

## **Kansas Real Estate Commission Has Determined That All Compensation for Brokers Price Opinions and Comparative Market Analyses Must Flow Through the Broker; Supervising Brokers Must Maintain Documentation in Brokerage Records**

Last month, the Kansas Real Estate Commission determined that all compensation for brokers' price opinions (BPOs) and comparative market analyses (CMAs) completed by real estate salespersons must flow through the broker. As a result, if you are a real estate salesperson or associate broker that receives compensation for a BPO or CMA, that compensation must be paid to the broker just like a real estate commission.

In addition, the Commission has determined that the documentation originating from a BPO or CMA is a brokerage record that must be maintained in the brokerage files like all other transactions documents. Under K.A.R. 86-3-10, these records must be maintained in the brokerage files for a period of three years.

### Associate Brokers and Salespersons Are Prohibited from Accepting Compensation for Real Estate-Related Activities from Sources Other Than the Supervising Broker

Under K.S.A. 58-3062(b)(1), an associate broker or salesperson is prohibited from accepting a commission or other valuable consideration from anyone other than the broker by whom the licensee is employed or associated with as an independent contractor. Accordingly, whenever the associate broker or salesperson earns a commission or other compensation for anything that requires a real estate license, that commission or compensation must be paid to the broker who in turn will pay the associated salesperson or associate broker.

### Associate Brokers and Salesperson Cannot Accept Compensation for a BPO or CMA That is Not Funneled Through Their Supervising Broker

Since the Commission has determined that BPOs and CMAs are inherently real estate-related activities that require an individual to be licensed as a real estate salesperson or broker, they determined that all compensation paid to an associate broker or salesperson for BPOs and CMAs was subject to the provisions of K.S.A. 58-3062(b)(1). As a result, if an associate broker or salesperson is compensated for a BPO or CMA and that compensation is not funneled through the brokerage, the Commission will discipline that associate broker or salesperson for violating K.S.A. 58-3062(b)(1).

### All Documents Pertaining to BPOs and CMAs are Brokerage Records That Must Be Maintained in the Brokerage Files under K.A.R. 86-3-10

The Commission has determined that all documents pertaining to BPOs and CMAs are brokerage records that must be maintained in the brokerage transaction files for a period of three years under K.A.R. 86-3-10. If a BPO or CMA was performed in connection with a real estate transaction that had already been assigned a transaction identification number, the broker must add the BPO or CMA documents to that transaction file. If a BPO or CMA was performed that was not connected to a real estate transaction that had been assigned a transaction identification number, then the broker must retain them in a separate filing system.

For more information on this and other issues, please go to <http://www.kansasrealtor.com/>. You may also contact Luke Bell, KAR Director of Governmental Relations at [lbell@kansasrealtor.com](mailto:lbell@kansasrealtor.com) or 785-267-3610 Ext. 2133.