**

REALTOR® A, a residential broker in a major metropolitan city, spent several weeks each year in his cabin in the north woods where he planned to retire one day. Even while at home in the city, REALTOR® A stayed abreast of local news, events, and especially the local real estate market by subscribing to the print and on-line editions of the local newspaper. He also bookmarked a number of north woods brokers' websites to stay current with the market and to watch for potential investment opportunities.

One evening while surfing the Internet, he came across a URL he was unfamiliar with- northwoodsandlakemls.com. REALTOR® A was pleased to see the MLS serving the area where he vacationed for so many years had created a publicly-accessible website. Clicking on the link, he was surprised to find that the website he was connected with was not an MLS's website but instead REALTOR® Z's company website. Having had prior dealings with REALTOR® Z, REALTOR® A spent some time carefully scrutinizing the website. He noted, among other things, that the name of REALTOR® Z's firm did not include the letters MLS.

REALTOR® A sent an e-mail to the association's executive officer asking whether REALTOR® Z had been authorized by the association to use the URL northwoodsandlakemls.com and whether the association felt it presented a true picture as required by Article 12 of the Code of Ethics. The association executive responded that their association did not assign, review, or approve URLs used by their members, but added that if REALTOR® A felt a possible violation of the Code of Ethics had occurred, the appropriate step was to file an ethics complaint. REALTOR® A did just that, alleging in his complaint that when he clicked on what appeared to be a real estate-related URL that included the letters "MLS" he expected to be connected with a website operated by a multiple listing service. He stated he felt that REALTOR® Z's URL was deceptive and did not meet Article 12's true picture test.

At the hearing, REALTOR® Z defended his URL on a number of grounds including the fact that he was a participant in good standing with MLS and that he was authorized under the MLS's rules to display other participants' listings on his website. "If I used 'MLS' in the name of my firm, I could see how that might be perceived as something less than a true picture," he argued, "but by simply using MLS in my URL I am telling consumers that they can get MLS-provided information about properties in the north woods from me. What could be truer than that?"

The hearing panel disagreed with REALTOR® Z's reasoning. While REALTOR® Z's website included information about other participants listings that the MLS had provided- and that REALTOR® Z was authorized to display- the fact remained that a real estate-related URL that included the letters MLS would lead reasonable consumers to conclude that the website would be an MLS's, and not a broker's website. REALTOR® Z was found in violation of Article 12 as interpreted by Standard of Practice 12-10.

# Garrett County Board of REALTORS®

GCBR News Briefs - October 2008

October 1, 2008

## *Membership Update*

### **New REALTOR® Members:**

Mary Ann Anderson – Coldwell Banker Deep Creek Realty  
Jeremy Gosnell, Coldwell Banker Deep Creek Realty

### **Transfers:**

Paul Macy – Garrettland Inc.  
Ben Thrush – Railey Realty  
Jane Thrush – Railey Realty  
Bob Orr – Offlake Realty & Rentals

### **Drops:**

Shelia Jeffreys – Railey Realty

### **New Office:**

Offlake Realty & Rentals  
Bob Orr, Broker  
12978 Garrett Highway, Suite #1  
Oakland, MD 21550  
301-387-8060

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## DUES

### **New Fiscal Year Dues – November 1, 2008 – October 31, 2009**

2008-09 Dues \$558.00 are due and payable November 1, 2008 and must be paid by November 30, 2008 to avoid a 10% compounding late fee. The first week of October, dues invoices packets will be sent to all member home addresses. The invoice can be paid by cash or check to GCBR. If you choose to pay by Visa or MasterCard, the packet will contain instructions how to pay your dues online at the National Association of REALTORS® (NAR) website. [Online invoices will not be released until late day on October 31, 2008 so you will not be able to access your invoice until such time.](#)

Garrett County Board of REALTOR® Bylaws, Article X Dues & Assessments, Section 4 Nonpayment of Financial Obligations. **If dues, fees, fines, or other assessments including amounts owed to the Board are not paid within one (1) month after the due date, the nonpaying Member is subject to suspension at the discretion of the Board of Directors.** Two (2) months after the due date, membership of the nonpaying Member may be terminated at the discretion of the Board of Directors. Three (3) months after the due date, membership of the nonpaying Member shall automatically terminate unless within that time the amount due is paid. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the amount owed has been confirmed by the Board of Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines, or other assessments duly levied in accordance with the provisions of these Bylaws or the provisions of other Rules and Regulations of the Board or any of its services, departments, divisions or subsidiaries may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination.

