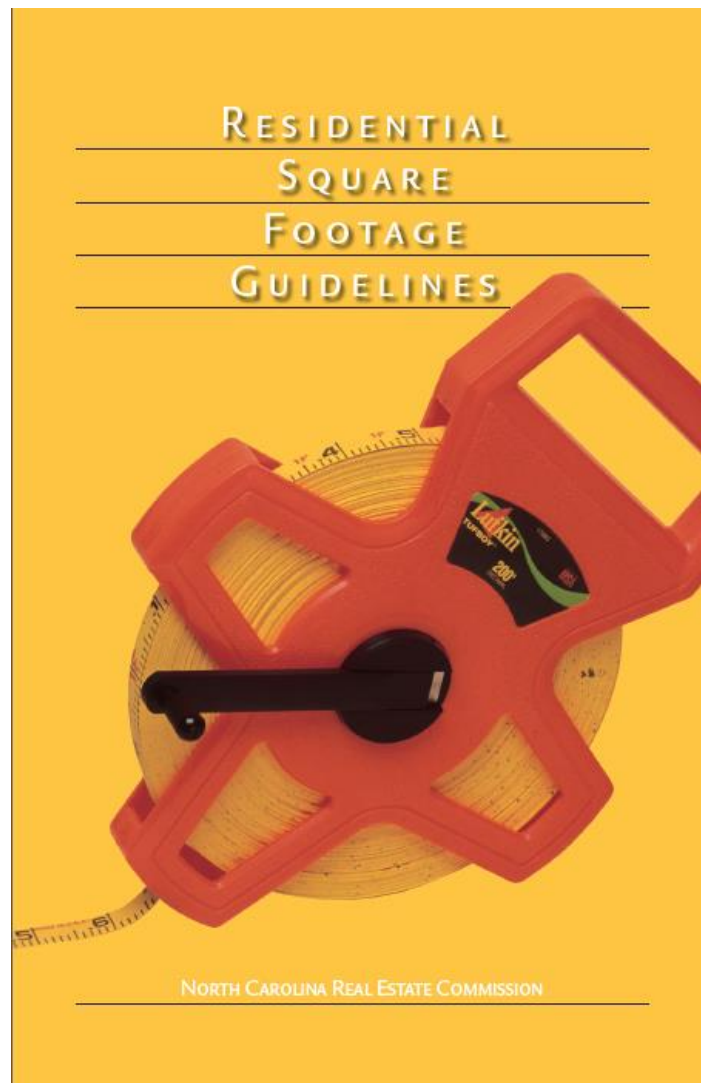


Calculating Square Footage in Residential Properties

Everett “Vic” Knight



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About the Author



Vic Knight

Vic Knight has been a NC licensed real estate broker since 1983, a NC Certified General Appraiser, Past-President of the NC Association of REALTORS®, a Past-Chair of the National Association of REALTORS® Appraisal Committee, and Vice-Chair as a member of the Board of Trustees of The Appraisal Foundation. Vic's 40+ years in the real estate business includes owning and managing a Century 21 residential brokerage firm, extensive residential and commercial development, owning and managing a residential property management company and currently is owner of Appraizr.com, a real estate consulting and full service residential and commercial appraisal firm.

Vic is a "Certified" Instructor and a graduate of (ITI) the Instructor Training Institute and a DREI Candidate. Vic has authored and taught numerous real estate brokerage CE courses since 1998, and also teaches Pre-licensing and Post-licensing classes.

Vic holds a BS in Civil Engineering from NC State University and was a practicing professional engineer prior to entering the real estate industry.

Vic was a Governor's appointee to the NC Real Estate Commission in 2009 and served as Chairman from 2013 through 2014. Vic currently serves on the NC State Bar's Board of Legal Specialization.



START

School of Real Estate

READ IMMEDIATELY UPON CHECKING IN

Basic CE Requirement (21 NCAC 58A.1702)

The CE requirement to maintain a license on active status is **eight (8) classroom hours per year** (each license period) consisting of the annual four (4) hour Real Estate Update course (mandatory for all Brokers) and a four (4) hour elective each license year.

Important Points to Note

- Newly licensed Brokers (Provisional Brokers) do NOT need to take any CE prior to their **first license renewal** but must satisfy the CE requirement prior to their **second license renewal**.
- A course may **not** be taken for CE credit twice in the same license period. Make sure you have not already taken this course during the current license period.
- If your license is **inactive**, you should check with the Commission to ascertain the amount of CE you need to activate your license.

Attendance Requirement

In order to receive CE credit for a course, students must attend the entire scheduled class session. Education Providers and instructors may, on an individual basis, excuse a student for good reason for up to 10% of the scheduled class session (20 minutes for a 4-hour class); however, a student must attend a minimum of 90% of the scheduled class in order to receive a course completion certificate and CE credit. No exceptions to the 90% attendance requirement are permitted for any reason. **However**, a student **may NOT miss** any of the last 20 minutes of any 4-hour CE course session.

Student Participation Requirement

To assure the mandatory continuing education program will be of high quality, students must comply with the following participation standards:

A student shall direct his active attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class.

Examples of Prohibited Conduct: Sleeping; reading a newspaper or book; performing office work; carrying on a conversation with another student; making or receiving a phone call on a cellular phone; loudly rattling or shifting papers; or repeatedly interrupting and/or challenging the instructor in a manner that disrupts the teaching of the course.

Education Providers and instructors will enforce student participation standards. Education Providers will NOT issue a course completion certificate to Broker who violates the standards and will report inappropriate behavior to the Commission.

Course Completion Reporting

Education Providers are responsible for reporting course completion information to the Commission via the Internet within **7 days of course completion**. Brokers are responsible for assuring that the real estate license number that they provide to the course sponsor is correct.

Address comments/complaints on courses, instructors, and/or sponsors to:

Education Approval & Renewal Officer

North Carolina Real Estate Commission
P.O. Box 17100
Raleigh, North Carolina 27619-7100

(919) 875-3700
EDUC@NCREC.gov

Certificates of Course Completion

Education Providers will provide each Broker who satisfactorily completes an approved CE course a Certificate of Completion on a form prescribed by the Commission. The certificate should be retained as the Broker's personal record of course completion. **It should not be submitted to the Commission unless the Commission specifically requests it.**

Always check your **current year's** CE credits online at the Commission's website: www.NCREC.gov.

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NOTE: Sources utilized in this course include , the North Carolina Real Estate Commission *Residential Square Footage Guidelines*, the *North Carolina Real Estate Commission Real Estate Manual*, The North Carolina Real Estate Commissions Publication *License Law and Commission Rules*, the North Carolina Real Estate Commission *Real Estate Bulletins*, and the North Carolina Association of REALTORS® Legal Hotline, Manuals, Q&A's & NAR's Code-of-Ethics & Professional Standards.

How to Get the Most from this Course

- 1) **ASK QUESTIONS.** If you have a question, ask away! If you have an in-depth situation or issue you would like to discuss, please approach the instructor during breaks or after the course. Even though your instructor has a substantial amount of subject knowledge, he is limited to presenting the course information in the allotted course time. So, be respectful of his time and your fellow student's time.
- 2) **TAKE NOTES.** Why let even one good idea get away? Taking notes will help you concentrate and organize your thoughts. Plus, they will allow you to take a "refresher" anytime in the future. **Hint:** The course materials are YOURS; make your notes clear as you write them. Few people ever have the luxury of rewriting their notes, no matter how good their intentions are.
- 3) **RELATE WHAT YOU LEARN TO YOURSELF.** Do not settle for "abstract" knowledge. Have your current problems, conflicts, and interests foremost in your mind. As you learn new approaches and techniques, relate them to your own situation. Apply the NCREC Square Footage Guidelines every day on every residence in your real estate brokerage from now on.
- 4) **MAKE A COMMITMENT TO REVIEW YOUR NOTES.** Take the time to review the notes you took. Concern yourself with what you can learn to improve your effectiveness in applying your newly found knowledge to every residence you list, sell, or lease from now on.
- 5) **BE PREPARED.** When performing your site inspection, be professional and be prepared by bringing tape measures, pens/pencils, straight edge, flashlights, sketch paper (**Grid Paper**), cameras, and electronic measuring devices of your choice.
- 6) **BE ACCURATE.** Take your time, check your work/drawings, **balance your measurements**, and correct your mistakes before you leave the site.

INTRODUCTION

“**Calculating Square Footage in Residential Properties,**” is a four-hour continuing education course designed to meet the North Carolina Real Estate Commission’s four-hour real estate licensing elective requirement.

These **Guidelines** are currently voluntary (Not Law, Not a Rule; they are Guidelines) and were originally approved by the North Carolina Real Estate Commission and became effective on September 9, 1998, (last Revised November 2013).

The course was developed by Everett “Vic” Knight to instruct real estate brokers in the understanding, interpretation, and practice of utilizing these voluntary Guidelines. Vic chaired the North Carolina Real Estate Commission Task Force which formulated these voluntary **Guidelines**.

