

A publication of Michigan Realtors®

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MICHIGANREALTOR®

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{ SEPTEMBER | TWO THOUSAND & SEVENTEEN | VOLUME SIXTEEN | NUMBER FIVE }



Summer Disappears into Fall

Summer has come and gone in Michigan, but it seemed much shorter than last year's summer. It has been an exciting time for me as President, watching the progress of our organization since we last spoke. I hope that you have all had as enjoyable and fulfilling a summer as I have. But, as the weather cools down and everyone returns from vacation, I can't help but look forward to The Convention this year.

We have the pleasure of hosting The Convention at the Amway Grand Plaza Hotel & DeVos Place in the heart of Grand Rapids. In addition to all the exciting attractions Grand Rapids has to offer, we will also be adding a few new events to the classic lineup.

The Art Dart Fun 5K Running/Walking Tour is a new concept made specifically for GR, and it's an excellent way to experience the famous ArtPrize with our very own Sara Lipnitz as your guide! ArtPrize is one of the largest art competitions in the world, and it allows visitors to experience the city as well as enjoy a multitude of talented artists.

...as the weather cools down and everyone returns from vacation, **I CAN'T HELP BUT LOOK FORWARD TO THE CONVENTION** this year.

The RPAC Luncheon will be an invitation-only event, where RPAC investors of \$200 or more can enjoy a special luncheon, hear the latest on politics in Michigan and celebrate the announcement of the 2017 Realtor® Active in Politics Award. The new Honor 'N Mingle Reception, also by invitation only, will celebrate Michigan Realtor® of the Year nominees with a special reception hosted by me!

We've added an additional "Rise & Shine Keynote" to Thursday morning, which will be delivered by the wise and hilarious Meagan Johnson. Both the Grand Assembly and Rise & Shine Keynote will be live-streamed this year, to accommodate our Realtors® who are unable to attend. As always, The Convention will be jam-packed with knowledge sessions delivered by some of the country's top speakers. We've even added additional sessions on Friday to ensure that you have the opportunity to receive the most information possible throughout the week. Don't forget that The Convention is also home to the Expo! This year's Expo will include the opportunity to have morning coffee with our exhibitors, giving you remixed hours so you can optimize your networking.

Voting for the 2018 Michigan Realtors® District Director Elections is now open. Make your voice heard! You can read more about voting rules, our candidates, and other important dates at <http://www.mirealtors.com/District-Director-Elections>

Speaking of elections, I'd like to revisit the suggestion I made in my August message. Please volunteer for your local boards and committees! Have you reached out to find more information yet? Your board will be delighted to hear from a member that's excited to play a larger part in the process. There's so much progress to be made within our organization, and the more of you we have stepping up to the plate, the faster we can usher ourselves into the future of Real Estate in Michigan! If you haven't considered it, I urge you to do so now! 2018 is approaching quickly, and it would be a testament to my time as President to see many new leadership faces in the New Year. As always, if you have questions about what board or committee involvement entails, please contact your local board for more information. I hope you all enjoyed your summer, and I'll see you at The Convention later this month. ●

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COMING EVENTS

September 28, 2017 @ Midnight

2018 Michigan Realtors® District Director Elections

Online Voting Closes

September 27-29, 2017

The Convention

Amway Grand Plaza Hotel & DeVos Place, Grand Rapids

November 3-6, 2017

Realtors® Conference & Expo

McCormick Place – West Building, Chicago, IL

December 31, 2017

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Flooding Congressional Offices on Flood Insurance

Since the last reauthorization of the National Flood Insurance Program (NFIP) in 2012, the National Association of Realtors® has been working with Congress on a long-term reauthorization to provide buyers and sellers with more certainty in their transactions. Unfortunately, and fortunately, nothing prompts Congressional action faster than a deadline. On September 30, 2017, the National Flood Insurance Program is scheduled to sunset. Given recent events here in Michigan, we know that flooding can happen unexpectedly with devastating results. As Realtors®, **NOW** is the time that members of Congress need to hear from us about how important the NFIP is to our clients and the economy.