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## **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

### **Comprehensive Plan Moves Into Final Review – County Commissioners to take action in October:**

The Planning Commission will act on the final draft of the Comprehensive Plan at its October 1 meeting. There is a disagreement between the Planning Commission and the County Commissioners over Chapter 7, specifically the language dealing with ridgetop protection. John Nelson will provide the county commissioners with two drafts, one that is a product of the Planning Commission's work and a second version that will be a redraft of Chapter 7 that will include the language preferred by the Commissioners. The County Commissioners are expected to review and possibly act on the plan at their October 7 meeting. According to the Commissioners, legal counsel advises that ridgetop protection cannot occur in the absence of countywide comprehensive zoning.

<http://www.co.garrett.md.us/PlanningLand/PlanningZoning/Planning.aspx>

### **County to Seek Enabling Legislation for Wind Turbine Siting Standards:**

At the September 10 Planning Commission meeting, the county commissioners announced that they would seek enabling legislation this coming session to obtain local authority to establish wind turbine siting standards, especially as they relate to setbacks. The Garrett County Board of Realtors® had previously made a recommendation to the commissioners to take the same action during the 2008 session. However, the commissioners chose not to pursue this option at the time. Government Affairs Director Paul Durham has initiated a dialogue with Delegate Wendell Beitzel in order to stay informed about any legislation that is drafted or pre-filed. MAR has also been alerted on the matter.

### **Ad-hoc Sign Task Force Meets – makes recommendation to county:**

The county's ad-hoc Sign Task Force met on August 19 and reported back to the Commissioners. Their conclusion is that the Commissioners should seek enabling legislation for local authority to regulate outdoor advertising signs. Should that be pursued, and should the county receive that authority from the legislature, the task force will stand ready to work on further specifics. John Nelson reported that the sense of the task force is that it would not be fruitful to spend time on specific regulations until such time as the county has the actual authority to regulate signs. The commissioners noted that they were OK with the recommendation.

### **County Stormwater Ordinance to be Updated in Early 2009:**

Jim Torrington with the county's Division of Permits and Inspections anticipates needing to update the county stormwater ordinance sometime in early 2009 because the MDE is updating their regulations to reflect the intent of the legislature's Stormwater Management Act of 2007. This will include new design standards for stormwater facilities. There is concern by county officials and the county commissioners about the additional requirements. Torrington said that developers and property owners should also expect longer review periods on certain MDE permits for large-scale projects. In addition, there is concern about the impacts of the new standards on homes built close to property lines, especially those around Deep Creek Lake that are built close to the old Penelec line. The county had asked DNR to consider relaxing its restrictions on stormwater management on buydowns and the buffer strip. Lake Manager Carolyn Mathews reported to GCBR that the DNR would not be doing this.

### **Permit and Inspection Division Updates Web Site – new publication available:**

The county's Permits and Inspections division has updated their web site. A new publication, "Development and Construction Process for Garrett County, Maryland" has been added to the site. This guide is intended to provide information on the various regulatory requirements for development and construction in the county.

The publication can be found on-line at ...

<http://www.garrettcountry.org/PlanningLand/PermitsInspect/pdf/Brochure.pdf>

### **DNR to Announce New Personal Watercraft Regulations:**

DNR Lake Manager Carolyn Mathews reports that it will soon release the proposed changes to the lake regulations dealing with how and where personal watercraft (PWCs) may be stored or moored at dock permit sites. DNR's goal is to eventually remove all PWCs from being beached on the buffer strip and to set standards for how many may be kept at a dock.

GCBR made several recommendations to DNR and the Policy and Review Board at its October 2007 meeting of things to consider in drafting the new regulations. These included addressing restricted Type-A permits, existing common docks, setting a reasonable "grandfathering" time limit for the removal of existing permitted PWC stands.