This student manual is provided to:

- Assist brokers to follow the instructional methodology during the conduct of this course.
- Assist brokers in the understanding and interpretation of the **Guidelines**.
- Assist brokers as an authoritative reference source when implementing proper field practice of the **Guidelines**.

Incorporated into the course will be pertinent slides of actual homes and plans, illustrating the primary areas of difficulty relative to accurate residential measurement. The mathematics of measurement will be reviewed in class.

The primary objective of this course is to prepare brokers with the knowledge, skill, and competency to properly measure, calculate and report the accurate square footage of most residential properties in accordance with the **North Carolina Real Estate Commissions Residential Square Footage Guidelines**, and in doing so, the results make it possible for anyone else to easily reproduce the same calculated square footage from the brokers sketches, calculations, and notes.

An additional objective of this course is to prepare brokers with the knowledge, skill, and competency to accurately measure, calculate and report the accurate square footage of most residential properties in accordance with these ***Guidelines***.

Upon completion of this course brokers will be able to:

1. Demonstrate knowledge of the NCREC Square Footage ***Guidelines***.
2. Demonstrate knowledge of proper interpretation of the ***Guidelines***.
3. Demonstrate knowledge of proper implementation of the ***Guidelines***.
4. Demonstrate knowledge of the importance of the ***Guidelines***.

Upon completion of this course brokers will be able to properly measure and calculate the square footage of most single-family residential properties using the **NC Real Estate Commissions *Residential Square Footage Guidelines***.

Brokers will be able to analyze a given situation, synthesize the information, evaluate the results and be able to effectively interpret them for the benefit of their clients and the general public.

NC Real Estate Commission's - *Residential Square Footage Guidelines*

(GLA vs. Living Area: Heated, Finished & Directly Accessible)

OUTLINE

- ◆ Introduction — Background, Purpose, and Use
- ◆ Agents' Responsibility
- ◆ Measuring and Calculating Square Footage
- ◆ "Living Area" Criteria and "Other Area"
- ◆ Helpful Hints; Attached Dwellings; Proposed Construction
- ◆ Illustrations (Figures 1-8)

LEARNING OBJECTIVE

- ◆ Upon completion of instruction in this section, students (brokers) should possess an understanding of the North Carolina Real Estate Commission's *Residential Square Footage Guidelines* that is sufficient to enable them to effectively utilize the *Guidelines* in measuring and calculating the square footage of most homes and in reporting square footage to real estate consumers (i.e., Clients & Customers).

=====

IMPORTANT NOTE TO STUDENTS

The official text of the *Residential Square Footage Guidelines* appears inside "**boxes**" in this manual. Between the "boxes" containing the official *Guidelines* are extensive "**Comments**" on the *Guidelines* for enhanced understanding of the *Guidelines*.

Introductory Comments on Why the Commission Developed these *Guidelines*.

- **Many Problems with Reporting Square Footage.** For many years, the Real Estate Commission has received numerous complaints that involved inaccurate reporting of square footage of homes listed for sale. Sometimes the inaccuracy is due to carelessness on the part of the agent, or to improperly relying on square footage reported by another party (seller, previous listing agent, tax records, etc.); however, frequently the reason is a lack of understanding by the broker of the proper method for determining square footage of a residence.

- **No Uniform Guidelines in 1998.** When the Guidelines were originally developed, there were no guidelines or standards for determining square footage of a residence that were widely accepted or utilized by the real estate brokerage industry. However, effective April 1, 2022, Fannie Mae began requiring the utilization of the ANSI Z765 Standard for appraisals of single-family residences.
- In September 1996, (on behalf on the NAHB) the American National Standards Institute, Inc. (ANSI) published its first edition of the *Square Footage — Method for Calculating* guidelines for single-family residential buildings (Z765-1996). The Commission determined that certain guidelines in the ANSI Standards were not practical for use by real estate Brokers when reporting square footage as part of the process of marketing residential properties and would not meet the needs of most real estate consumers. (The major problem in this regard will be addressed later in the course.) There was also a very practical problem in that the ANSI Standards are ANSI’s proprietary material and are not published in a manner that made them (then or now) readily available to real estate brokers or real estate consumers.
- **Primary Purpose of the Guidelines.** The Commission determined that the industry and real estate consumers would be well served by the development, publication, and distribution by the Commission of guidelines for determining and reporting the square footage of residential properties. *The primary purpose of developing, publishing, and teaching these Guidelines is to encourage greater uniformity and accuracy in determining and reporting the square footage of residential properties.* Brokers who properly utilize these guidelines should have a result in better satisfied real estate consumers with fewer complaints or problems associated with the issue of square footage reported in residential properties.

IMPORTANT NOTE: The text of the Guidelines utilizes “Agent” throughout the Guidelines. By utilizing “Agent” emphasis is made with the understanding that such wording to emphasizing the Law of Agency and the Fiduciary Duties required of Brokers who represent one or more parties in a real estate transaction.

Comments on the Legal Basis for these *Guidelines*

The legal basis for these *Guidelines* includes the following:

- **The North Carolina Real Estate License Law** — more specifically, N.C. General Statutes 93A-6(a)(1) & 93A-6(a)(8)

G.S. 93A-6(a) (1) of the Real Estate License Law deals with **misrepresentation and omission** and prohibits real estate brokers from “.....Making any willful or negligent misrepresentation or any willful or negligent omission of material fact.....”

This statutory provision creates a **duty** on the part of real estate brokers to avoid making any misrepresentation, either willfully or negligently, to others regarding a material fact. This means that, when a broker makes a representation, directly or indirectly, to a party to a real estate transaction regarding a matter that may be important to that party (e.g., square footage), then the broker is obligated to make certain that he/she does not provide incorrect information, either intentionally or negligently.

G.S. 93A-6(a)(8) of the Real Estate License Law deals with broker **incompetence or unworthiness** and, among other things, has the effect of requires brokers to possess the minimum competence necessary to serve real estate consumers in accordance with the law. Brokers are expected to possess the knowledge and skills necessary to accurately measure and calculate the square footage of most residential dwellings.

- **The Common Law of Agency** imposes on any real estate broker in an agency relationship, certain duties that the broker-agent owes to his/her client-principal (property owner, buyer, or tenant) as well as to third parties with whom they do business on behalf of the client-principal.
- **The Common Law of Torts** provides for a civil cause of action against a party who commits *fraud or misrepresentation* in his/her dealings with others.

INTRODUCTION

It is often said that the three most important factors in making a homebuying decision are “location,” “location,” and “location.” Other than “location,” the single most important factor is probably the size or “square footage” of the home. Not only is it an indicator of whether a particular home will meet a homebuyer’s space needs, but it also affords a convenient (though not always accurate) method for the buyer to estimate the value of the home and compare it with other properties.

Although real estate agents are **not required** by the Real Estate License Law or Real Estate Commission rules to report the square footage of properties offered for sale (or rent), when they do report square footage, it is essential that the information they give prospective purchasers (or tenants) be accurate. At a minimum, information concerning square footage should include the amount of “**living area**” in the dwelling.

Comments on Reporting of Square Footage by Brokers

- *Real estate brokers are NOT required by the Real Estate License Law or Real Estate Commission Rules to advertise the square footage of listed properties or to provide an up-front disclosure of square footage to prospective buyers or tenants.* It is, therefore, permissible for a broker, their firm, or a listing service to elect not to use square footage in marketing listed properties. Listing services in some markets around the country make it a practice to not indicate square footage in the data shown for a listed property. Instead, they allow information on the number and type of rooms to serve as the description of the size of a dwelling. However, brokers must disclose, in advance, this fact to prospective buyers and seller clients.
- The phrase “**reporting square footage**” means *any communication of a property’s square footage in any manner*, including, but not limited to: By inclusion in any advertising of any type; by inclusion in property data provided to a listing service (which will be subsequently reported to prospective buyers); by inclusion in property information sheets; or by oral communication.

Purpose and Use of *Guidelines*

The following *Guidelines* and accompanying illustrations are designed to assist real estate brokers in **measuring**, **calculating**, and **reporting** (both “orally” and in “writing”) the *living area* contained in detached and attached single-family residential buildings. When reporting square footage, real estate Brokers should carefully follow these *Guidelines* or any other standards that are comparable to them, including those approved by the American National Standards Institute, Inc. (ANSI) which are recognized by the North Carolina Real Estate Commission as comparable standards.* Agents should be prepared to identify, when requested, the standard used.

* The following materials were consulted in the development of these *Guidelines*:

The American National Standard for Single-Family Residential Buildings: Square Footage — Method for Calculating approved by the American National Standards Institute, Inc.; *House Measuring & Square Footage* published by the Carolina Multiple Listing Services, Inc.; and materials compiled by Bart T. Bryson, MAI, SRA, and Mary L.D’ Angelo, and Everett “Vic” Knight for teaching suggestions.

