

A publication of Michigan Realtors®

MICHIGANREALTOR®

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NOVEMBER 2019



misleading ADVERTISING AND RELEASE *clauses*



PLUS

A Culture of Trust
Capitol Report

President's Report
USPAP Practice

The Convention Recap

Volume 18 | Number 6

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2 hours of legal CE required per licensing year.	
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At least 18 total hours of Continuing Education required to meet Michigan license renewal requirements.	

COVER STORY

Features

- 06 **The Convention Recap**
Great attendance, great programs and another great year
- 08 **Misleading Advertising Claims and Release Clauses**
Precise wording is usually what decides these legal issues
by Gail A. Anderson, Esq. and David E. Pierson, Esq.
- 12 **Build a Culture of Trust**
Steps to improve your organization and its performance
by Larry Kendall
- 14 **Preparing for Changes to 2020-21 Edition of the Uniform Standards of Professional Appraisal Practice Part 2**
Appraisers must keep on top of what's going on
by Micheal R. Lohmeier

Departments

- 02 **President's Report**
End of another great year
by Matt Davis
- 04 **Capitol Report**
Time to get rolling in the last two months of 2019
by Brad Ward

{ NOVEMBER | TWO THOUSAND & NINETEEN | VOLUME EIGHTEEN | NUMBER SIX }



End of Another Great Year

This has been a great year for the economy, the real estate market, Realtors® and our association! And now it's time to end the year with all the intensity and dedication we've given it since the year began!

This was another year of accomplishments for our association, and they did not disappoint. Let's take a quick look back at the very busy year it has been for us.

Achieve and the Broker Summit focused on our leadership skills and updated Brokers with information and resources important to their business. These two events do so much to bring new information, technology and strategy to the industry that I just cannot praise them enough.

Led by our federal political coordinators (FPC's), Michigan Realtors® visited their elected officials during the NAR Legislative Meetings & Trade Expo in May. The Michigan voice was strong, and our numbers showed we were well represented at this event.

NAR extended their very successful That's Who We R campaign, which brought important, national attention to the Realtor® brand. While our first ever Capitol Day in Downtown Lansing was its own huge event with over 260 members in attendance!

The second annual Professional Development Series debuted the newest Within The Law Legal Update and provided attendees with CE Marketplace Certified Credit in 3 locations. CE Marketplace continues to be an essential resource for Realtors® in helping to meet licensing requirements with ease and convenience.

The Convention, held in Detroit this year, was again a major hit with members! Over 1,200 real estate professionals and affiliates attended this highly-praised, 3-day event filled with learning, networking and personal growth. We had a diverse set of knowledge sessions and exceptional speakers to motivate and inspire. I hope you will make a mental note to register early for next year's event.

RPAC had another successful year and continues to provide a platform for Realtor® Voice in the halls of Congress, fighting for and protecting the rights of private property owners. Check out our 2019 RPAC Major Investors at <https://www.mirealtors.com/Advocacy-Initiatives>.

As you can see, 2019 has been an important year for the advancement of real estate professionals in Michigan (and beyond). It has genuinely been my privilege to be a part of all this action and to serve as the president of our association this year. I have met so many exceptional Realtors® from so many communities throughout Michigan, each of them fueled with a deep and contagious passion for our industry and for serving their neighbors - after all, That's Who We R!

I wish our incoming president, Maureen Francis, and her leadership team, a productive and rewarding year. I know it will be exactly that and more. I am proud to be a Realtor® in the state of Michigan and I am proud to be a volunteer in this association and in this industry. Here's to a vibrant and successful 2020! ●



This was **ANOTHER YEAR**
of **ACCOMPLISHMENTS**

for our association, and they
did not disappoint.



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COMING EVENTS

January 30-31, 2020

Achieve

Ann Arbor Marriott Ypsilanti at Eagle Crest, Ann Arbor

April 29, 2020

Broker Summit

The Inn at St. John's, Plymouth

October 7-9, 2020

The Convention

Amway Grand Plaza Hotel, Grand Rapids

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ANNOUNCEMENTS

2019 STATEMENT OF OWNERSHIP

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The Year by the Numbers

November. Let that sink in. It's November already. Year after year, day after day, the numbers keep rolling right past us. The year has felt like a whirlwind, but the pace of legislation in Lansing at times has felt glacial. That's not to say that nothing is getting done, significant and important legislation has been hammered out between our Democratic governor and Republican legislature. Unfortunately, auto insurance reform and balancing the state budget have taken up significant space in the legislative process. For comparison, with only 2 months left, 2019 has only seen 47 Public Acts signed into law. In 2017, the last non-election year, 267 Public Acts were signed into law.