BACKGROUND

The NFIP was created to help local communities identify the location of flood zones, provide for mitigation and insurance assistance, and to help rebuild after flooding. Historically, the program functioned very well, allowing communities to recuperate losses and rebuild to higher standards to protect properties and development from flooding. However, over the last 12 years natural disasters have taken their toll on the program and forced NFIP to borrow over \$25 billion from the United States Treasury. It only takes the mention of names like Katrina and Sandy to conjure up the images of the devastating flooding that sent NFIP down the path to borrowing money. Those images are also a reminder of how important this program is to homeowners and businesses.

The program was never set up in perpetuity. Every now and again, Congress needs to reauthorize the program to ensure continuous coverage. Private sector options for this type of coverage are slim. Since 2008, Congress has addressed the sunset of the NFIP with a series of short-term extensions and sadly, the occasional short-term shut down. Because the purchase of flood insurance is policed

by lenders through the loan process on purchases, a shutdown of NFIP halts thousands of real estate closings each day across the United States. No NFIP, no sale.

Halting sales means more than unhappy clients. With over 40,000 sales per month relying on NFIP, the economic impact will be significant. Each sale results in a generous amount of additional economic activity that will not happen. Flood insurance is required for a mortgage in about 22,000 communities nationwide, so many Realtors® and their clients will feel these effects.

YOUR ROLE

After the vote wrangling on healthcare, Congress took a later-than-normal August recess this year. This means that there is limited time when they return in which to tackle the reauthorization of NFIP before the September 30th sunset. The best way to let your member of Congress know the importance of this issue is by responding to the NAR-issued Call for Action. With only a few clicks on your smartphone, device, or mouse, you can send a letter to members of the House and Senate encouraging support of NFIP.

Hopefully, you've already taken action. Over the last few weeks, NAR, Michigan Realtors®, and your local association have been pushing the Call for Action through our communications and social media platforms. If you have yet to respond, please stop reading now and visit www.realtoractioncenter.com to respond. If you have responded, please reach out to everyone in your office and get them to log on and respond to the Call for Action.

This association views advocacy as three main components: Education, RPAC, and Calls for Action.

Education – This starts at with the local, state, and national association and our interaction with our elected officials. We conduct candidate interviews, hold meet and greets and employ

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PARTY MOBILE ALERTS,
text "Realtor" to 30644.

lobbyists such as myself. These conversations are important to build relationships and give members of Congress important insight into our business and our industry. Those people serving in elected office come from all walks of life and rely on our association to provide them with a depth of knowledge on all things real estate.

RPAC – After building relationships and educating our members of Congress, we want to see that they are re-elected so that they can continue to advocate on our behalf on issues like flood insurance. Think of it as wanting to work with really good clients again and again.

Calls For Action – This is when we turn up the volume when the issues become big and deadlines loom. Lobbyists and local association visits work to an extent, but it's the people that vote that grab the attention of a member of Congress. When we can turn up the volume on an issue, generating direct messages from hundreds of Realtors® across their district, they get the message.

Text the word "Realtor" to 30644 – It's the best way to be prepared for Calls for Action when they are issued. Mobile alerts can put you in touch with your member of Congress quickly and timely. It is effective and important. So sign up, and tell a colleague or three.

THE ASK

Simply reauthorizing NFIP, while acceptable in the short-term, does not solve the long-term problems of operating the system the way it currently runs. Nor does it adequately prepare the program for another large scale flooding event. Outside of

reauthorization, there are a few key changes that we are looking for to set NFIP up for the future.

Accurate Flood Maps – The mapping done by NFIP determines whether or not you are required to purchase flood insurance. There have been vast improvements in technology since the maps were last redrawn so new mapping by the program should rely on the most accurate analysis of each flood zone. Currently, property owners bear the burden of removing their structures from the flood plain through individual surveys, which is costly and inefficient.

Mitigation Grants – NFIP needs to continue to make grants available for property owners in flood zones to mitigate their risk, before flooding occurs. Mitigation means building smarter. NAR estimates that elevating or relocating structures can save taxpayers \$4 for every \$1 spent.