DNR reports that the public comment period will be in early October and that the PRB will meet on October 3 to take comments and to discuss the proposal. GCBR will examine the proposal closely and comment as needed.

### **Maryland SHA Puts Projects on Back Burner:**

SHA officials announced that several highway projects in Garrett County have been deferred due to the state's poor fiscal situation. The US 219 Oakland Bypass and the US 219 North ROW projects have been deferred to 2014 or later. There is opportunity to reconsider the funding for the projects on an annual basis.

The SHA also recently conducted a tour of the list of items that the county has on its wish list of state highway improvements. The Oakland Bypass remains at the top of the county's list along with 14 other recommendations. The Secretary of the Md. Dept. of Transportation will be meeting with the Commissioners on October 3.

### **DNR Steps Up Enforcement on the Buffer Strip and on Buydown Parcels:**

DNR Lake Manager Carolyn Mathews reports that her office is pursuing several civil cases in circuit court involving activities on certain buydowns that are in violation of the provisions of the Conservation Easement. The most difficult situations appear to be grading and filling of the buffer strip, especially after home construction.

DNR is also adopting a new policy that *any* maintenance to *existing and approved improvements* on the buffer strip requires the prior notification and possibly the approval of the lake management office. The DNR may require a new Special Permit to be applied for and be issued before maintenance may occur.

This is a departure from historic practice and many property owners routinely provide for ongoing maintenance of structures and improvements that have been permitted. Government Affairs Director Paul Durham recommended to DNR staff that they consider modifications to their permit language to better inform property owners of this new policy. This may also require changes to the lake regulations to better and more specifically articulate DNR's maintenance permitting requirements.

DNR is enforcing this policy through the issuance of criminal citations. Violations of the lake regulations are a misdemeanor punishable by a fine up to \$1000 and the potential for imprisonment of up to one year.

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## **GCBR Fall Semester Education** **Courses**

### **Remember – The Best Realtors® Never Stop Learning!**

#### **Benefits of taking C.E. classes locally**

- Take your C.E. classes locally to *SAVE GAS!*
- Support your association

- Keep local dues costs down

## Instructor, Al Monshower, Jr.

October 24, 2008

Place: Garrett College

6 hours Continuing Education

"Contracts, Formation & Termination"

8:45am - 12:00 Noon

Topic A

"Basics of Buyer Agency - Advanced Course"

1:00pm - 4:15pm

Topic A

Cost: 6 hours \$90.00 Realtor® Member - \$99.00 Non-Member

3 hours \$50.00 Realtor® Member - \$55.00 Non-Member

Registration flyers will be mailed to home addresses the first week of October.

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There is a \$5.00 charge for reissue of any GCBR C.E. Certificates and a \$10.00 charge for reissue of any MAR C.E. Certificates.

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## Maryland Real Estate Commission

After October 1, 2008 **ALL** licensees will be required to complete 15 clock hours of continuing education. Of the required hours, 3 hours must be in Topic A Legal/Legislative, 3 hours in Topic D Ethics/Predatory Lending and 1.5 hours in Topic C Fair Housing. Additional hours can be acquired in Topics A, B, C, D, E, F and G and all courses **MUST** have been approved for continuing education by the MD Real Estate Commission.

You **MUST** maintain a file of all original C.E. Certificates. Very soon the Commission will implement random audits with online license renewal. If you are audited, you will be required to send your original certificates to the Commission within a certain number of days. Fines for failure of non-compliance are extremely high.

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## MAR - Maryland Association of REALTORS®

As a Maryland REALTOR®, you have **unlimited FREE calls** seven days a week to our technical staff, who will answer your hardware and software questions (except MLS-related questions). Comprehensive technical information is available on Operating Systems — Windows and MAC; major web design software; Microsoft Office Products; Real Estate Specific Software—Digital Cameras, PDAs, Hardware—PC and MAC; Internet Browsers; Peripherals (printers & scanners); and much more! You'll never find this comprehensive service at a better price!