This Capitol Report is going to be little bit different in terms of formatting. In honor of the days and dates that keep flying past us, I'm going to throw numbers past you to help sum up 2019 in advocacy for the Michigan Realtors®.

\$59.9 BILLION.

The total state budget sent to Governor Whitmer before the October 1st deadline. When the budget was presented, Governor Whitmer signed the bills but not before using 147 line-item vetoes totaling almost \$1 billion. She kept vital portions of the budget intact in order to avoid a state government shutdown, but in the meantime slashed some legislative sacred cows -- like Pure Michigan funding, payments to hospitals, career and technical training, charter schools, and funding for county jails and sheriff patrols, to name a few.

\$0.45.

The Governor's proposed gas tax increase at the beginning of the year that the legislature will still not take up. In fact, no Democratic or Republican member of the legislature has introduced the bill to increase the gas tax, perhaps demonstrating the unpopularity among Michigan voters. Instead, the Republican legislature opted to send the Governor an extra \$400 million in one-time funding for roads from the general fund. With the line-item vetoes, Governor Whitmer is hoping to bring the legislature back to the table on a sustainable road funding plan, even if it is not the \$0.45 gas tax increase originally proposed. Michigan Realtors® is declaring success in our opposition to the Governor's \$0.45 gas tax increase.

However, like many other business groups in Lansing, we are hoping that legislative leaders can get together in earnest to look at significant investment to preserve our roads and infrastructure. As these discussions continue to play out, Michigan Realtors® will continue to play a role.

6%.

In Governor Whitmer's original budget proposal she recommended a new 6% tax on LLCs and other pass-through business entities. Michigan Realtors® lobbied hard against this tax change that would have had a dramatic impact on real estate brokerages, a majority of which are organized as LLCs or other pass-through style entities. With discussions set to continue on road funding, it will be important to watch for similar proposals that would create a "double tax" on pass-through entities.

250.

The number of Realtors® that attend Michigan Realtors® first ever Capitol Day. The day was a rousing success putting Realtors® directly in touch with elected officials from their district. The day focused on our three main priorities: Creation of a Michigan first-time homebuyer savings account, protection of vacation rentals, and implementation of the Mainstreet Fairness Act to create sales tax parity between on-line retailers and brick and mortar stores. The day generated positive buzz among members and legislators alike and yielded results with bills gaining traction in these last weeks of session.

4.

The number of bills included in the Mainstreet Fairness Act bill package. The issue of leveling the playing field between Main Street and on-line businesses in terms of sales tax collection is a long debate at both the state and federal level. Court cases over the years, including the recent South Dakota v. Wayfair, have increasingly found in favor of the states on the issue of nexus. Under the Wayfair decision, states are allowed to collect sales tax on purchases, even where the seller has no physical presence in the state. This bipartisan package of bills aims to implement the sales tax collection practice in Michigan. After the Michigan Realtors® Capitol Day, these bills passed out of the House Ways and Means Committee and moved to the House floor for a vote.

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211.34D.

The Michigan compiled law section to be amended to exempt the installation of residential solar panels from the definition of "addition" for increasing property tax assessments. These bills incentivize green additions to homes by classifying the installation of solar panels as general maintenance. The bills were vetoed by Governor Snyder last year, but House Bills 4069 and 4465, along with Senate Bill 47, look to be making their way through the legislature without much opposition. Expect this package of bills to end up on Governor Whitmer's desk before the end of the year.

1.

The number of legislative committee hearings that both the First-time Homebuyer Savings Account and Vacation Rental Protection bills have received this year. The FHSA bills are scheduled for another hearing in the Senate Finance Committee after a series of meetings to hammer out final details with the Department of Treasury. House Bill 4046 protecting vacation rentals continues to be part of a House workgroup looking at a more comprehensive approach that combines Michigan Realtors® desired zoning changes, with guidance for local regulation and potential tax parity between some rental types and local hotel/motel taxes.

12.

The number of scheduled session days for the legislature in November and December. With such a short time frame left before the holiday break Michigan Realtors® hopes to make a strong push to move our priorities forward before the end of 2019. The Governor's recent vetoes within the signed budget led to a number of supplemental budget bills introduced by the legislature to restore funding to those programs that were cut. It is easy to see how budget negotiations could again take up much of the oxygen in the room. If past sessions are any indication, you can expect a flurry of activity to occur in the final weeks of December. The good news is, the legislative session is 2 years long, and we're just wrapping up the first.