Private Market Options – NFIP premiums are based on a national average, which means some property owners are paying too much. Allowing a robust private market to grow will give owners the opportunity for better coverage at a lower cost.

RESPOND

Again, Congress needs to hear from you on this important issue. A lapse in the NFIP program cannot occur. When you get the text or e-mail for the Call for Action, respond and forward the message to a colleague to have them do the same. Together we can turn up the volume, and "flood" Congressional offices with Realtor® letters of support. #dadjoke ●

Do You Have a Team with Value?

Are you a convenience, personality or business team? It matters when it comes to valuing your team.

BY SCOTT WRIGHT

More and more teams are coming to REAL Trends to find out their value. When we do work with teams, we first find out what type they are, and like brokerages, they come in all shapes and sizes. After peeling away the layers, we typically find that teams fit into one of three categories; convenience, personality and business teams.

Convenience and personality teams mostly rely on leads directly generated from the personal database of the team leader. This leader is typically a rainmaker who generates so much business from personal referrals and sphere marketing that he or she needs help. While these teams can be financially lucrative, they don't carry any more transactional value than that of an individual top-producing sales associate. The business of this team lives and dies by the rainmaker.

Business Teams Have Value

Business teams are an entirely different story. Under this team type, most business is generated through a marketing system (online, direct mail or other) that is independent of the team leader's personal database and referrals. If this system is structured correctly, leads can be generated, and business can be closed regardless of who owns it (assuming there's a talented listing agent in the fold). The business of a business team is transferrable, thus giving it transactional value.

As most in the real estate industry are fully aware, we've seen a big increase in the number of successful business teams

in recent years. Many of these teams are realizing that they have value beyond the team leader.

Value Beyond the Team Leader

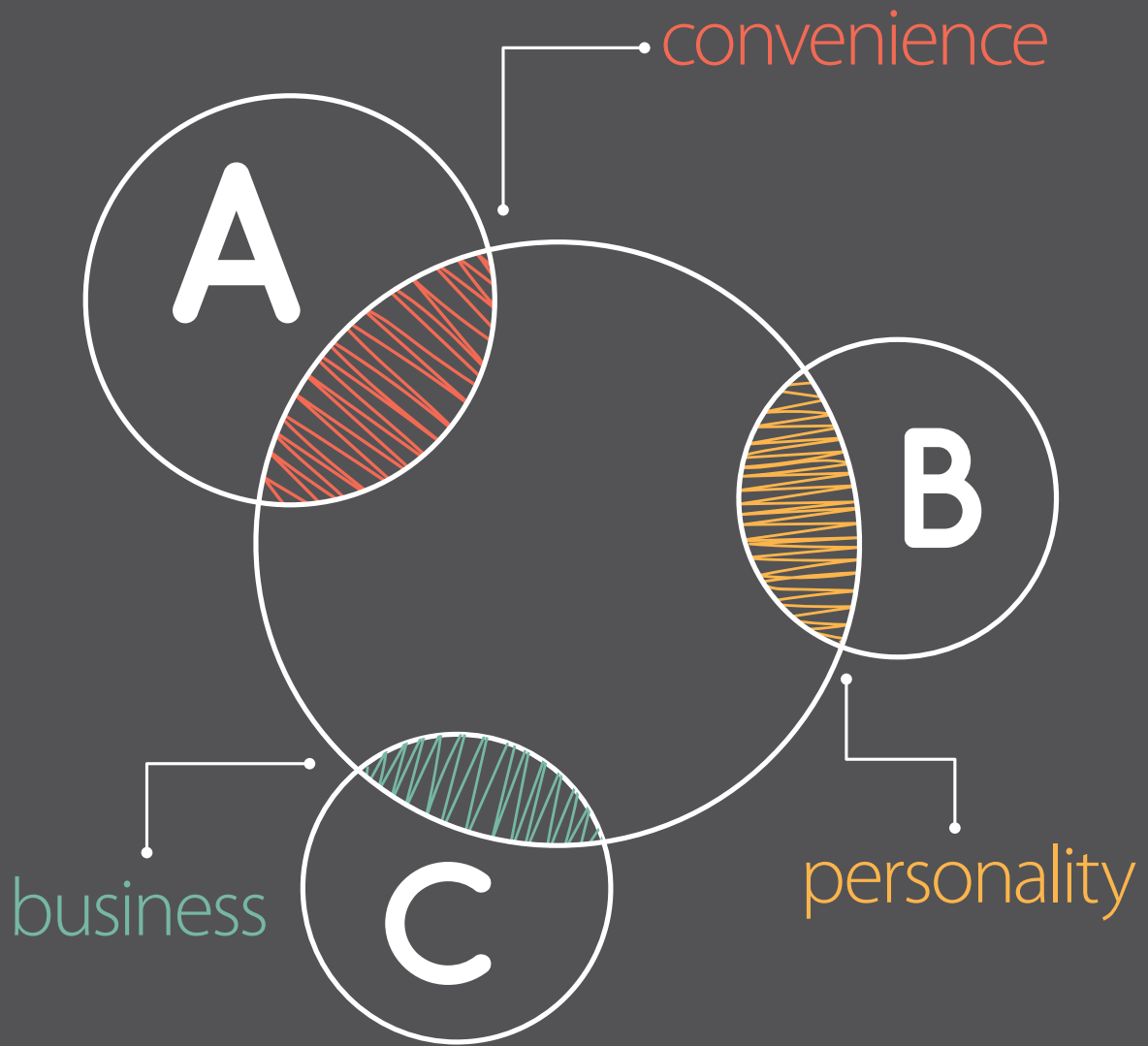
In the valuation of a team, it's critical to separate sphere and system, and thankfully most teams are good about tracking their sources of business. Since the sphere portion is considered personal goodwill, this source has minimal value. If a brokerage, team or sales associate acquires this business, there would be little, if any, upfront cash. The majority of the purchase price would be in the form of an earn-out over time.