Comments on Use of the Commission's *Guidelines*

- *When square footage is being reported, a broker is absolutely **NOT required** to use either the Commission's **Guidelines** or the ANSI Standards. A broker may use any method he/she desires to calculate the square footage **so long as the square footage is calculated and reported correctly. NOTE, HOWEVER, the following comments:***
- When considering a complaint against a broker who inaccurately reported square footage, the Commission will ask the broker to demonstrate from his/her personal transaction records the method used to determine the square footage. *The broker should be able to demonstrate that he/she used either the Commission's **Guidelines** or other comparable guidelines.*
- A broker who makes a reasonable and conscientious attempt to personally measure a dwelling and calculate its square footage in accordance with the Commission's *Guidelines*, but makes an honest mistake in the process, will clearly fare better with the Commission than a broker who makes a similar mistake but cannot demonstrate use of the Commission's *Guidelines* (or comparable guidelines) when determining square footage, or worse, who simply relies on information obtained from an unreliable source and makes no effort to personally verify the square footage.
- *Factors the Commission Will Consider.* When considering whether or not a broker acted reasonably to assure the accuracy of his/her representation as to square footage, the Commission will consider such factors as:
 - Was the broker the listing agent or a broker working with the buyer who was showing someone else's listing?
 - Did the broker have full access to the property?
 - How complex is the design of the dwelling? (Or, how difficult is it to measure and accurately calculate the square footage of the dwelling?)
 - Do these *Guidelines* provide guidance sufficient for a reasonably knowledgeable and prudent broker to accurately measure and calculate the square footage of the particular dwelling?
 - What was the size and percentage of the error in reported square footage?
 - How reasonable were the judgments made by the broker when determining the square footage?

Application of the *Guidelines* to RENTAL Transactions

- The *Guidelines* generally make reference to their application to sales transactions; however, the *Guidelines* are **considered to be equally applicable to rental transactions**. (See the *Guidelines* INTRODUCTION – Page 1).
- **NOTE:** Brokers engaged in the management of apartments are especially cautioned to make sure the advertised square footage for units they manage is correct. It is fairly common for the owners or developers of apartment complexes to provide property management personnel with property information that includes in the reported square footage for unit's areas such as outside storage rooms or balconies that are part of the area under a tenant's exclusive control but clearly are not considered part of "living area" under these *Guidelines*.

AGENTS' RESPONSIBILITY

Real estate agents are expected to be able to accurately calculate the square footage in most dwellings.

Listing Agent's Basic Duty

When reporting square footage, (whether to a party to a real estate transaction, another real estate agent or others), a real estate agent is expected to provide accurate square footage information that was compiled using these *Guidelines* or comparable standards. While an agent is expected to use reasonable skill, care and diligence when calculating square footage, it should be noted that the Commission does not expect absolute perfection. Because all properties are unique and no guidelines can anticipate every possibility, minor discrepancies in deriving square footage are not considered by the Commission to constitute negligence on the part of the agent.

Minor variations in tape readings and small differences in rounding off of conversions from inches to decimals, when multiplied over distances, will cause reasonable discrepancies between two competent measurements of the same dwelling. In addition to differences due to minor variations in measurement and calculation, discrepancies between measurements may also be attributable to reasonable differences in interpretation. For instance, two agents might reasonably differ about whether an addition to a dwelling is sufficiently finished under these *Guidelines* to be included within the measured living area. Differences which are based upon an agent's thoughtful judgment reasonably founded on these or other similar *guidelines* will not be considered by the Commission to constitute error on the agent's part. Deviations in calculated square footage of **less than five percent (5%)** will seldom be cause for concern unless a broker intentionally overstates the square footage.

As a general rule, the most reliable way for an agent to obtain accurate square footage is by personally measuring the dwelling unit and calculating the square footage. It is especially recommended that the *Listing Agent* use this approach for dwellings that are not particularly unusual or complex in their design.

As an alternative to personally measuring a dwelling and calculating its square footage, an agent may rely on the square footage reported by other persons when it is reasonable under the circumstances to do so.

Listing Agent Accountable for Retention of Records

Brokers must retain for at least **three years** all sketches, calculations, photos, and other documentation used and/or relied upon to determine square footage.

21 NCAC 58A .0108 RETENTION OF RECORDS

(a) **Brokers** shall retain records of all sales, rental, and other transactions conducted in such capacity, whether the transaction is pending, completed, or terminated. The broker shall retain records for **three years** after all funds held by the broker in connection with the transaction have been disbursed to the proper party or parties or the conclusion of the transaction, whichever occurs later. If the broker's agency agreement is terminated prior to the conclusion of the transaction, the broker shall retain such records for three years after the termination of the agency agreement or the disbursement of all funds held by or paid to the broker in connection with the transaction, whichever occurs later.

(b) Records shall include copies of the following: (1) contracts of sale; (2) written leases; (3) agency contracts; (4) options; (5) offers to purchase; (6) trust or escrow records; (7) earnest money receipts; (8) disclosure documents; (9) closing statements; (10) brokerage cooperation agreements; (11) declarations of affiliation; (12) broker price opinions and comparative market analyses prepared pursuant to G.S. 93A, Article 6, including any notes and supporting documentation; **(13) sketches, calculations, photos, and other documentation used or relied upon to determine square footage;** 14) advertising used to market a property; and (15) any other records pertaining to real estate transactions.

Comments on the Listing Agent's Basic Duty and Responsibility for Accuracy of Reported Square Footage (Remember - Fiduciary Duties to Clients, Buyers & Sellers).

• *In any real estate transaction, the “listing agent” has the **primary responsibility for assuring that square footage information he/she reports is accurate.*** The listing broker is the broker in the best position to ascertain the correct square footage of a listed dwelling, as well as other information on the characteristics and condition of the property. Note also that *the **listing Firm shares fully the responsibility of the individual listing broker in this regard.***

• *Duty to personally measure and calculate square footage.* A listing broker who reports the square footage of a dwelling without personally measuring and calculating the square footage greatly increases his/her potential exposure to Commission disciplinary action (and probably also to **civil liability**) in the event the reported square footage is incorrect to any significant degree. The more unreliable the source of square footage information adopted by the broker, the greater the potential exposure of the broker and their firm.

• Listing brokers, electing to report square footage, are expected to personally measure the properties they list and accurately calculate their square footage. They must not rely on tax records, information from a previous listing, or representations of the seller or others.

• The listing broker will be held accountable for the accuracy of square footage information the listing broker reports to prospective purchasers — including information obtained by purchasers from property data sheets and MLS data banks.

Responsibility for the errors of others. Square footage information taken from tax records is likely to be highly unreliable, and square footage information obtained from the seller or from a previous listing may also be unreliable. The square footage reported by a State-licensed or State-certified appraiser in an appraisal report (assuming there have been no additions or alterations to the dwelling) is likely to be considerably more reliable than the above-mentioned sources, but still might be in error or not derived in accordance with the Commission's *Guidelines*. It is important to emphasize that **when a listing broker relies on the square footage determined by another person, the broker assumes full responsibility for the accuracy of that person's square footage measurements and calculations.**

- *Responsibility to verify accuracy of advertised square footage.* A listing broker is expected to verify that the square footage reported in any form of advertising, including MLS property sheets and data banks, is correct. It is no defense for the listing broker to claim that a clerk made a mistake when entering the data.

- ***Absolute perfection in reporting square footage accurately is NOT expected!!!!*** *The Commission realizes that any five competent brokers who might be asked to determine the square footage of even an average house may very well produce five different answers. However, if the Guidelines are followed, the differences should be slight and insignificant.*

- ***There is no fixed margin of acceptable error.*** Contrary to popular belief, the Commission does not have a fixed acceptable percentage of error that brokers can rely on. *The percentage of error that would be considered acceptable varies according to the design and characteristics of each particular dwelling.* For example, a relatively small error of only a few percentage points in a dwelling with a simple rectangular design and no particularly unusual or complex design characteristics may be considered a significant error. On the other hand, a somewhat larger degree of error might be acceptable for a dwelling that is odd-shaped or has many unusual features that substantially complicate the process of measuring and calculating square footage. The Commission will apply a “reasonably knowledgeable and prudent agent” standard when considering complaints involving errors in reporting square footage. As noted, “Deviations in calculated square footage of less than **five percent (5%)** will seldom be cause for concern unless a broker intentionally overstates the square footage.”

- A “range” may be used when reporting square footage. There is no requirement that square footage be advertised or disclosed up front. Consequently, if a listing broker (or a listing service) chooses to report square footage as a range, then this is acceptable. Note that reporting square footage as a range may not be satisfactory to many prospective buyers!

- See **page 27** of this manual (*Inexperienced Brokers and Unusual Situations*) for further guidance on how to address assistance from other professionals.

Duty of Agents Working with Buyers

Generally speaking, an agent working with a buyer (either as a buyer's agent or seller's agent) may rely on the listing agent's square footage representations except in those unusual instances when there is an error in the reported square footage that should be obvious to a reasonably prudent agent.