**Call 866-638-4411 between Mon-Friday 8:30AM - 8 PM; Sat. & Sun. 10 AM-4 PM.**

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## NAR - National Association of REALTORS®

2008 REALTORS® Conference and Expo

Orlando, Florida

November 7 - 10

Register at [www.REALTOR.org/Conference](http://www.REALTOR.org/Conference)

Monday's Grand Prize Drawing - Cadillac CTS

Celebrity Concert with Lionel Richie

General Session Speaker - Lance Armstrong

Have you ever visited the NAR Realtor® Store? There are many products and publications available the following new brochures:

**IT IS A GREAT TIME TO BUY!** Is a resource for REALTORS® to share with consumers about the strength of the 2008 market, the 15 year high in seller inventory, near 40 year low in interest rates, increase in FHA loan availability and much more.

**GETTING IT SOLD** is another informative consumer-focused piece about preparing a home for sale. As the saying goes, you never get a second chance to make a first impression and the same holds true for selling a home.

Interested? Visit [www.REALTOR.org/Store](http://www.REALTOR.org/Store)

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# Case Studies

## Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

### **Case #15-1: Knowing or Reckless False Statements About Competitors (Adopted Case #23-1 November, 1992. Transferred to Article 15 November, 1994.)**

REALTOR® A operated a residential brokerage firm in a highly competitive market area. He frequently used information from the ML as the basis for comparative ads and to keep close track of this listing sales activity as well as his competition.

One day, while reviewing MLS data and comparing it to a competitor's ad; REALTOR® A noticed that REALTOR® Z has used a diagram to demonstrate his market share, contrasting it with those of several other firms. The ad showed that REALTOR® A had listed 10% of the properties in the MLS over the past three months.

REALTOR® A thought this was low. His analysis of MLS data showed his market share was 11%. REALTOR® A filed an ethic complaint against REALTOR® Z citing Article 15 of the Code of Ethics in that REALTOR® Z's "obviously understated market share claim" was a "misleading statement about competitors." REALTOR® A's complaint was considered by the GRIEVANCE Committee which determined that an ethics hearing should be held.

At the hearing, REALTOR® Z testified he had always been truthful in his advertising and that all claims were based in fact. He produced an affidavit from the Board's MLS administrator which indicated that a programming error had resulted in miscalculation and, after careful recomputation, REALTOR® A's market share over the past three months had been 10.9%. The administrator's statement noted that this was the first time that information related to REALTOR® A's listing or sales had been misstated on the system. "I relied on information from the MLS. It's always been accurate and I had no reason to even suspect it was wrong last month," said REALTOR® Z in his defense.

The Hearing Panel agreed with REALTOR® Z's logic, noting that a REALTOR® should be able to rely on generally accurate information from reliable sources. They reasoned that if, on the other hand, the MLS had shown REALTOR® A having, for example, 1% of the market, then REALTOR® Z's reliance on the information would have been "reckless" because REALTOR® A had generally had a 10-15% market share and a reasonable conclusion would have been that the information from the MLS was seriously flawed.

The Hearing Panel concluded that REALTOR® Z's comparison with his competitors, while slightly inaccurate, was based on usually accurate and reliable information and had been made in good faith and while technically "misleading", had not been "knowing" or "reckless". REALTOR® Z was found not to have violated Article 15.

# Garrett County Board of REALTORS®

GCBR News Briefs - November 2008

November 1, 2008

## *Membership Update*

### Drops:

Jack Cougle – Coldwell Banker Deep Creek Realty  
Stephanie Stephens – Railey Realty  
Gail Garriss – Coldwell Banker (Secondary Member)  
Linda Polk – Alaron Enterprises (Secondary Member)  
Vickie Jenkins – Secondary Member  
Ashley Liller – Railey Realty  
Kayla Ely – Long & Foster Real Estate Inc.  
Robert Huebner – Coldwell Banker Deep Creek Realty  
Morgan Edwards – Railey Realty  
James Lee Railey, III – Railey Realty  
Michelle Hall – Realty Direct  
Bennett Leaderman – United Country Humberson Homes  
Mike Patteson, Llewellyn Realtors (Secondary Member)

### Office Address Change:

Sweitzer, Simson & Associates  
328 Spring Glade Road, Unit 1  
Oakland, MD 21550

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## **Congratulations**

To the 2008-09 Board of Directors who were sworn in at the Installation &  
Awards Luncheon on Thursday, October 30, 2008

We want to thank our returning Directors on a successful  
2007-08 year.