Please follow along with breaking news through our social media and E-news publications. Additionally, be the first to receive legislative Call for Action alerts on your mobile phone by texting the word "REALTOR" to 30644. ●



The year has felt
like a whirlwind,
but the pace of
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IN LANSING
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FELT GLACIAL





MICHIGAN REALTORS®

THE CONVENTION

Detroit Marriott at the Renaissance Center • Oct 2-4, 2019



2019 Realtor® of The Year
James Iodice

Greater Metropolitan Association of Realtors®



The Convention Recap

The Convention, the prestigious networking and learning event presented by Michigan Realtors® for the Realtors® of Michigan, was held at the Detroit Marriott at the Renaissance Center, Detroit, in October. Over 1,200 real estate professionals and affiliates attended this highly-praised, 3-day event filled with learning, networking and personal growth.

Michigan Realtors® members enjoyed full registration and informative and entertaining presentations by dynamic speakers, a sold-out sponsor expo, and quality networking opportunities. The long list of engaging sessions on important topics included:

- Build Your Influencer Brand
- Hard Money Lending & You
- 1031 Exchanges & Opportunities
- Professional Courtesies: How Do YOU Want To Be Remembered?
- Commercial Real Estate Basics
- How to Start a Podcast in Under 3 Hours
- Samurai Social Media
- Your Safety is Non-Negotiable: The Beverly Carter Story
- Navigating Organizational Leadership

The Grand Assembly keynote speaker, Col. Nicole Malachowski, fueled our passion by telling her story of how a sudden, devastating illness changed the trajectory of her life and career in an instant, and how she fought back and prevailed. Hers is a high-impact story of how one woman's exceptional Air Force career took a turn and showed her - and us all - how to rethink our every day and go beyond resilient to become resurgent.

Other important highlights of the Grand Assembly included:

- The swearing in of 2020 President, Maureen Francis of the Greater Metropolitan Association of Realtors®.
- The announcement of 2019 Realtor® of The Year, James Iodice of the Greater Metropolitan Association of Realtors®.

Additional notable events:

- The SOLD OUT Expo featuring all the latest industry products and services.
- The exhilarating Morning Yoga and Detroit Morning Run/Walk sessions.
- Realtor® Royale at Granite City Brewery celebrating Motown.

Another highlight of the day on Wednesday was the 2019 RPAC Appreciation Luncheon, featuring guest speaker Mike Duggan, Mayor of the City of Detroit. The winner of the 2019 Realtor® Active in Politics award was also announced: Beth Graham of the Greater Lansing Association of Realtors®.

Thursday's special event was the Rise & Refocus Keynote address by "recovering lawyer and investment banker," Rashmi Airan. Airan has an esteemed list of clients and is an internationally-recognized motivational speaker. She used her own story of success and shocking failure to demonstrate the business discipline and mental processes that make up decision making and a culture of integrity in business, leading us to understand the how's and why's of creating strategies that are risk-informed.

Finally, the RPAC Live and Silent auctions were once again a big hit. Local Realtor® associations and affiliates from across Michigan generously contributed unique items and gift baskets in all price points to raise money that will be used to safeguard the real estate industry.

A majority of the sessions at The Convention are CE Marketplace certified, so attending this special event was a great way for many members to meet their goals, not to mention network and have fun at the same time. Exhibitor prize giveaways are always a nice bonus, and many participants walked away with a great prize in addition to some great learning!

The Convention is an absolute must for real estate professionals with a dedication to their industry, their career, their business and themselves. Mark your calendar now for next year's event!

The Convention

(A Michigan Realtors® Event)

October 7-9, 2020

**Amway Grand Plaza Hotel & DeVos Place
Grand Rapids, MI**

Michigan Realtors® is grateful to all of the exhibitors, sponsors and attendees. Your support and participation in The Convention help to make it the exceptional event that it is, year after year.

Thank you, for your support in 2019, and see you next year in Grand Rapids! ●



2019 Realtor® Active in Politics
Beth Graham
Greater Lansing Association of Realtors®



A woman in a dark business suit and skirt is diving from a rocky cliff into a body of water. She is wearing a snorkel mask and has her arms outstretched. The water is blue with a shark's fin visible just below the surface. The background is a clear blue sky.

misleading ADVERTISING CLAIMS AND RELEASE *clauses*

BY GAIL A. ANDERSON, ESQ.
AND DAVID E. PIERSON, ESQ.