For example, a buyer's agent would not be expected to notice that a house advertised as containing 2200 square feet of living area in fact contained only 2000 square feet. On the other hand, that same agent, under most circumstances, would be expected to realize that a house described as containing 3200 square feet really contained only 2300 square feet of *living area*.

If there is such a "red flag" regarding the reported square footage, the agent working with the buyer should promptly point out the suspected error to the buyer and the listing agent. The listing agent must then verify the square footage and correct any error in the information reported.

Comments on the Duty of Brokers working with Buyers.

- **Reliance on listing data.** The Commission recognizes that it is impractical and unreasonable to require a broker working with a buyer to routinely verify the square footage of all properties shown to the buyer. Thus, the *Guidelines* provide that a broker working with a buyer may, as a general rule, rely on the listing broker's representation as to square footage. This is true whether the broker working with the buyer is a seller's agent or a buyer's agent!
- While agents of the seller (including those working with buyers) may rely on the verified or corrected figure, brokers employed by buyers must independently measure and calculate the square footage if the buyer has any further interest in the dwelling, and the buyer's agent must advise the listing agent of any errors found.

In a substantial majority of transactions, a broker working with a buyer will be able to rely on the square footage information provided by the listing broker and will not be expected to personally verify the square footage, even if the broker is a buyer's agent. However, when there is a "red flag" situation, the broker working with the buyer then has a duty to verify the square footage.

• **“Red Flag”** -- What is meant by this term?

A “red flag” situation exists when there is an error in reported square footage that should be obvious to a reasonably prudent broker showing a dwelling to a prospective buyer.

Example 1: A simple rectangular house with only 1200 square feet has a reported square footage of 1450 (a 21% error). A reasonably prudent broker should probably recognize this problem when showing the house.

Example 2: An average-size house with common design features has a large unfinished room (e.g., an enclosed porch) that was improperly included in the reported square footage. A reasonably prudent broker should probably recognize the square footage error when showing the house.

Example 3: During a showing, the broker notices that the listing data shows the dimensions of the living room to be 30' x 15', but the broker or buyer notices that the room appears shorter, and, upon checking, finds the room dimensions to actually be 20' x 15'. This should probably serve as a “red flag” to a reasonably prudent broker, who should check to make sure the error in reported room dimensions, is not reflected in the reported square footage for the dwelling.

Corrective Action in “Red Flag” Situations:

1. The first action to be taken by a **broker working with the buyer** when he/she encounters a “red flag” situation is to *promptly point out the suspected error to both the buyer and the listing broker*. The appropriate action for brokers to take after that is determined primarily by their agency status.
2. The **listing broker**, upon being alerted to the potential problem, must then recheck the reported square footage and correct any error in the information reported. The listing broker should make sure all prospective buyers have the corrected information (such as may pertain to previous showings).
3. A **seller’s subagent working with the buyer** may rely on the verified or corrected square footage figure reported by the listing broker, which may require the residence to be remeasured, which also corrects the “red flag.”
4. A **buyer’s agent**, under agency law, has a higher duty to the buyer than does a seller’s subagent working with a buyer. Consequently, it is not sufficient for a buyer’s agent to simply report a suspected problem to the listing agent and then rely on the

listing agent's rechecking of the square footage. Under the *Guidelines*, **when there is a "red flag,"** a buyer's agent must independently measure and calculate the square footage **if the buyer has any further interest in the dwelling.** The buyer's agent must then advise the listing agent of any errors he/she finds.

Note: As a practical matter, the broker working with the buyer might find the error easily and then simply report the problem and the correct square footage to the listing broker and buyer. It is typically easy for the broker working with the buyer to personally check the reported square footage, and even a seller's subagent may want to do so prior to contacting the listing broker, especially if the buyer is particularly interested in the property and/or if the agent's firm listed the property.

Square Footage Questions Raised by the Buyer

Query/Discussion Point: What should a broker working with a buyer do when the buyer raises a question about the reported square footage? When does such a question create a "red flag" situation?

Answer/Comment: Every question raised by a buyer about the reported square footage does not necessarily constitute a "red flag" under the Commission's *Guidelines*. Common sense must prevail in these situations.

Example 1: A broker showing a house, notices no "red flag" regarding the square footage. The buyer, however, makes the following comment to the agent: "Some of these rooms seem small. Do you think this house really has 2,250 square feet?" Is the broker required to personally verify the square footage?

Answer/Comment: The broker working with the buyer would have no duty under the Real Estate License Law or these *Guidelines* to verify the reported square footage, even if the broker is a buyer's agent, *unless* such a "red flag" is similarly identified by the buyer's agent and thus suspects the square footage might not be correct. The buyer's "gut feeling," standing alone, is not enough to constitute a "red flag." (If the broker shares the buyer's "gut feeling," then maybe the broker should double-check the square footage.) It is highly likely that in this situation a buyer's agent would also have no duty under the common law of agency to personally verify the square footage. The broker should, however, be

especially alert for “red flags” whenever a buyer has raised any question about the accuracy of reported square footage. The broker should explore with the buyer why the buyer thinks the reported square footage is incorrect. Most often, the buyer’s concern can be easily resolved without the broker having to measure the entire house and completely recalculate the square footage.

Example 2: A buyer is very interested in making an offer on a listed house and the buyer asks the broker working with him/her to verify the reported square footage. Upon questioning the buyer, it becomes apparent to the broker that the buyer has no particular reason for questioning the reported square footage, but the buyer says it is very important to him/her to know the exact square footage, and the buyer insists that he/she would like for the broker to make sure the reported figure is correct. The broker notices no “red flag.” Is the broker required to personally verify the square footage?

Answer/Comment: If the broker is a **buyer’s agent**, the broker is obligated to personally verify the reported square footage. Agency law duties require an agent to comply with his/her principal’s reasonable instructions and to exercise skill, care, and diligence in serving the principal. Unlike the situation in Example 1, where the buyer casually questioned the square footage and was not that concerned about it, here the buyer clearly expressed major concern about the square footage and emphasized its importance to him/her.

On the other hand, if the broker is a **seller’s agent**, the agent is NOT legally obligated to honor the buyer’s request and personally verify the square footage.

Note: As a practical matter, a broker working with a buyer, regardless of his/her agency status will obviously need to do something to satisfy the concern of the buyer in Example 2 above. Typically, concerns expressed by a buyer about the reported size of a property will focus on a particular room or area rather than the total reported square footage for the entire dwelling. In those quite common situations, the broker working with the buyer should simply measure the room/area in question in order to alleviate the buyer’s concerns. In a vast majority of situations, this will satisfy the buyer and it will not be necessary to measure and calculate the square footage of the entire dwelling. However, it may occasionally be necessary for a broker working with a buyer to verify the square footage just to satisfy the buyer, even if the broker is a

seller's agent and has no legal obligation to do so. One possibility is for the broker to suggest that he/she and the buyer measure the house together.

Inexperienced Agents and Unusual Situations

It is also appropriate for an agent to rely upon measurements and calculations performed by other professionals with greater expertise in determining square footage. A new agent who may be unsure of his or her own calculations should seek guidance from a more experienced agent. As the new agent gains experience and confidence, he or she will become less reliant on the assistance of others. In order to ensure accuracy of the square footage they report, even experienced agents may wish to rely upon a competent state-licensed or state-certified appraiser or another agent with greater expertise in determining square footage.

For example, an agent might be confronted with an unusual measurement problem or a dwelling of complex design. The house described in Figure 8 in the *Guidelines* is such a property. When an agent relies upon measurements and calculations personally performed by a competent appraiser or a more expert agent, the appraiser or agent must use these *Guidelines* or other comparable standards and the square footage reported **must be specifically determined in connection with the current transaction**. An agent who relies on another's measurement would still be expected to recognize an obvious error in the reported square footage and to alert any interested parties.

Unreliable & Prohibited sources of Square Footage information

Some sources of square footage information are by their very nature unreliable.

For example, an agent should **NOT** rely on square footage information determined by the property owner or included in property tax records. An agent should also **NOT** rely on square footage information included in a listing, appraisal report or survey prepared in connection with an earlier transaction.