**President.....Doug McClive**  
**Vice President..... Pat Kane**  
**Secretary..... Susan McGreal**  
**Treasurer.....Andrew Eiswert**  
**Past President..... Rich Orr**  
**New Director.....Larry Smith**  
**Returning Directors.....Ruth Seib**  
.....Arlene Murray  
.....Mike Kennedy

We look forward to their guidance through 2009 and appreciate their service to the association.

**Members Recognized at Banquet  
for their service to GCBR**

**Extended Service Award**

**Jan Bernard – 14 years of service on the Board of Directors**

**Ruth Seib – 14 years of service on the Board of Directors**

**Bill Weissgerber – 13 years of service on the Board of  
Directors**

**2008 Most Dedicated Volunteer**

**Larry DeBerry**

**Government Affairs Director**

**Paul Durham**

**2007-08 Committee Chairs**

**Susan McGreal, Andrew Eiswert, Pat McLaughlin, Ruth Seib,  
Larry Smith, Pat Kane and John Macy**

**Representatives**

**Carol Wills as MRIS Liaison**

**Jan Bernard as GCBR Representative to MAR**

**A note from Barb:**

I would like to thank each of you for such a wonderful honor you surprised me with for my 20 years of service to you. It greatly touched my heart and I'm very appreciative of the lovely planter and plaque that were presented to me.

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## DUES

### New Fiscal Year Dues – November 1, 2008 – October 31, 2009

2008-09 Dues \$558.00 are due and payable November 1, 2008 and must be paid by November 30, 2008 to avoid a 10% compounding late fee. The first week of October, dues invoices packets will be sent to all member home addresses. The invoice can be paid by cash or check to GCBR. If you choose to pay by Visa or MasterCard, the packet will contain instructions how to pay your dues online at the National Association of REALTORS® (NAR) website. [Online invoices will not be released until late day on October 31, 2008 so you will not be able to access your invoice until such time.](#)

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### **Government Affairs Committee Report – Paul Durham, G.A.D. Government Affairs Director Monthly Report**

#### **County to Implement New Electric Permitting Ordinance:**

Permits and Inspections Chief Jim Torrington has reported that the county is developing a draft ordinance governing electrical repairs and improvements. The Electrical and Mechanical Association had recommended the adoption of an ordinance. If approved by the County Commissioners (after a public hearing) it would go into effect on July 1, 2009. Elements of the new code include:

- adoption of the National Electric Code for the county
- setting up a permitting system
- permit must be signed by a licensed electrician
- an exemption for homeowners doing their own work on existing service
- will require an inspection for extension of existing service

#### **County Reports Building Permit Data for 3<sup>rd</sup> Quarter 2008:**

At the October 28 meeting of the County Commissioners, the Permits and Inspections Division released their statistics for the first three quarters of 2008 (compared to 2007). Overall permitting is down 16% compared to the same period last year. New housing starts are down 23% over the same period. However, Jim Torrington noted an uptick in permitting activity in September, which he attributes to typical pre-winter applications.

#### **County Drafting Ag Land Preservation Ordinance to Preserve Tax Credit Program:**

As previously reported, recent legislation in the General Assembly gave Garrett County the ability to enact local ordinances to establish agricultural land preservation districts to preserve the

existing property tax credit program for farmers. Up until now, the districts were created through the Maryland Agricultural Land Preservation Foundation.

The county intends to mirror the existing criteria and program requirements, with the exception that the length of time that a participant must remain in the district will be reduced from five years to three. The intent of the program and ordinance appears to have the preliminary support of the agricultural community.

The county will soon be holding a public hearing on the proposal.