Last summer, the Michigan Court of Appeals heard two different cases brought by purchasers against real estate brokers claiming that the condition of the home, as represented in the agent's advertising, was misleading. In each of these cases, the listing broker was able to get the case thrown out because there was language in the purchase agreement protecting the broker.

In the first case, purchasers of a \$3.5 million home had sued both the sellers and the listing broker after the sellers refused to return three chandeliers and several other ornate fixtures that had been removed from the home prior to closing. According to the purchasers, prior to closing, the sellers had removed very expensive fixtures from the home and replaced them with similar, but far less expensive items. The purchasers had not noticed the substitutions until after they had closed and moved into the home. The purchasers valued these "replaced" items in excess of \$250,000.

At trial, the sellers were able to establish that chandeliers and other fixtures had actually been removed and replaced prior to the time that the purchase agreement was signed. The chandeliers and other fixtures were apparently present in MLS photographs and had been in the home when

the purchasers toured it on several occasions prior to making their offer to purchase. The fixtures in question were removed after the showings but before the purchase agreement was signed.

Both the trial court and the Michigan Court of Appeals dismissed the purchasers' claim against the sellers. The courts did not disagree with the purchasers' claim that the items in question were fixtures. Instead, the courts focused on language in the purchase agreement that referred to the sale of fixtures located in the home at the time the purchase agreement was signed. The specific provision in the purchase agreement stated:

[The property being purchased is being sold] SUBJECT TO ZONING ORDINANCES, BUILDING AND USE RESTRICTIONS, IF ANY, AND EASEMENTS OF RECORD, together with all improvements and appurtenances, now in and on the property and including the security system; all attached carpeting; all attached lighting fixtures; ... all window treatments and electrical fixtures as shown. . . .

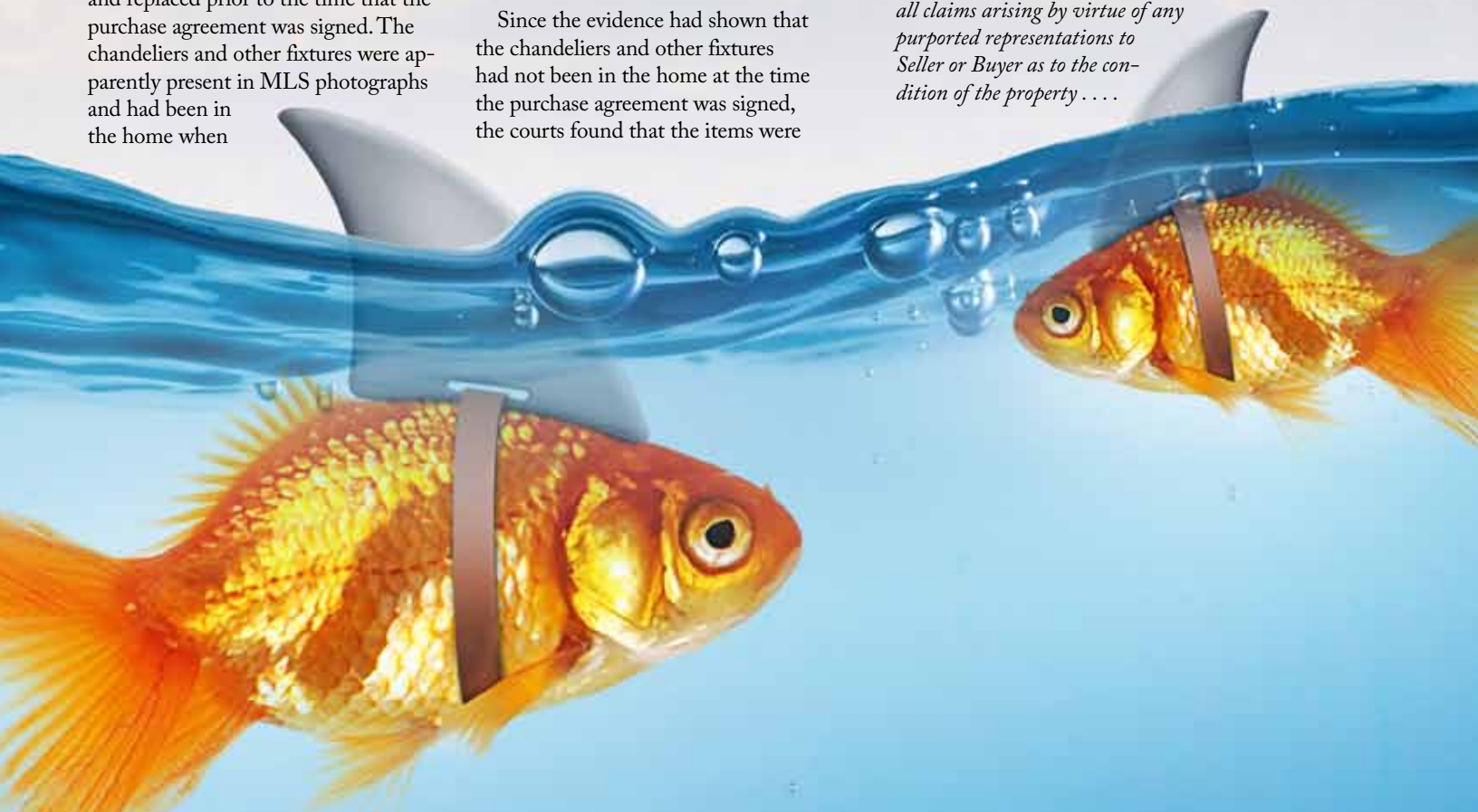
Since the evidence had shown that the chandeliers and other fixtures had not been in the home at the time the purchase agreement was signed, the courts found that the items were