Comments on Inexperienced Brokers and Unusual Situations

- The Commission expects brokers to have the knowledge and ability to **personally** measure and accurately calculate the square footage of most dwellings to the extent that the square footage problem they are facing is one contemplated by the concepts and methods presented in these *Guidelines*. The Commission recognizes, however, that inexperienced brokers will generally need more assistance and advice in this regard than experienced brokers. Thus, the *Guidelines* contemplate that inexperienced brokers may need to occasionally seek assistance from their broker-in-charge or other more experienced brokers. The Commission also recognizes that the *Guidelines* do not address every situation that a broker might encounter. Thus, any broker, regardless of their experience, may occasionally need to seek assistance from others when they are confronted with an unusual situation not addressed by these *Guidelines*.
- The Commission expects brokers to be able to accurately measure and calculate the area of most dwellings. Brokers who are inexperienced in calculating square footage should seek the assistance of their brokers-in-charge or more experienced brokers. And where a complex, odd-shaped dwelling is involved, which presents measuring problems not contemplated by these *Guidelines*, even experienced brokers should seek the help of a State-Licensed or State-Certified appraiser or an experienced engineer or architect to assist them in solving the problem.
- *A broker who makes a conscientious effort to personally determine square footage using these Guidelines and who seeks assistance when uncertain how to solve an unusual problem will always fare better before the Commission than a broker who does not do these things.*
- **Caution:** *Remember that brokers who simply rely on the square footage determined by another person will be held strictly accountable for any errors made by the other person.*

Agents Who Choose to NOT Report Square Footage

In areas where the prevailing practice is to report square footage in the advertising and marketing of homes, agents whose policy is **not** to calculate and report square footage must disclose this fact to prospective buyer and seller clients before entering into agency agreements with them.

Comment on Brokers Who Choose to NOT Report Square Footage

- (This is a “**Disclosure**”): The logic behind this position is that a real estate seller should be able to expect to receive from a listing firm the level of service that is customary in their community unless the firm has contracted with the seller to provide a lesser level of service. Clearly, in a market where square footage is routinely advertised, the failure to advertise square footage for a dwelling would place the owner of that dwelling at a competitive disadvantage (**NOTE:** Unless disclosed, the Seller would not know they were at a distinct disadvantage).

MEASURING

General Rule

The amount of *living area* and “other area” in dwellings is based upon **exterior measurements**, except for condominiums, which use interior measurements.

General Procedures and Suggestions

- A one-hundred-foot-long tape measure is recommended for use in measuring the exterior of dwellings, and a thirty-foot retractable tape for measuring interior and hard-to-reach spaces. A tape measure that indicates linear footage in “tenths of a foot” will greatly simplify your calculations. For best results, take a partner to assist you in measuring. But if you do not have someone to assist you, a screwdriver or other sharp tool can be used to secure the tape measure to the ground.
- Begin at one corner of the dwelling and proceed with measuring each **exterior** wall. Double-check each measurement.
- **Round off your measurements to the nearest inch** (or tenth-of-a-foot if your tape indicates footage in that manner).
- Make a **sketch** of the structure. Write down each measurement as you go and record it on your sketch. A clipboard and grid paper are helpful in sketching the dwelling and recording the measurements. You may also use electronic devices to create sketches. Be sure to print the electronic sketches for your records or save them in a manner that will enable you to print them for at least three years.
- Measure *living area* and “other area,” but identify them separately on your sketch.

- Look for offsets (portions of walls that “jut out”) and adjust for any “overlap” of exterior walls (Fig. 3) or “overhang” in upper levels (Fig. 5).
- You may also find it helpful to take several photographs of the dwelling for later use when you return to your office.

Exception to using exterior measurements: When you cannot measure an exterior surface (such as in the case of attics and below-grade areas), measure the perimeter walls of the area from the **inside** of the dwelling. Remember to add **six inches** for each exterior wall and interior wall that you encounter in order to arrive at the exterior dimensions (Fig. 2, 3, 4, 6).

- Measure all sides of the dwelling, making sure that the overall lengths of the front and rear sides are equal, as well as the ends. Then inspect the interior of the dwelling to identify spaces which cannot be included in *living area*.
- You may also find it helpful to take several photographs of the dwelling for later use when you return to your office.

Comment - (ANSI, Z765-1996): Purely from a “Risk-Management” standpoint, the language contained in ANSI Z765 (1996) provided a “**Disclosure**” statement that brokers might want to consider utilizing when calculating square footage based only on exterior dimensions (i.e., Foreclosures, REO and other similar properties) as follows:

When calculation of finished square footage is made without an interior inspection to confirm all area categories, a statement similar to the following SHOULD be included:

“Finished square footage calculation for the residence was made based on exterior dimensions only and may include unfinished areas, openings in floors not associated with stairs, or openings in floors excluding the area of associated stairs.”

CALCULATING SQUARE FOOTAGE

From your sketch of the dwelling, identify and separate *living area* from “other area.” If your measurements are in inches (rather than tenths-of-a-foot), convert your figures to a decimal as follows:

$$1" = .10 \text{ ft.} \quad 7" = .60 \text{ ft.}$$

$$2" = .20 \text{ ft.} \quad 8" = .70 \text{ ft.}$$

$$3" = .25 \text{ ft.} \quad 9" = .75 \text{ ft.}$$

$$4" = .30 \text{ ft.} \quad 10" = .80 \text{ ft.}$$

$$5" = .40 \text{ ft.} \quad 11" = .90 \text{ ft.}$$

$$6" = .50 \text{ ft.} \quad 12" = 1.00 \text{ ft.}$$

Calculate the *living area* (and other areas) by multiplying the length times the width of each rectangular space. Then add your subtotals and round off your figure for total square footage to the nearest **square foot**. Double-check your calculations. When in doubt, re-check them and, if necessary, re-measure the house.

Comment on Accuracy in Measuring and Calculating

- Brokers may be wondering why the *Guidelines* call for measurements to the nearest inch or tenth of a foot and rounding off total square footage to the nearest square foot when you have already been told that absolute precision in reporting square footage is not essential. It is true that the Commission is not concerned about very small, insignificant errors and will be reasonable in its expectations regarding accuracy of reported square footage. Nevertheless, brokers should still strive to be as accurate as possible when determining square footage. Several small errors can be compounded into a significant error if a broker is not careful.

NOTE: Measure all exterior walls at the main finished floor level and be sure to “Balance” your measurements (Squaring the house) BEFORE leaving the site. Balancing your measurements (squaring the house) is done AFTER all exterior walls have been measured and is the mathematical process by which a broker must verify that the parallel sides of the residence are equal. The total front of the residence measures equally to the total rear of the residence, and each side

measures equally to the other side. Adjust and consistently round your measurements to more correctly reflect accurate measurements of each exterior wall of the residence.

NOTE: Using **Grid Paper** when measuring is the best tool to assist a broker in being accurate in measuring (it helps identify where the measuring errors might be) and the eventual calculation of the square footage in the residence.

LIVING AREA CRITERIA

Living area (sometimes referred to as “heated living area” or “heated square footage”) is space that is intended for human occupancy and is:

1. **Heated** by a conventional heating system or systems (forced air, radiant, solar, etc.) that are permanently installed in the dwelling — not a portable heater or fireplace — which generates heat sufficient to make the space suitable for year-round occupancy;
2. **Finished**, with walls, floors and ceilings of materials generally accepted for interior construction (e.g., painted drywall/sheet rock or paneled walls, carpeted or hardwood flooring, etc.) and with a ceiling height of at least seven feet, except under beams, ducts, etc. where the height must be at least six feet four inches [*Note: In rooms with sloped ceilings (e.g., finished attics, bonus rooms, etc.) you may also include as living area the portion of the room with a ceiling height of at least five feet if at least one-half of the finished area of the room has a ceiling height of at least seven feet.*]; and
3. **Directly accessible from other living area** (through a door or by a heated hallway or stairway).

Comments on “Heated” Area

- **Basic Rule:** If an area does NOT have a conventional heating system, do NOT include the area as “*living area*.”
- **Exception:** For a dwelling with no conventional heating system that is intended only for summertime (warm season) use in an area that is very warm all season (for example, a beach cottage), it is acceptable to report the unheated square footage as “*living area*” provided an appropriate note is included in the remarks section of MLS data and any prospective buyer is advised that there is no conventional heating system.

Comments on “Rooms with Sloped Ceilings”

- It is important for Brokers to be careful when applying the *living area criteria* to rooms with sloped ceilings. Such rooms are frequently encountered, but they also frequently do not fully satisfy the *living area criteria*. Special attention must be paid to properly determining if a room with a sloped ceiling meets the *ceiling height criteria* and to determining the amount of square footage to include in *living area* for rooms that satisfy all the criteria.

NOTE: Heated area in contemporary terms means “Conditioned Space.”

Remember, adherence to these “*Guidelines*” is for a broker to make it possible for anyone else to “Reproduce” the same calculated square footage from your measurements, sketches, and notes.

Above-Grade” and “Below-Grade”

Real estate appraisers and lenders generally adhere to more detailed criteria in arriving at the *living area* or “gross living area” of residential dwellings. This normally includes distinguishing “above-grade” from “below-grade” areas, which is also required by many multiple listing services. “**Above-Grade**” is defined as space on any level of a dwelling which has *living area* and no earth adjacent to any exterior wall on that level. “**Below-Grade**” is space on any level which has *living area*, is accessible by interior stairs, and has earth adjacent to any exterior wall on that level. If earth is adjacent to any portion of a wall, the entire level is considered “below-grade.” Space that is “at” or “on grade” is considered “above-grade.”

