

Dates to Note

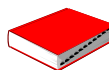
- **May 18, 2009**
GREC Brokerage Course
www.embor.com
- **May 19, 2009**
GREC Trust Account Class
www.embor.com
- **June 2, 2009**
GREC Brokerage Course
<http://learningrealestate.com>
- **June 3, 2009**
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Focus on Terminology:



“Real Property”

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Qualifying Buyers

Could qualifying a buyer be considered a refusal to present an offer?

When does qualifying a buyer cross the line into practicing dual agency?

Although qualifying a buyer is good business, the process must be handled in a way that does not become more than just making sure the buyer can afford to buy the property. It is a two-edged sword for the vigilant real estate licensee:

- On the one hand, the listing agent needs to make sure the buyer is qualified before he wastes his/her seller’s time with a buyer who could not obtain funding anyway. In addition the licensee does not want to waste his/her time with a buyer who cannot close for lack of funds or whatever reason.
- On the other hand, if the listing agent does not write up an offer because the buyer has not been and will not get pre-qualified, he/she may be sending away an actual buyer for his/her seller, which is clearly not in the seller’s best interest.
- In addition, the listing agent represents the seller, so he/she cannot be too helpful with the buyer and can only perform ministerial acts (acts that do not require advice, opinions, expertise, etc.) for the buyer/customer. If a licensee tries to help a buyer get pre-qualified and assists him/her in the process, there is a good chance the licensee has now created an agency relationship with the buyer and is now practicing unintentional dual agency (representing both the seller and the buyer). It is a difficult line to follow, but it is critical to understand that by assisting the customer, dual agency can occur.
- If the listing agent receives an offer from a buyer and he/she is not pre-qualified, the listing agent must still present the offer, but he/she should make sure the seller is aware of the financing situation. The license law requires that all written offers must be presented.
- If the buyer/customer requests that the listing agent prepare an offer even though he/she is not prequalified, the licensee should try to get the pre-qualification, but he/she still cannot refuse to prepare/present an offer.

Experienced licensees learn to ask enough questions and communicate enough with potential buyers to determine if they have been pre-qualified or have funds available. This process is critical to commercial as well as residential transactions. For example, if a small tenant wants to lease office space, the landlord may have a requirement that a credit report is run before the lease can be negotiated. However, the licensee should get these instructions in writing from the landlord so it is not interpreted as refusing to show a property or refusing to present an offer. One common solution to this situation is to use a letter of intent to negotiate the basic terms of the lease (or purchase). However, be careful when using a Letter of Intent as it is neither a complete contract, nor is it intended to be one and it should be drafted on a form prepared by an attorney.

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Did you know you can check your property's status for flood risk online?

FEMA, the Federal Emergency Management Agency, develops the Flood Insurance Rate Maps [FIRM](#). "It is the official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community."

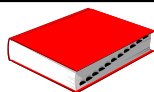
These maps are used by lenders, buyers and developers of property to determine if those properties and buildings are in flood insurance risk areas. By entering a street address most properties can be identified on a map and a specific [Firmette](#) can be saved and printed. (Go to www.floodsmart.gov)

The Firmette map is actually customized to the specific address. It is an excellent tool for the licensee to use when taking a listing, researching flood issues, and as a source of disclosure. The map can be included a property information package showing the possible flood risk location area.

There is no fee for the Firmette or to search a property address. Providing this specific information is often seen as a value-added service the licensee is providing to the client or customer. Researching flood information is especially critical for land development decisions.

Following are direct links to these resources:

- www.floodsmart.gov
- [Flood Maps Online](#)
- [How do I read a FIRM?](#)
- [Why would I need to use a FIRM?](#)
- [Find a FIRM](#)



Focus on Terminology: "Real Estate"

The term ***Real Estate*** is used synonymously with ***Real Property***. By definition, ***real estate*** is the "physical land at, above and below the earth's surface with all appurtenances, including any structure; any and every interest in land whether corporeal (tangible) or incorporeal (intangible), freehold or nonfreehold."

Freehold refers to an estate in real estate where the length of duration of the estate is indefinite, such as fee simple ownership. If the estate is of known duration it is considered nonfreehold. The freehold estate is typically more desirable. The ownership of property includes those bundle of rights associated with it, such as the right to possess, to use, to encumber, to transfer and to exclude.

Property, by itself can be real or personal. Personal property is tangible and movable such as cars, furniture, equipment, etc. and is transferred by Bill of Sale. Whereas real property is transferred by deed or some real estate instrument to transfer part of those bundle of rights associated with ownership of real estate, such as an easement.

*Source: "The Language of Real Estate," by John W., Reilly,
published by Dearborn Real Estate Education.*