not included in the sale and the case against the sellers was thrown out.

In this case the purchasers had sued not only the sellers, but also the listing broker, arguing that the broker had committed fraud by including photographs of the chandeliers and other fixtures in its advertising of the home. The purchasers claimed that the listing broker had committed fraud because he had included such fixtures in his advertisements while knowing of the sellers' intent to remove them. The court found in favor of the listing broker based upon two separate provisions in the purchase agreement that protected the listing broker.

First, like many purchase agreements, the purchase agreement in this case included the following release language:

Seller and Purchaser hereby release Broker and any cooperating Broker(s) in this transaction, their respective agents, employees, attorneys, and representatives with respect to all claims arising out of the performance of this Contract For The Sale of Real Estate and any addenda or counteroffers, all claims arising by virtue of any purported representations to Seller or Buyer as to the condition of the property





The purchase agreement also contained the following clause:

Purchaser and Seller acknowledge that no representations, promises, guarantees, or warranties of any kind, including, but not limited to, representations as to the condition of the land and structures, were made by the Broker, any cooperating Broker, or the Purchaser's representatives or any salespersons or persons associated with these Brokers.

The Court of Appeals held that these clauses defeated the purchasers' claims that any representations not included in the written agreement were part of the transaction.

In another case decided earlier last summer, the same type of clauses were used to shield a broker from liability based upon its advertisements of a home. In that case, the purchaser had alleged that the listing agent had made misrepresentations as to the proper working condition of a home's geothermal heating system. The purchaser argued that the geothermal water furnace had been advertised as the home's "main attraction" and that the listing agent's brochures for the home had "buttressed" the sellers' inaccurate statements about the condition of that furnace. The purchaser in this case claimed that the listing agent had known that these representations were false at the time she made them.

In its lawsuit, the purchaser acknowledged that the purchase agreement he had signed contained a provision purporting to release the listing broker and its agents from all responsibility for the condition of the property. The release should not be enforced, the purchaser argued, because

the agent's false statements concerning the condition of the geothermal system had fraudulently induced him to sign the purchase agreement.

The Court noted that the law in Michigan is that a release clause will be upheld if it is fairly and knowingly made. Under Michigan law, a release will not be enforced if (1) the releaser was acting under duress, (2) there was misrepresentation as to the nature of the release agreement, or (3) there was fraudulent or overreaching conduct to secure the release."

The Court held that in order for the release to be deemed invalid, the purchaser would need to show that there had been a misrepresentation, not as to the condition of the property, but as to the release clause itself. The Court found that in this case, the language of the release clause was "clear and understandable," and that there was no evidence that the listing agent had improperly induced the purchasers to agree to the release via duress or misrepresentation as to its content or meaning. For these reasons, the Court of Appeals decided that the trial court had properly enforced the release clause and thrown out the case against the listing broker and agent.