A team's business system is valued much like a traditional brokerage firm. The most common valuation model is the income approach, which is simply a multiple of net operating cash flow. Teams aren't yet at the point where they're getting multiples that are as high as that which brokerage firms see, but in several recent transactions, business systems are selling at a premium.

The bottom line: If you're a team leader who operates a business system capable of generating quality leads independent of your sphere, then you likely own a business with transactional value. If your goal is to monetize this business, then continue to work to reduce your personal value to this team. Develop and build your system so that somebody else can successfully run it. ●



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A man in a dark suit, white shirt, and striped tie is holding a silver tablet. The background is a city skyline at dusk or dawn, with buildings illuminated by warm lights. The overall tone is professional and modern.

AGENTS *are still* *the future of* REAL ESTATE

BY JOE LONSDALE AND
DREW OETTING, 8VC

Disintermediation is often overrated. Technological advances that seek to eliminate the human element often fail. Instead, we believe that man-machine symbiosis is what typically defines a successful venture.

A popular opinion in the technology community is that real estate agents will soon be replaced by software—whether in the form of direct consumer-to-consumer marketplaces, or programs that automate many of an agent’s basic functions. But the traditional, agent-centric model has staying power. While new technology will accelerate the closing process and empower agents to make more sales per year, it is likely that human agents will remain critical, albeit in augmented capacities.

HUMANS HELP MAKING FINAL DECISIONS

The massive proliferation of search portals has dramatically increased the amount of information available to consumers but has not provided them with the context necessary to make final decisions. Media company models optimizing for page views fail to support crucial channels of information exchange between agents and clients. These models only incrementally improve real estate transactions, as evidenced by the fact that the advent of Trulia and Zillow has not dampened demand for agents.

There are several reasons for thinking that real estate professionals will remain essential in the coming years.

RIISING DEMAND FOR AGENTS, METHOD OF HOME PURCHASE, 2000-2016



Despite the rise of popular platforms such as Trulia and Zillow, demand for real estate agents has continued to rise over the last two decades.

First, you've heard it before—buying a home is typically the largest transaction in a person's life. It's a highly emotional and infrequent event. Consumers want practical, cultural and emotional guidance as they navigate this decision. Companies such as Opendoor have shown it's possible to reduce reliance on agents in certain home seller markets, but home buying (and much selling) will remain agent-centric for the foreseeable future.