Reporting a Single “Living Area” Square Footage Figure

While real estate agents are encouraged to provide the most complete information available about properties offered for sale, the *Guidelines* recognize that the separate reporting of “above-grade” and “below-grade” area can be impractical in the advertising and marketing of homes. For this reason, *real estate agents are permitted under these Guidelines to report square footage of the dwelling as the total “living area”* without a separate distinction between “above-grade” and “below-grade” areas. However, to help avoid confusion and concern, agents should alert purchasers and sellers that the appraisal report may reflect differences in the way *living area* is defined and described by the lender, appraiser, and the *North Carolina Building Code* which could affect the amount of *living area* reported.

Comments on Allowing the Reporting of a Single “Living Area” Square Footage Figure

- The square footage guidelines for single-family residential dwellings developed by the American National Standards Institute, Inc. (ANSI) call for the square footage of living area to be reported separately as “above grade” and “below grade” rather than as a single figure for total *living area*. This is also the practice followed by appraisers (and possibly some others), and the Uniform Residential Appraisal Report (URAR) standard form (published by Fannie Mae) used for most residential appraisals calls for separate entries for “above grade” and “below grade” areas.
- Although the Commission understands the logic behind this practice, the Commission believes it is in the best interest of both real estate consumers and brokers to permit the reporting of the square footage of a dwelling as a single figure

for the total *living area* when homes are being advertised and marketed. NOTE: When reporting total *living area* be mindful that the “below grade” area must meet the definition of “*living area*” or such “below grade” area must be reported as “other area”. An improper characterization of a portion of a property as finished “below grade” can be quite misleading to consumers and therefore could be a misrepresentation by the broker and the broker’s firm.

- Brokers should, however, make it a practice to advise sellers and buyers that they may encounter appraisal reports with the square footage reported as “above grade” and “below grade.”

NOTE: Cantilevers by definition can extend beyond the foundation of a residence or beyond the level of the residence immediately below the level of the residence which is being measured. Cantilevers can exist on any level except those levels which are below-grade.

Primary Space Included in Living Area — Finished Rooms Used for General Living

Determining whether an area is considered *living area* can sometimes be confusing. **Finished rooms used for general living** (living room, dining room, kitchen, den, bedrooms, etc.) are normally included in *living area*. For other areas in the dwelling, the determination may not be so easy. *For example, the following areas are considered **living area** if they meet the criteria (heated, finished, directly accessible from living area):*

Examples of Other Space Included in “Living Area” If the Living Area Criteria Is Met.

Attic, but note in the listing data that the space is located in an attic (Fig. 2). [*Note: If the ceiling is sloped, remember to apply the “ceiling height” criteria.*]

Basement (or “Below-Grade”) but note in the listing data that the space is located in a basement or “below-grade” (Fig. 1). [*Note: For reporting purposes, a “basement” is defined as an area below the entry level of the dwelling which is accessible by a full flight of stairs and has earth adjacent to some portion of at least one wall above the floor level. A full flight of stairs is a flight of stairs connecting two main floors where the ceiling height for the lower floor is at least seven (7) feet, except where duct work provides clearance of at least 6’4”.*] (See illustration in figure 1, page 8.)

Bay Window, if it has a floor, a ceiling height of at least seven feet, and otherwise meets the criteria for *living area* (Fig. 2).

Bonus Room (e.g., Finished Room over Garage) (Fig. 3). [Note: If the ceiling is sloped, remember to apply the “ceiling height” criteria.]

Breezeway (enclosed).

Chimney, if the chimney base is inside *living area*. If the chimney base is outside the *living area* but the hearth is in the *living area*, include the hearth in the *living area* but not the chimney base (Fig. 1).

Closets, if they are a functional part of the *living area*.

Dormers (Fig. 6).

Furnace (Mechanical) Room Also, in order to avoid excessive detail, if the furnace, water heater, etc. is located in a small closet in the *living area*, include it in *living area* even if it does not meet other *living area* criteria (Fig. 4).

Hallways, if they are a functional part of the *living area*.

Laundry Room/Area (Fig. 6).

Office (Fig. 1).

Stairs, if they meet the criteria and connect to *living area* (Fig. 1, 2, 3, 4, 5, 6). Include the stairway with the area from which it descends, **not to exceed the area of the opening in the floor**. If the opening for the stairway exceeds the length and width of the stairway, deduct the excess open space from the upper-level area. Include as part of the lower-level area the space beneath the stairway, regardless of its ceiling height.

Storage Room (Fig. 6).

NOTE: Using **grid paper**, sketch each level separately, make notes as you progress.

Comments on Stairs

Basic Rule #1 — *Include as part of the lower-level area the space beneath the stairway, regardless of its ceiling height.*

- If the lower level from which a stairway ascends is *living area*, the area occupied by the stairway, including all space directly beneath the stairway, is always included in the lower-level square footage for *living area*.

Basic Rule #2 — *Include the stairway with the area from which it descends, not to exceed the area of the opening in the floor. If the opening for the stairway exceeds the length and width of the stairway, deduct the excess open space from the upper-level area.*

- If the upper level from which a stairway descends is *living area*, and the opening for the stairway on the upper level is no larger than the total area occupied by the stairway, then there is no deduction from the square footage for the upper-level *living area*. **Note:** *A vast majority of stairways have openings to the upper level that are smaller than the total area occupied by the stairway and no adjustment to the upper-level square footage will be necessary.*
- A stairway opening on the upper level that is larger than the area occupied by the stairway is found in dwellings that have vertical interior open space with the stairway located in the open area, such as a dwelling with an open foyer.
- When the opening on the upper level is larger than the area occupied by the stairway, only include the area of the stairway (as determined on the lower level) in the square footage for the upper level. In other words, the portion of the opening on the upper level that exceeds the area of the stairway is NOT included in the square footage for the upper level.

Suggestions for Measuring Stairways in an Open Foyer or Other Open Space

Straight Stairway — Standing on the lower level, measure from the bottom of the stairs to the point beneath the stairs where the stairs connect to the upper level to determine the length of the area occupied by the stairs, then multiply the length by the width of the stairs.

Stairway with Angled Turn (“Dogleg”) — Divide the stairway into sections and measure in the manner described for a straight stairway, then add together the figures for each section. If the turn in the stairway forms an angle that is less than a right angle, it is acceptable to “square off” the turn and calculate the area of each section as a rectangular-shaped area rather than to calculate the area of each section as a trapezoidal-shaped area.

Curved Stairway — Standing on the lower level, measure beneath the stairway along the line of the curve as best you can to determine the length of the area occupied by the stairs, then multiply the length by the width of the stairs.

Stairs that “Flare Out” at the Top or Bottom — For the portion of the stairs that “flare out,” use an *average* width determined by measuring the width of the stairs at the middle of the section that flares out. Unless the “flared-out” portion of the stairs is significantly wider than the rest of the stairs, it is also acceptable to simply ignore the flared-out area and to treat the stairs as though they were straight.

Spiral Stairway — A true spiral stairway has a two-dimensional floor area in the shape of a circle. The technically correct way to determine the area is to determine the radius (one-half the diameter) of the stairway’s floor area and apply the formula for determining the area of a circle. It is also acceptable to “square off” the floor area beneath the spiral stairway, thus creating a square, and to use the figure calculated for the square area.

OTHER AREA

Note in the listing data and advise purchasers of any space that does NOT meet the criteria for *living area*, but which contributes to the value of the dwelling; for example, unfinished basements, unfinished attics (with permanent stairs), unfinished bonus rooms, and other unfinished rooms. Decks, balconies, porches, garages, and carports should not be included in **any** category of finished or unfinished area).

HELPFUL HINTS

Ducts, Chases, Returns, etc.

Concealed in the walls of nearly all residential construction are pipes, ducts, chases, returns, etc. necessary to support the structure's mechanical systems. Although they may occupy *living area*, to avoid excessive detail, do not deduct the space from the *living area*.

Room Additions and Other Structural Modifications

When measuring and reporting the *living area* of homes, be alert to any remodeling, room additions (e.g., an enclosed porch) or other structural modifications to assure that the space meets all the criteria for *living area*. **Pay particular attention to the heating criteria because the heating system for the original structure may not be adequate for the increased square footage.** Although agents are not required to determine the adequacy of heating systems, they should at least note whether there are heat vents, radiators, or other heat outlets in the room before deciding whether to include space as *living area*.

Areas without Building Permits

The square footage of unpermitted additions or improvements must be separately identified when making representations concerning square footage and brokers must inform prospective purchasers that there is no permit for the addition.

Comments on “Room Additions” and Other Structural Modifications

- Note that the “heated” living area standard frequently comes into question with regard to room additions or remodeled areas such as sunrooms, enclosed porches, converted garages and attics. *Listing agents should always inquire about the heating system for areas such as those areas that frequently do not have conventional heating systems.*
- The Commission does not expect brokers to possess the expertise to determine whether a conventional heating system is truly adequate, nor is it necessary for a broker to consult with a heating and air conditioning specialist when a question arises about heating. Brokers are, however, expected to be able to (1) recognize whether or not an area has a “conventional” heating system and (2) employ a commonsense approach to determining whether an area is adequately heated. If a broker enters a freezing cold room in the winter, it is reasonable to expect that broker to at least make an appropriate inquiry into the matter. (Try turning on the heat and seeing if it warms up!)