#### **MDE Initiates New Fees for Permits:**

The DNR lake management office announced this past month that they will be collecting new fees for permit applications involving shore erosion control and protection measures. The fees were implemented by the MD Department of the Environment and include a \$750.00 non-refundable application fee. There may also be additional fees after the permit is approved. The fee is waived if the shore erosion project is non-structural (e.g. vegetative or temporary). These fees are not credited to the local DNR lake management budget as is the case with the DNR permit fees.

More information can be found on the MDE web site at:

[http://www.mde.state.md.us/Programs/WaterPrograms/Wetlands\\_Waterways/index.asp](http://www.mde.state.md.us/Programs/WaterPrograms/Wetlands_Waterways/index.asp)

#### **Comprehensive Plan Approved by County Commissioners:**

The County Commissioners approved a revised final draft of the Comprehensive Plan at their October 7 meeting. The approved plan removes certain recommendations made by the Planning Commission for scenic ridgetop protection. The disagreement is linked to wind turbine siting, with the plan originally drafted by the Planning Commission calling for a variety of land use controls to address what they perceive to be a problem. However, the County Commissioners have announced that they will pursue legislation during the next legislative session giving them local authority to establish wind turbine site standards.

According to John Nelson, the next step is for the County to update its sensitive area, subdivision and related rules and ordinances to implement the changes proposed by the plan. Government Affairs Director Paul Durham will be monitoring these changes on behalf of the GCBR.

<http://www.co.garrett.md.us/PlanningLand/PlanningZoning/Planning.aspx>

#### **New DNR Personal Watercraft Regulations Delayed:**

DNR Lake Manager Carolyn Mathews reported to the Deep Creek Lake Policy and Review Board that the pending revisions to the lake regulations that deal with how and where personal watercraft may be kept at dock permit sites is behind schedule. The DNR had anticipated a public notice and comment period this past month. The GCBR is following this issue closely and will notify members when the proposed regulations are eventually announced.

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# NAR - National Association of REALTORS®

## Case Studies

### Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #1-4: Fidelity to Client (Originally Case #4-5. Revised May, 1988. Transferred to Article 1 November, 1994. Cross-reference Case #4-5.)**

Client A contacted REALTOR® B to list a vacant lot. Client A said he had heard that similar lots in the vicinity had sold for about \$50,000 and thought he should be able to get a similar price. REALTOR® B stressed some minor disadvantages in location and grade of the lot, and said that the market for vacant lots was sluggish. He suggested listing at a price of \$32,500 and the client agreed.

In two weeks, REALTOR® B came to Client A with an offer at the listed price of \$32,500. The client raised some questions about it, pointing out that the offer had come in just two weeks after the property had been placed on the market which could be an indication that the lot was worth closer to \$50,000 than \$32,500. REALTOR® B strongly urged him to accept the offer, stating that because of the sluggish market, another offer might not develop for months and that the offer in hand simply vindicated REALTOR® B's own judgment as to pricing the lot. Client A finally agreed and the sale was made to Buyer C.

Two months later, Client A discovered the lot was no longer owned by Buyer C, but had been purchased by Buyer D at \$55,000. He investigated and found that Buyer C was a brother-in-law of REALTOR® B, and that Buyer C had acted on behalf of REALTOR® B in buying the property for \$32,500.

Client A outlined the facts in a complaint to the Board of REALTORS®, charging REALTOR® B with collusion in betrayal of a client's confidence and interests, and with failing to disclose that he was buying the property on his own behalf.

At a hearing before a panel of the Board's Professional Standards Committee, REALTOR® B's defense was that in his observation of real estate transactions there can be two legitimate prices of property – the price that a seller is willing to take in order to liquidate his investment, and the price that a buyer is willing to pay to acquire a property in which he is particularly interested. His position was that he saw no harm in bringing about a transaction to his own advantage in which the seller received a price that he was willing to take and the buyer paid a price he was willing to pay.

The Hearing Panel concluded that REALTOR® B had deceitfully used the guise of rendering professional service to a client in acting as a speculator; that he had been



unfaithful to the most basic principles of agency and allegiance to his client's interest; and that he had violated Articles 1 and 4 of the Code of Ethics.

Reminder: The Board office will be closed on Thursday, November 27<sup>th</sup> and Friday, November 28, 2008 in observance of the Thanksgiving holiday.