CONSIDERATION

Purchasers in similar cases have attempted to get releases thrown out on the basis that there was no "consideration" given by the listing broker to the purchaser in exchange for the purchaser's release. Under contract law generally, in order for a contract to be enforceable, there must be "consideration" or, in other words, an exchange of value. So, to use a classic law school example, if we contractually agree that I will give you my car, such a "contract" is likely unenforceable.

However, if we contractually agree that I will give you my car and in exchange you will give me \$1,000 (or will mow my lawn all summer), there is an exchange of "consideration" such that the contract is likely enforceable.

Under this analysis, it has been argued in a number of cases that a release given by a purchaser to a listing broker is not enforceable because the listing broker has given the purchaser nothing in return. The Michigan Court of Appeals has consistently rejected this argument on the basis that the release of the listing broker was part of a larger transaction for the sale of the home involving multiple promises. It was not a distinct transaction requiring separate "consideration." A release provided to a broker outside of a purchase transaction will need to be supported by its own "consideration."

CONCLUSION

The benefit of a release clause is that it often provides a mechanism for disposing of a case prior to a lengthy (and costly) trial. In the absence of a release clause, the listing broker in each of these cases would have needed to persuade a court that it did not make any representation in its advertising that it knew, or should have known, to be false. That being said, while Realtors® can and should ask for a release, they cannot require that a purchaser (or anyone else) sign a release. A release will not be enforced if the purchaser was forced to sign the release, was deceived as to the meaning of the release or was tricked into signing the document that contained the release. A release will also not be enforced if there is no "consideration" given in exchange. ●



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THE CONVENTION

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Build a Culture of Trust

Find out the eight management behaviors that foster trust.

BY LARRY KENDALL,
AUTHOR OF NINJA SELLING

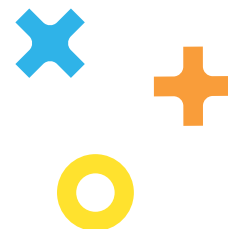


As a leader, what can you do to increase productivity, profitability and retention? According to *The Neuroscience of Trust* published in the Harvard Business review, focus on building a culture of trust. Neuroscientist Paul J. Zak found people in high-trust organizations are 50% more productive, 76% more engaged, have 13% fewer sick days, 74% less stress and 106% more energy at work.

HOW TO MANAGE FOR TRUST

Dr. Zak identified eight management behaviors that foster trust. These behaviors are measurable and can be managed to improve performance.

- 1. Recognize Excellence.** Recognition has a significant impact on trust when it occurs immediately after a goal has been met, when it comes from peers and when it's tangible, unexpected, personal and public. Public recognition not only uses the power of the crowd to celebrate successes but also inspires others to aim for excellence. It gives top performers a forum to share best practices so that others can learn from them.
- 2. Induce Challenge Stress.** Challenging but achievable goals release positive neurochemicals that intensify people's focus and strengthen social connections. But this only works if the challenges are attainable and have a concrete endpoint. Vague or impossible goals cause people to give up before they even start. Leaders should check in frequently to assess progress and adjust goals that are too easy or out of reach.
- 3. Give people discretion in how they do their work.** Autonomy is the norm for sales associates. For salaried employees, once they are trained, allow them to manage their project whenever possible. Being trusted to figure things out is a big motivator. Autonomy also promotes innovation.



4. **Enable job crafting.** When you have special projects, allow team members to choose the projects on which they want to work. People love to focus their energies on what they care about most. When the project wraps up, do 360-degree evaluations so that individual contributions can be measured.
5. **Share information broadly.** Only 40% of employees report that they are well informed about their company's goals, strategies and tactics. This uncertainty leads to chronic stress and undermines teamwork. Openness is the antidote. Organizations that share their "flight plans" with employees reduce uncertainty about where they are headed and why.
6. **Intentionally build relationships.** Neuroscience experiments show that when people intentionally strengthen social ties at work, their performance improves. Trust and sociability are deeply embedded in our nature. It can't be just about the task at hand. Lunches, after-work parties and team-building activities build relationships and trust. When people about one another, they perform better because they don't want to let their teammates down.

7. **Facilitate whole-person growth.** High-trust organizations help their people develop personally as well as professionally. Numerous studies show that if you are not growing as a human being, your performance will suffer. High-trust companies adopt a growth mindset when developing talent. Investing in the whole person has a powerful effect on engagement and retention.
8. **Show vulnerability.** Leaders in high-trust companies ask for help from colleagues instead of just telling them to do things. Asking for help is a sign of a leader—one who engages everyone to reach goals. Asking for help is effective because it taps into the natural human impulse to cooperate with others.