Common Wall Between *Living Area* and “Other Area”

When an area that is NOT part of the *living area* (e.g., a garage) shares a common wall with the *living area*, treat the common wall as the exterior wall for the *living area*; therefore, the measurements for the living area will include the thickness of the common wall, and the measurements for the other area will not.

Vertical Interior Open Space (e.g., Open Foyer)

Interior space that is open from the floor of one level to the ceiling of the next higher level is included in the square footage for the *lower level only*. However, any area occupied by interior balconies, lofts, etc. on the upper level or stairs that extend to the upper level is included in the square footage for the upper level.

Comment on Vertical Interior Open Space

- House designs with vertical interior open space such as an “open foyer” are becoming increasingly more popular in new houses and are causing significant problems in situations where brokers (and builders, designers, appraisers, and others) do not know how to properly determine the square footage of houses with such a feature. Brokers need to be especially careful when determining the square footage of houses with vertical interior open space. Sometimes the open space covers a very large area, not just the foyer, and improper treatment of such space can produce a very large error in reported square footage. Because the reported square footage of houses with vertical interior open space is frequently in error, any broker working with a buyer, especially a buyer’s agent, should be especially alert to the possibility that the reported square footage may be incorrect.

ATTACHED DWELLINGS

If there is a common wall (i.e., a wall separating the subject property from an adjacent property), measure to the inside surface of the wall and add **six inches**. *[Note: In the case of condominiums, measure from inside surface to inside surface of the exterior walls. do not include the thickness of exterior or common walls.]* Do not include any “common areas” (exterior hallways, stairways, etc.) in your calculations.

Comment on Measuring Condominiums

- It is legally possible for a condominium to be defined in the recorded plat for the condominium regime in such a manner that a portion of exterior walls, rather than merely interior space, would be owned by the unit owner. Brokers are encouraged, but not required, to check the recorded plat in the register of deeds office. The best practice is for brokers to obtain a copy of the recorded plat, otherwise, simply measure “paint-to-paint” and to not include the thickness of any exterior walls or common walls.

PROPOSED CONSTRUCTION

For proposed construction, your square footage calculations will be based upon dimensions described in blueprints and building plans. When reporting the projected square footage, be careful to disclose that you have calculated the square footage based upon plan dimensions. The square footage may differ in the completed structure. Once the structure is completed, do not rely on any calculations printed on the plans. **The broker should measure and report the actual square footage of the completed structure.**

Comments on Using Blueprints or Building Plans

- Brokers may safely rely on blueprints or building plans for determining square footage only for proposed construction or for dwellings which are not sufficiently completed to measure accurately. Once a dwelling has been built, the broker **must** measure the structure and calculate the square footage. If blueprints are used to determine the square footage of a proposed dwelling for purposes of marketing, then the listing agent should **personally verify** the square footage after construction is complete.
- The reason for recognizing only limited reliance on blueprints and building plans is that changes are very commonplace during the construction process, and some of these changes can be substantial.

Inspections per Plans and Specifications (ANSI, Z765-1996)

Purely from a "Risk-Management" standpoint, the language contained in ANSI Z765 (1996) provided a "**Disclosure**" statement that brokers might want to consider utilizing when calculating square footage, based Plans & Specs, as follows:

"If the calculation of finished square footage is made from the plans of a proposed house the statement of finished square footage **must** include a declaration similar to the following":

"Finished square footage calculations for this house were made based on plan dimensions only and may vary from the finished square footage of the house as built."

ILLUSTRATIONS

For assistance in calculating and reporting the area of homes, refer to the following illustrations showing the *living area* shaded. To test your knowledge, an illustration and blank “Worksheet” for a home with a more challenging floor plan has also been included. (A completed “Worksheet” for the Practice Floor Plan can be found on page 25). In reviewing the illustrations, assume that for those homes with basements, attics, etc., the exterior measurements shown have been derived from interior measurements taking into account walls and partitions (*see page 4*). Where there is a common wall between *living area* and “other area” (*see page 4*), the measurements shown in the illustrations include the thickness of the common wall in *living area* except in the condominium example where wall thickness is not included.

REPORTING ACCURATE SQUARE FOOTAGE IS AGENT'S RESPONSIBILITY

by Steven L. Fussell

NCREC Information Officer

**SOURCE: NORTH CAROLINA REALESTATE COMMISSION
REAL ESTATE BULLETIN - VOLUME 23 (SPRING 1992 - NUMBER 1)**

The square footage of a property is important in at least two ways: It is a primary factor in determining the market value of the property, and it is a convenient "yardstick" by which prospective buyers and tenants decide whether a property has sufficient space to satisfy their needs. Measured in square feet, **the size is a material fact that must be accurately disclosed when used in advertising property** for sale or lease and the responsibility for providing this accurate information is that of the listing agent.

Some brokers use county tax records to determine a property's square footage. These brokers usually include on a property information sheet a notation that the tax record was their source of information. **This practice is not acceptable under the Real Estate License Law.** Although such use of tax record information is not a violation of the law per se, the advertisement of properties for sale using unverified information may be viewed as negligent misrepresentation when this information is incorrect. As reported in the **Bulletin**, brokers have been disciplined for quoting inaccurate square footage. The disclaimer statement found on most MLS sheets which states, "Information herein deemed reliable but not guaranteed," **will not prevent the Commission from seeking disciplinary action against an agent who advertises inaccurate information.**

Tax record information which relates to the heated square footage of a property is usually derived from exterior measurements of the property and may not take into consideration the unheated/unfinished areas in the interior of the property. Therefore, the heated square footage in the tax records may be overstated. The opposite occurs when room additions or other improvements are made to the home which may not be reflected in the square footage shown in the tax records, and in these situations, the square footage shown in the tax records, and in these situations, the square footage in the tax records will be understated.

For a property that has been previously listed, **information provided by the previous agent should never be assumed to be correct, nor is it acceptable to assume the accuracy of tax records, blueprints, or old MLS sheets.** Accuracy of the material facts of every property listed for sale should be verified by the agent responsible for accepting the listing on behalf of the real estate firm, because the listing agent, the listing firm, and the seller are all liable for any information presented on the property.

If you are that agent, it is your responsibility to yourself, your firm, and the seller to personally measure the property and accurately calculate the square footage. Anything less may subject you to a charge of negligent misrepresentation should the advertised square footage prove to be incorrect.

Verifying Property Information

By: Marilyn E. Tomei, Assistant Legal Counsel

**SOURCE: NORTH CAROLINA REAL ESTATE COMMISSION
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When you are listing property for sale or for rent, you should verify certain information through a reliable source before you pass it on to parties in the transaction and **thereby avoid possible allegations of misrepresentation**. Examples of information which should be verified include lot acreage and frontage, land use restrictions and square footage.

Verifying lot acreage and frontage

If you decide to advertise physical features of land - such as lot acreage and frontage - you should take steps to ensure that your representations are accurate. Physical features should be verified through public records such as tax maps and recorded plats, or alternatively through unrecorded surveys.

A tax map is not intended to be used for legal description and should not be relied on exclusively, but it can be a good starting point. If the property is in a subdivision, a Plat of the entire subdivision is probably recorded, and can be obtained from the county register of deeds.

If a previous purchase of the property was financed by a commercial lender, the lender probably required a survey. In the event that the survey was not recorded, you may be able to obtain a copy of it from the surveyor at a nominal cost. Other possible sources are the lender, closing attorney or seller.

When you have a deed, you may generate the information on your own by computer. Programs are available which print a sketch of the property and give you its area in square feet or acres, when you input the metes and bounds description.

Verifying land use restrictions

In addition to physical features, other representations which can and should be verified include zoning/subdivision ordinances and restrictive covenants or deed restrictions and how they may affect the use or development potential of the property, and sewage disposal regulations and permit information.

Consult public agencies and public records concerning restrictions on the use of property imposed by zoning and subdivision ordinances, which are under the jurisdiction of the city and/or county planning department. Zoning maps (often called the zoning "atlas") are available for public inspection, usually in the planning department, which also maintains records of subdivision approval applications.

You should also be aware that privately imposed land use regulations such as restrictive covenants may affect the use of the property. They generally impose even stricter limitations than do zoning and subdivision ordinances and often apply in single-family subdivisions and condominium and townhouse developments. Examples of restrictive covenants are the prohibition of commercial uses of a residential property, the requirement that original buildings or later additions conform to a general plan and be reviewed by a committee, and the requirement that property owners pay for maintenance of common areas and private roads.

