

Talking Points – DREC Builder Salesperson Licensing - 2/2/2010

1. The DREC was established to oversee the brokerage of Real Estate NOT the sale of Real Estate. Builders do not broker real estate. We manufacture and sell our product directly to the consumer.
2. There is NO agency relationship between a private property owner and a buyer. There is a contractual relationship. Agency exists when a third party acts on behalf of the seller or buyer. Builders, like any other private property owner, are not required to have agency when selling their property. The DREC committee's assertion that builders are not disclosing agency is unfounded.
3. Builders do not project to the public that they are licensed. To do so, would be a violation of the laws of the State of Delaware. The HBA/DE is unaware of any complaints or prosecutions of a builder (or a builder's sales employee) for impersonating a licensed real estate agent. The DREC committee's assertion that builders project licensure to the public is unfounded.
4. A complaint process exists for buyers of new homes via the State Attorney General's Office Consumer Protection Unit. Local real estate offices that receive a complaint about a builder's sales representative have always had this avenue to direct consumer complaints. This process has proven it works. The DREC committee's assertion that new home consumer complaints go unresolved is unfounded.
5. This is a private property rights issue. No law or regulation should inhibit or restrict a private property owner from selling his/her own real estate to a willing and able buyer *without* the assistance of a licensed or registered individual. Builders, who own a lot or parcel, are no different than any other private property owner.
6. Claims by the DREC commission that buyers of new homes are "confused" as to who the builders sales person represents are unsubstantiated and without merit as it relates to the proposed licensing regulation.
7. The DREC proposal, as drafted, is an unwarranted and unsubstantiated intrusion into the private business models of most residential home builders.
8. The DREC proposal, as drafted, is an attempt to inject the premises of agency into an employee/employer relationship.
9. Licensing of builders is not a recommendation from the Sunset Committee which has oversight of the Commission.
10. On September 23, 2009, the DREC sub-committee on builder licensing sent letters to the Better Business Bureau, the State's Consumer Protection Unit, Sussex County Assoc. of Realtors, the Kent County Assoc. of Realtors, the New Castle County of Realtors and the Delaware Association of Realtors. In the spirit of cooperation the HBA/DE has made numerous request for copies of specific examples or statistical data on builder sales person complaints. No examples of complaints or statistical data has been provided to date to the HBA/DE to substantiate the need to license builder sales employees.
11. Past DREC sub-committee minutes on builder licensing has very minimal or no public comment as to the asserted problem of builder sales person practices.
12. Past DREC sub-committee minutes indicate that two *independent* agency's that track builder complaints had little or no information. The Better Business Bureau "did not have any information on the number of complaint's received against builder/developers". The State's Consumer Protection Unit "only had a couple of complaints".
13. Past testimony by a sub-committee member seems to indicate that members are motivated by "profit": Not "protection".
14. The proposed builder employee licensing regulation as drafted is an ill advised attempt by the DREC sub-committee to advance consumer protection at an unwarranted cost to private property rights.
15. The proposed regulations will be costly to the small builder. Under the proposed draft, a sales manager with 5 years experience must be on staff and hold the registration. This precludes a builder from selling his own product!! A sales manger must be hired, or, as was orchestrated, a realtor must be hired. This is a self serving and leading approach to regulation into another industry that the DREC is taking.