THE RETURN ON TRUST

A survey of 1,095 working adults in the U.S. found that companies scored lowest on recognizing excellence and sharing information. Most companies could enhance trust quickly by improving in these two areas—even if they didn't improve in the other six. Is it worth the effort? What is the return on trust? People in high-trust organizations experience 106% more energy at work, 50% higher productivity, 60% more job satisfaction, 74% less stress and 40% less burnout. Trust works! ●



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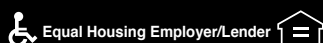


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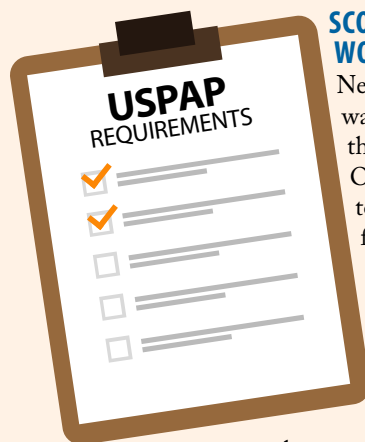
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Preparing for Changes to 2020-21 Edition of the Uniform Standards of Professional Appraisal Practice Part 2

BY MICHEAL R. LOHMEIER,
MMAO(4), PPE, FASA, MAI, SRA

This article continues where Part 1 in the last edition of Michigan Realtor® Magazine left off. It addresses the changes that are of most significance for you to be aware of with the 2020-21 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Appraisers are encouraged to review the entire USPAP 2020-21 edition when it becomes available this fall, as well as take The Appraisal Foundation's 2020-21 USPAP Update seminar.



SCOPE OF WORK RULE

New language was added to the Disclosure Obligations section to emphasize the flexibility provided to the appraiser in communicating the amount of information disclosed that is appropriate for the appraisal's intended use.

There are many appraisers who choose to have a section in their appraisal reports labeled "Scope of Work," where they summarize how they developed their appraisal. Other appraisers have a common practice of permeating the disclosure of their work efforts throughout their appraisal

report. The additional language provides assurance that either method, or a combination of each, is acceptable so long as the disclosure is made.

The Comment clarifies this as follows:

The appraiser has broad flexibility and significant responsibility regarding the level of detail and manner of disclosing the scope of work in the appraisal report or appraisal review report. The appraiser may, but is not required to, consolidate the disclosures in a specific section or sections of the report, or use a particular label, heading or subheading. An appraiser may choose to disclose the scope of work as necessary throughout the report."

The ASB clarified that an appraiser is not required to use a particular label, heading or subheading titled Scope of Work, which has been a commonly held misconception for many years by some appraisers and users of appraisal services. This is a similar misconception held by many appraisers that you must title every extraordinary assumption and hypothetical condition as such, which is not true. Disclosure does not mean the same as labeling.

COMPETENCY RULE

Throughout development STANDARDS 1, 3, 5, 7 and 9 there was language which addressed, in part, "perfection is impossible to attain ..." The ASB moved the language

from each of the STANDARDS to the COMPETENCY RULE. The language added is stated as

Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Rule requires an appraiser to use due diligence and due care."

Although this may not appear substantive, it actually broadens the principle for the requirement beyond development activities and applies the same responsibilities to an appraiser's communication activities. Writing an appraisal and appraisal review report, or even any oral communication by an appraiser, requires a level of skills and knowledge and is attributed to that individual's competency, or lack thereof.

DEFINITIONS

A variety of changes and additions were made to help better understand USPAP. The ASB focused on defining terms which are different from, or not found in, popular English dictionaries, and in some instances, if there are multiple definitions, specifies which dictionary definition is meant to be used. Where possible some of the Comments were lifted and moved to the definition itself.

The following terms were revised: appraisal, appraisal practice, appraisal review, appraiser, assignment conditions, assignment results, client,

cost, exposure time, market value, personal property, real property, valuation service, value and workfile. New terms that were added included: assignment elements, effective date, misleading, personal inspection, physical characteristics and relevant characteristics. It's worthwhile to address a couple of the new terms here.

Personal inspection was added because there has always been some different interpretations as to the meaning of what an appraiser does regarding "inspection" of a property. The appraiser has long been required to identify in its Certification whether they have or have not made a personal inspection of the subject property. The definition added for personal inspection is:

A physical observation performed to assist in identifying relevant property characteristics in a valuation service. Comment: An appraiser's inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. An inspection by an appraiser is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator)."