Private land use restrictions can also be found in individual deeds. An example of such a restriction is the stipulation by a donor that property is given to a church, but only so long as it is used for church purposes. Otherwise, the property will revert to the original owner or his successors. Such a restriction runs with the land and applies to every owner of the property in the chain of title after the deed containing the restriction has been recorded. It is therefore important for all Brokers in the transaction to have this information. Deeds and restrictive covenants are recorded in the county register of deeds office.

The Commission does not expect brokers to search titles or to find and be familiar with all deed restrictions or restrictive covenants. However, you do have a duty to alert parties in the transaction that they may exist. If a buyer alerts you of a need

to use the property in a special way, advise the buyer to investigate possible restrictions on the use of the property before becoming obligated to purchase it.

For example, you should be aware that the operation of a professional office at a residential property might be prohibited or severely restricted by zoning or restrictive covenants or both. Therefore, if you represent a buyer who wishes to operate an accounting business at home, you should caution the accountant-buyer about the possible public and private land use restrictions and advise him or her to thoroughly research such restrictions before selecting and contracting to buy a home. Refer the party to a private attorney for further information.

Other common commercial enterprises operated at home which should alert brokers to public or private land use restrictions are day-care centers (which are regulated at the state level as well), businesses which sell craft or hobby items, catering services (which may also be regulated by the health department).

Concerning restrictions on land use imposed by sewage disposal regulations administered by local health departments, see Real Estate bulletin, Vol. 24, Nos. 1 and 3 (Spring and Fall 1993)

Verifying Square Footage

Negligent misrepresentation of building square footage is among the most common misrepresentation complaints the Commission investigates. When listing property, you should personally measure the square footage of buildings. Never rely on the seller's representation of square footage, or on a previous agent's figures. That agent may not have measured accurately - or at all!

Alternatively, you can usually rely on an appraiser's report as to square footage. But review it carefully to confirm that no additions or other modifications affecting square footage have been made to the structure since the appraisal. If you find any, you must make additional calculations.

An appraisal report is usually available, especially if the property has been recently purchased or refinanced, because a commercial lender generally requires an appraisal. Even though the appraiser's client is usually the lender, you can obtain a copy of the report from the borrower (who is now the seller or landlord), since he or she is entitled to one.

Do not rely on house plan drawings, however, because the finished product sometimes differs from the plans. Also, do not rely on tax records. Although the tax office appraises property, it does so on a mass scale; therefore, its calculations may not be exact and are not a reliable source of square footage information for real estate transaction purposes.

Representing the square footage of properties accurately is an important component of keeping your clients and customers satisfied. The typical home buyer has both a financial and psychological interest in the square footage of the property. If a purchaser discovers after closing that the property has less living space than was originally represented, that purchaser will certainly be disappointed. This may cause him to demand a reduction in the purchase price, which may in turn result in complaints to the Real Estate Commission from the purchaser and seller.

Whether the buyer is entitled to a reduction in the purchase price is a question for a civil court, but you will better serve your clients, your customers and yourself if you provide them with correct information from the beginning of the transaction.

Accurate square footage information is also important in commercial lease transactions where rents are often based on a set price per square foot. Many brokers feel safe by underestimating square footage. However, if you underestimate square footage, your landlord client will not get the full benefit of the lease contract. To avoid any misunderstanding, be sure that both the landlord and the client understand how the square footage is measured and calculated.

You as the Selling Agent

When you are the selling agent in a transaction, you should exercise caution when using property information provided by the listing agent. The selling agent may not rely on a listing agent's representation and repeat it to others when the agent knows or should know that the representation is wrong. A selling agent who passes along inaccurate information may be guilty of negligent misrepresentation.

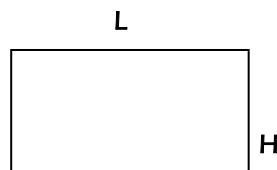
Consequently, if you suspect inaccuracies in any representations made by the listing agent, you should verify the information by one of the methods already discussed. Or you can alert the parties to the fact that the listing agent's representation is probably incorrect and advise them how to confirm the information. You may want to put this alert in writing, so there can be no doubt that you have discharged your duty.

In summary

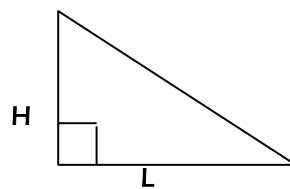
Be conscious of possible errors in property information provided by others. Be sure of the accuracy of such information before you repeat it to other parties. By doing so, you may save yourself the inconvenience and anguish of a complaint, and you will most certainly be serving your clients and customers more effectively.

CALCULATIONS OF AREA

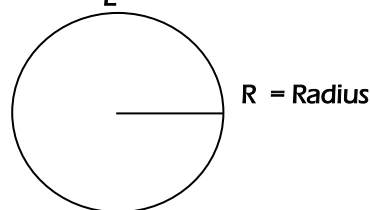
(1) Length X Height



(2) $\frac{\text{Length X Height}}{2}$



(3) πr^2
($\pi \times r^2$)



Define π (PI) = 3.1416

Property Inspection:

(1) Inspection per Plans & Construction Contract - (NOTE: Read ALL the Plan Notes)

The Construction Contract must also be read and interpreted properly so as to include or exclude all those portions of the residence so as to properly calculate the living area which are to be reported as “Living Area” vs. “Other Area,” included in the residence.

Inspection for Proposed Construction must also include an inspection of the actual Site for the Proposed Construction and check all sides of the Plan Dimensions for accuracy.

(2) Inspection of the Site

(A) An actual site visit and site inspection is the basis and beginning of any residential property inspection procedure. Topographic characteristics of the site will influence the methods utilized in measuring the residential improvements and respective method of determining and reporting the square footage associated with each level of the residential improvements when complete.

(B) Begin your exterior inspection by correctly viewing all sections of each side of the residential improvements. This is necessary so as to realize the extent and detail necessary to accurately complete your exterior & eventual interior inspection.

- Walk around all sides of the exterior of the residence.
- View all levels of the residence.
- Take photographs of all sides & levels of the residence
- Make clear & concise notes:
 - including topography, grade, foundation, design, finish & repairs needed

Once you have completed your exterior inspection you are ready to begin measuring the exterior and recording those measurements on grid paper.

(C) The interior inspection should be concentrated on determining those portions of the residence which will be included in the calculations of the square footage of the residence. The interior of the residence can be segregated into several categories which must be measured separately which in turn will respectively determine the contribution each square footage category to report.

An interior sketch and floor plan will significantly assist you in determining which portions of the interior fall into each of the mentioned categories.

Measuring the interior should be completed with the same due diligence which is followed when completing the exterior measurements. Accuracy is the objective and will only be achieved by using proper measuring techniques and accurate recording, sketching, and calculating.

Take your time, record your measurements carefully to achieve accuracy.

This course was developed by Everett “Vic” Knight as a direct result of approval of the **Residential Square Footage Guidelines** (the “**YELLOW Book**”) by the North Carolina Real Estate Commission which became effective on September 9, 1998. Vic chaired the North Carolina Real Estate Commission Task Force which formulated these voluntary **Guidelines** to instruct real estate brokers in the understanding, interpretation, and proper practice of utilizing these **Guidelines**.

Vic has over 40-years experience as a NC Real Estate Broker, a NC Certified General/Residential Real Estate Appraiser, past National Chair of the NAR Appraisal Committee, a member of The Appraisal Foundation Board of Trustees and a past member of The Appraisal Foundation Advisory Council (TAFAC), a member of the State Bar Board of Legal Certification, Author, and Instructor among many other aspects of his four decades of involvement as a real estate professional.

Vic brings a practical methodology perspective to assist real estate Brokers in the understanding, interpretation, and practice of properly utilizing these **Guidelines**, and when followed properly is a sound Risk-Management tool and will mitigate Broker’s liability and misrepresentation exposure. **This is a “Risk-Management” course.**

As real estate Brokers know, the NCREC has an ongoing emphasis that “square footage” is a “**Material Fact**,” and that disclosing square footage in any marketing materials, including MLS data sheets, must be accurate. Therefore, the primary objective of this course is to prepare real estate Brokers with the knowledge, skill, and competency to accurately measure, calculate and report the accurate square footage of residential properties in accordance with these **Guidelines**. Incorporated into the course will be pertinent slides of actual homes and plans, illustrating the primary areas of difficulty relative to accurate residential measurement.

Years of interaction with Real Estate Brokers, Lenders, Underwriters, State and Federal Regulators has precipitated a need for better awareness by real estate professionals to have greater knowledge & skills for accurately measuring, calculating, and reporting square footage in residential properties. Vic realized that real estate professionals would benefit from these strategies when utilizing these **Guidelines**. With a thorough understanding of these **Guidelines**, Brokers will be better prepared on acceptable methods to measure, calculate, and report square footage in residential properties in their everyday brokerage activities which in turn will likely reduce the marketing time for the seller, minimize reductions in heavy re-negotiated purchase price, and ultimately reduce marketing costs, while benefiting the consuming public.



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