Wishing each of you a happy Thanksgiving!

# Garrett County Board of REALTORS®

GCBR News Briefs - December 2008

December 1, 2008

**Wishing each of you true blessings of the season.**

**GCBR Staff**

**Barb and Sherri**

## ***Membership Update***

### **Drops:**

Elizabeth McDonald – Long & Foster Real Estate Inc.

Latricia McKenzie – Long & Foster Real Estate Inc.

Ted Uy-Tioco – Goodfellow Real Estate Services

Jeremy Thayer – Garrettland Inc.

Cindy Byers – Garrettland Inc.

Sheryl Hershman – Garrettland Inc.

Sue Saunders – Garrettland, Inc.

Melissa Grimm – Garrettland, Inc.

Carolyn Cosner – Garrettland, Inc.

Lisa Murray – Garrettland, Inc.

Dawn Stubler – Coldwell Banker Deep Creek Realty

Judith Fang – ReMax Three Corners

Jerry McGinnis – Long & Foster Real Estate Inc.

### **Transfers:**

Rachael Lohr to Goodfellow Real Estate Services

Timothy Cosner to Garrett Land Sales

Paul Macy to Garrett Land Sales

Thomas Thayer to Garrett Land Sales (broker)

Kenny Green to Garrett Land Sales (dual license)

### **New Offices:**

Garrett Land Sales

*Broker – Tommy Thayer*

1000 Thayer Center

Oakland, MD

**Office Name and/or Address Change:**

**Sweitzer Simson of Spectra Funding**

328 Spring Glade Road, Unit 1

Oakland, MD 21550

Tel: 301-334-9336

Fax: 301-334-9362

**TTR – Sotheby’s International**

1206 30<sup>th</sup> Street NW

Washington, DC 20007

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**Board Office Closing Schedule**

December 24<sup>th</sup>, 25<sup>th</sup> & 26<sup>th</sup>

January 1, 2009

Christmas Holidays

New Year’s Day

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**REALTOR® DUES are now Past Due!**

Effective December 1, 2008, dues amount is \$583.20 and if you wish to pay your dues online with Visa or MasterCard go to [www.realtor.org](http://www.realtor.org) login and in the center of the home page click “Pay Dues” or you can pay by check, money order or cash at the Board office Monday thru Friday, 8:30 am – 3:00 pm.

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**Government Affairs Director Report – Paul Durham**

**Commissioners Report Out on Garrett County’s Financial Condition:**

At their November 25 meeting, the Board of County Commissioners gathered the heads of the various county agencies and departments in public session to seek their teamwork and support for working together to address the county’s financial difficulties. Like almost all other Maryland counties, Garrett County is experiencing shortfalls in revenues in this and next fiscal year.

According to Commissioner Denny Glotfelty, “this is not a fire drill, this is the real thing.” Essentially, the county is planning for “flat budgets” until the financial situation improves and sees the objective being “creative planning” for the future.

One of the contributing factors to the budgetary shortfalls is the fact that the state is cutting various funds retroactive to July 1. Since the county is approaching the mid-point of the budget cycle, these cuts compound the budget problem.

Following are some of the things the county will be doing to address the budget:

- Postpone certain capital projects including the WISP Adventure Road and the county detention center

- Consider postponing the recreation center at Garrett College and look at more options as the budget is prepared early next year
- The county will not use reserves to fund operational cuts
- Examine the county employee retirement plan
- Consider not filling employee vacancies due to retirement
- Seek legislative authority to be able to increase the hotel/motel/rental tax from 5% to 8%, with a 6% rate anticipated for 2009

### **DPU Updates:**

The **Ridgeview Valley/Gravelly Run Road Water System** is still proceeding forward. MDE permitting is underway and a large underground water storage tank has been procured and will be located on Ridgeview Valley property.

The **Thayerville Water System** is also proceeding forward. The county's consultant, Casselberry Associates, has completed water testing and analysis. The system is planned to be installed on the Keystone Lime property. According to Linda Lindsey from DPU, the planned service area will extend north to the 219 Bridge than east to the Glendale Bridge, i.e. "bridge to bridge", and then a bit south of Glendale Road. Some of the areas that will be included are Thayerville, Mountainside, and Traders Landing. The project will soon proceed to the public meeting phase.