The definition clears up that simply viewing information on a computer, photographs or blue prints does not constitute a personal inspection. Although drones are being more common in inspecting large acreage property the photographs by themselves do not constitute an inspection. The appraiser would need to personally visit the property and then could use additional tools, such as drones, for gathering additional information not readily observable.

The definition further clarifies that an appraiser's inspection is not equivalent to that of another professional.

This change parallels another change in Standards Rule 1-1(e), which moved from its Comment that the appraiser needs to believe information about the subject property is provided by other reliable sources. The Standards Rule was adopted as follows (addition made in underscore):

"Identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including ..."

While the appraiser may rely on sources for information rather than its own personal observations, the appraiser still must believe those other sources are reasonably reliable. By moving this from the Comment section, it clarifies the appraiser's responsibility. Much of the communication provided in the discussions from the ASB has given direction that when relying on information provided by other sources, the use of an extraordinary assumption(s) and its disclosure requirements need to be met.

ADVISORY OPINIONS CHANGES

The ASB adopted revisions to Advisory Opinions (AO)-1, 2, 3, 28, 31, 32, and 36, while creating a new AO-38.

- **AO-1, Sales History**
Updated to provide additional detail to several illustrations and emphasizes appraiser's obligation to "analyze" the sales history of the subject property, not simply state it.
- **AO-2, Inspection of Subject Property**
Updated to provide guidance and illustrations to emphasize an appraiser's reliance on technology as well as when relying on inspections completed by others.
- **AO-3, Update of a Prior Appraisal**
Clarifies responsibility is on appraisers and not firms, as well as obligations regarding confidentiality when updating an appraisal by using the "incorporate by reference" option.
- **AO-28, Scope of Work Decision, Performance and Disclosure**
Edits made to replace a personal property illustration and added a new illustration regarding a real property scope of work problem.
- **AO-31, Assignments Involving More than One Appraiser**
Minor edits were made. Earlier exposure drafts addressed defining the conjoined term "significant

appraisal assistance" but this change was not made for this edition. Keep on the lookout for it in future exposure drafts.

- **AO-32, Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments**
Pertains to the quantity and quality of factual data collected in a mass appraisal assignment.
- **AO-36, Identification and Disclosure of Client, Intended Use, and Intended Users**
Addresses the changes for having additional intended users identified by name in a Restricted Appraisal Report. Also clarifies an appraiser's obligations when a client requests anonymity.
- **AO-38, Content of an Appraisal Report and Restricted Appraisal Report**
This is a NEW AO, and replaces retired AO-11 and AO-12. It provides brief comparison of the substantive differences between an Appraisal Report and a Restricted Appraisal Report. Addresses oral reports and provides guidance for the substance that goes into an oral report.
- **Retired ADVISORY OPINIONS AO-4, AO-11 and AO-12**
AO-4, Standards Rule 1-5(b) was narrowly focused on reporting on foreclosure sales and sales in lieu of foreclosure. It was determined that the substantive aspects of this AO were addressed sufficiently in other places, such as Frequently Asked Questions. AO-11, Content of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2 and AO-12, Use of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2 were both retired as their contents were substantively replaced by the new AO-38. ●



Michael R. Lohmeier, MMAO(4), PPE, FASA, MAI, SRA, is the City Assessor for the City of Novi. He has authored and taught extensively on subjects involving real estate, valuation, property tax, and standards of professional practices locally and nationally. He is available for further questions relating to this article at 248.347.0493 or his email at MLohmeier@cityofnovi.org.

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What is your favorite outcome of the project?

The support of the public this year at the artist reception! Over 150 people came to look at, vote on and purchase art. There were many door prizes donated by businesses, and a lot of publicity through Travel Marquette, the Marquette Arts and Culture Center and social media.

What was a project highlight for you?

A couple was walking on Presque Isle Friday night during the evening 'Dusk to Dark' segment. They stopped to talk to one of the painters, and he pointed out the fact that he had added their figures into his painting while they were walking. The couple came back the next evening for the artist reception. The painting won an award, and they bought it because it was a wonderful memory of a beautiful night at the park!



Project Name

Fresh Coast Plain Aire Festival

Grant Recipient

North Central MLS of the Upper Peninsula
Association of Realtors®

Location

Marquette, MI

Completion Date

June 29, 2019



Featuring Special Guest

Ben Argall

Realtor®

Keller Williams

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