

# PAUL BUNYAN BOARD OF REALTORS®/PAUL BUNYAN MLS



REALTOR®

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## FRIDAY FLASH - Friday, February 18, 2011

"Blessed are the young, for they shall inherit the national debt. ~ Herbert Hoover

### LEADERSHIP 2011

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## MEMBERSHIP

### New Members

Carol Young, Coldwell Banker Schmidt REALTORS®

Billie Jo Marr, Coldwell Banker Schmidt REALTORS®

Kathleen Anderson, RE/MAX Central

### New Transfer Members

Matthew Johnson, Quadrant NW Appraisal Service

## PAUL BUNYAN MLS

### EXTENSIONS TO LISTINGS POLICY REMINDER

**The 12/2/2010 policy change means that you and your staff will now make these changes from your end, not ours.** No need for over-rides (activations) for listings that have expired up to 30 days past the expiration date. The board office staff does not make these changes now. The only changes we will continue to perform over-rides for are entry of data for Sold information for listings that have expired.

### **12/2/2010**

### **MLS UPDATE FOLLOWING POLICY CHANGE TO MAINTENANCE OF EXPIRED LISTINGS**

*Big news! Following review by MLS leadership at the request of a member firm, we are changing our policy with regard to maintaining expiration of listings. Until further notice, and effective no later than Tuesday, 12/7 at 3pm, PBMLS members will have the security level to reactivate their expired listings for up to 30 days from the most recent expiration date. Our systems support manager will be making the necessary changes to the settings on our system on Monday and then running it through quality control testing. A listing will not be activated after that time frame. The only option is to copy clone your listing to create a "new" listing with a new MLS number.*

*There is no change with regard to the requirement that you must submit the signed listing addendum (signed by both seller and agent/broker) authorizing the extension within the required five (5) calendar-day time-frame, which is counted from the time the input of the re-activation occurred. If a signed addendum is not submitted within that time frame, the listing will be deactivated and you will not be able to re-activate it on your own. It will require a board office over-ride and a \$25 late fine will be applied.*

*While discussing this change with him, he mentioned that when an expired listing is extended, but the status is only changed back to active, not active extended, the listing doesn't hit/signal the hot sheet of any change and creates holes in the property history report. We will be watching how this new policy and broker maintenance affects the reporting. If we note a problem with the integrity of the data set, we may have to require that when an expired listing is re-activated by broker load maintenance, that the only option for status become Active-Extended.*

# ANNOUNCEMENTS

Our legal counsel, Greg McClelland, gave a presentation called [“Legal Focus for Leadership”](#) (a 50 pg handout) at the MAR Achieve Leadership Conference in January. One of the more critical areas he covered is something you may have already heard, and covers a RESPA issue, but I’m not sure how many of you know of this latest McClelland and Anderson update from late November with regard to this RESPA issue. I’ll provide a link to the entire update for you, but will note the page numbers for this particular issue.

## **RESPA and Home Warranties Update (excerpted from short selections contained on pages 38-41)**

**As REALTORS® may recall, this past summer, HUD issued an interpretive ruling regarding the applicability of RESPA to home warranty programs. When the ruling came out, it had some surprising (and troubling) language, not just with regard to home warranty programs, but also with regard to the RESPA anti - kickback regulations generally. At that time, we reported that NAR and many others had sent comments to HUD and asking it to reconsider its position. HUD did respond on November 23, 2010.**

HUD responded by indicating that after reviewing and considering all of the comments it had received, it had determined that it does not need to make any changes to its earlier interpretive ruling. HUD did, however, offer its response to a number of the questions that had been raised by some of the commentators. And the response was not good. At the heart of HUD’s interpretive ruling, of course, is Section 8(b) of RESPA that provides:

No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

What we have always understood is that this statute prohibits settlement service providers (such as REALTORS®) from paying or receiving referral fees from other settlement service providers – and that any fee paid by one settlement service to another must be for “actual services performed.” Many of us assumed that the taking of an application, whether for title insurance, a loan or a home warranty, was in fact an “actual service performed.”