The county's **water and sewer master plan** is undergoing a revision with various chapters being updated and reviewed by DPU staff. Once the draft is completed it will be circulated around the various county agencies affected by the plan for comment. This is expected to be finalized by the end of January, after which the draft will be made available for public comment.

### **Garrett County Finds Itself Ineligible for HUD/DHCD HERA Program:**

The state's Department of Housing and Community Development is implementing certain aspects of the Housing and Economic Recovery Act of 2008 (HERA). The Neighborhood Stabilization Program (NSP) is a grant program established under Title III of Division B of the HERA. HUD has appropriated \$3.92 billion of NSP funding to States and units of local governments for emergency assistance for the redevelopment of abandoned and foreclosed homes.

Duane Yoder from Community Action reports that Garrett County does not meet the required threshold foreclosure rate to be eligible to take advantage of this program. MAR and GADs statewide have been working on the local level, sharing information and developing alternative strategies that may help counties overcome the eligibility limitations. Garrett County is looking at ways to parse data and cluster foreclosures geographically to further pursue program eligibility.

### **Garrett County Seeks Enabling Legislation to Regulate Wind Turbines:**

As most local Realtors® know, Garrett County lacks county-wide zoning and must often rely on specific legislative authority to control certain land uses. The Garrett County Commissioners have requested the local legislative delegation (Senator George Edwards and Delegate Wendell Beitzel) to seek legislation this coming session granting them authority to establish setbacks for "commercial grade" wind turbines. The language in the specific request reads as follows:

*"A request by the Board of County Commissioners that the Maryland General Assembly provide the Board with enabling authority under Article 25 of the Annotated Code of Maryland to adopt a local ordinance to establish minimum set-back requirements for commercial grade wind turbines."*

Media reports indicate an immediate reaction from Senator Edwards that the county should investigate whether it indeed may already have such authority. He has requested that they inquire with the Office of the Attorney General accordingly.

GCBR had asked the Commissioners to pursue similar authority during the last legislative session. The GCBR request was not limited to setback standards only, but rather to appropriate siting standards generally. The GCBR Board of Directors will be discussing the county's proposal further at the December 3 board meeting.

### **Maryland Dept. of Planning to Hold "Listening Session":**

Citizens are invited to attend and participate in a "listening session" to be held by the Dept. of Planning on Thursday December 11 at 6:30 PM at the Compton Science Center, Room 226, at Frostburg State University.

Comments and ideas on future growth in Maryland and on Maryland's State Development Plan will be the main focus of the meeting. GAD Paul Durham will attend on behalf of GCBR and report out on any significant matters.

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## **NAR - National Association of REALTORS® Case Studies**

### **Interpretation of the Code of Ethics**

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®  
REALTOR® A was asked by Client B, an officer of a bank, to appraise an office building. In discussing the matter, REALTOR® A pointed out that while he was an experienced appraiser, he had never appraised an office building. Client B expressed his confidence in REALTOR® A, based on years of satisfactory service in appraising residential property, and said that notwithstanding REALTOR® A's lack of previous experience in appraising an office building, the bank wanted his judgment and asked him to accept the assignment to appraise the office building.

Accordingly, REALTOR® A undertook the assignment, and completed his appraisal report. The report later came to the attention of REALTOR® C, who complained to the Board of REALTORS® that REALTOR® A had violated Article 11 of the Code of Ethics by taking an appraisal assignment outside the field of his experience without obtaining the assistance of an authority on office buildings.

At the hearing, Client B appeared as a witness for REALTOR® A and stated that the assignment had been given to REALTOR® A after he had disclosed his lack of experience in appraising office buildings, and that the client was entirely satisfied by the manner in which REALTOR® A had completed his assignment.

The Hearing Panel concluded that Client B's statement completely exonerated REALTOR® A of any violation of Article 11, since it was clear that he had disclosed his lack of previous experience in appraising the type of property in question, and that he had been given the assignment after this disclosure was made to the client.

**Happy Holidays!**