**In its interpretive ruling this summer, HUD had indicated that a home warranty company cannot pay compensation to a REALTOR® for the “mere taking of an application.” HUD went on to provide the following examples of “services actually performed” that a REALTOR® CAN provide for (and receive payment from) a home warranty company:**

- (i) conducting actual inspections of the items to be covered by the warranty to identify pre - existing conditions;
- (ii) recording serial numbers of the items to be covered;
- (iii) documenting the condition of the covered items by taking pictures; and/or
- (iv) reporting to the home warranty company regarding inspections.

**In its November 23, 2010 supplemental response (hereafter the “Response”), HUD indicated** that it had not intended this list of “services actually performed” to be exhaustive, but only “exemplary.” In its Response HUD also opined that a home warranty company could pay a real estate agent for general advertising – for example “a reasonable payment” for an advertisement in a real estate broker’s publication or on its website. Curiously, HUD went on to provide that if such marketing services are directed to a homebuyer or seller and have the effect of “affirmatively influencing” the selection by the homebuyer or seller of the home warranty company’s product, then such payments would be prohibited.

The [“Legal Focus for Leadership”](#) handout covers the following updated topics:

- New FTC Regulation Of “Mortgage Assistance Relief Services” Providers
  - Commercial Broker’s Lien Law The Nuts And Bolts
  - Partial Satisfaction And Release Of Lien
- Legal Challenges To Arbitration Hearings – The Law Is On Your Side
  - Electronic Governance
- A Footnote On The Code Of Ethics And Arbitration Manual
  - Addendum To Buy And Sell Agreement
  - Administrative Fees And RESPA–yet Another Update
  - **RESPA And Home Warranty Programs–an Update**
    - Agency Disclosure Act Updates

# EDUCATIONAL OPPORTUNITIES

## ➔ [BROKER'S LICENSE SERIES](#)

Gwyn Besner, Acme Institute and Paul Bunyan Board of REALTORS® present spring 2011 education:

➔ **March 28 - 30 - 8:00 - 5:30 LAW 101** Thirty hours of broker education covering, in depth: History of Law, Occupational Code, Auction, Water Rights, Environment, Income Tax, Property Management and Fair Housing. \$295

➔ **April 11 - 13 - 8:00 - 5:30 LAW 102** Thirty hours of broker education covering, in depth, Business Startup, Practical Brokerage Practices, Contract Law, Finance and Affiliated Business, Real Estate Rights and Restrictions, Real Property Descriptions and Fair Housing. \$295

➔ **May 2 - 5 9:00 - 5:00 BROKER'S PREPARATION** Thirty hours of intense preparation on the fundamental of real estate for the examination. \$295

➔ **CHANGES: April 19<sup>th</sup>, 2011 [THE RIGHT STUFF!](#) (registration form) - CODE OF ETHICS QUADRENNIAL TRAINING AT COYLE'S RESTAURANT IN HOUGHTON LAKE [JACK WALLER, INSTRUCTOR](#) (read about Jack in the link to the left) This is a joint educational venture between Paul Bunyan Board of REALTORS® and Water Wonderland Board of REALTORS® No charge to PBBR and WWBR members - \$15 to members of other REALTOR Associations (The COE Quad training is a REALTOR® ASSOCIATION MEMBERSHIP MANDATORY REQUIREMENT) Afternoon session is for Leadership and those interested in serving on Grievance and Pro Stds Committee panels.)**

➔ **May 12 or May 19 at Noon, at Mr. John's Restaurant in Lake City – Disaster Relief Damage Assessment Teams**

Emergency Management Coordinators will speak to us about volunteerism and training for a Damage Assessment team to work with Equalization and GIS departments to help put an initial dollar-amount estimate on property damage to support a local declaration of disaster should our communities sustain significant property damage from such things as tornadoes, floods, This declaration is important to getting FEMA disaster assistance dollars and to be able to request resources to support response and recovery with FEMA picking up the bill. Collectively our members have a vast wealth of experience in assessing property. Come find out how you can volunteer for your community.



➔ **BRAIN TRUST ON LAND CONTRACTS AND PURCHASE MONEY MORTGAGES – Scheduling now for May**  
More info to follow!

➔ **June 9<sup>th</sup>, Houghton Lake (exact location to be determined) LEGAL UPDATE WITH GREG McClelland**