Second, agents perform many functions that software can only partially eliminate. Certain tasks should and will be automated, such as scheduling and paperwork. But coordinating with other agents, staying up-to-date on local politics, gauging sentiment and persuading clients requires a human touch.

Third, agents remain the most cost-effective method for sellers to find home buyers. Hyper-geographic expertise allows agents to offer homebuyers smooth access into the semi-private residential real estate marketplace. While automated brokerages seem elegant and low-touch, when you aggregate the various conversion points necessary to convince a person to buy a home (marketing, filtering real buyers from the noise, mid-escrow negotiations, etc.) these platforms are far less efficient. Although they are not scalable, agents are a fundamentally cheap way to acquire customers.

Given these observations, we believe that successful real estate platforms will augment agents with data and tools to accelerate their business and serve their clients better. One example of a company aligned with this view of the future is RealScout, which allows brokers and agents to protect and make use of buyer demand data through proprietary home search platform and listing tools.

Advances in real estate technology will improve the agent's ability to educate clients by interpreting data and using it to tell stories. Homebuyers will want someone who can tell narratives about past neighborhood public works initiatives, draw attention to unusual features of a property, and help frame the price of a new home regarding financial and demographic trends. Real estate agents with sophisticated tools will likely perform these functions better than automated brokerages.

Technological solutions that enhance natural human talents are often a better way to create value than attempts to remove humans entirely. In real estate and other markets, technology will continue to complement distinctly human facilities, and provide consumers with richer, more meaningful experiences. ●



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THE CONVENTION

Amway Grand Plaza Hotel & DeVos Place, Grand Rapids • Sept 27-29, 2017



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Protect Yourself from Hacks

BY JEREMY COOK





When looking at houses, potential buyers may be interested in built-in smart home devices such as programmable thermostats, smart appliances or security systems. While they can certainly make your customers' lives easier, and even save money in many cases, there are security issues to consider.

Iota (Internet of Things) devices are quite sophisticated, comparable in many ways to full-fledged computers of several decades ago. If neglected, their connectivity means they can be ripe for hacking, perhaps even becoming part of a botnet that can be used to attack other systems. Here's how to make sure your customers and their devices are protected.

CHANGE THE DEFAULT PASSWORD

You may remember a particularly bad DDOS (distributed denial-of-service) attack in October 2016 that affected Internet traffic in parts of the United States. This attack was in part accomplished by a botnet named "Mirani," which runs on, and propagates through, smart devices.

DDOS attacks like this use a network of computers—or Iota devices as it were—to flood another computing system with superfluous data requests. This makes it impossible, or at least extremely slow, for legitimate traffic to get through.

Though smart devices have become more and more sophisticated at preventing hackers, password management has not always kept up. Mirani obtained access to other devices—and spread—using a list of just 62 username/password combinations, including the username of "admin," along with the password "admin." In other words, it's an extremely good idea to change the device password to something non-default.

It would be even better to input something that you haven't used anywhere else, and is complicated enough to make it difficult for a machine to guess, but nearly anything different would be a huge improvement.

KEEP SYSTEMS UPDATED

In a more recent example, the Winery ransomware attack that was first observed last month encrypted important files on the victim's computer. Once files are encrypted, the ransomware demands payment of \$300 or \$600 to get these files back. As reported by Reuters, over 300,000 computers had been infected as of May 19.

The good news is that security researchers found a way to decrypt these files, though it's "not a perfect solution," according to Mathieu Quiche, a hacker who helped develop this fix. The other good news is that a patch for this exploit was released for this



COMMON TYPES OF CYBERCRIME

BY PAUL SALLY

Cybercrime is on the rise. Unfortunately, most of these crimes stick around long after the infraction is committed. It's important to understand the most common methods of cybercrimes in the real estate industry and to know exactly what and where to monitor for these security breaches.

The most common cybercrimes committed in our industry are elaborate phishing scams targeted at buyer or seller transactions. Many of these scams are so elaborate, that it's difficult to distinguish whether these individuals are members of the brokerage or not. Hackers take over a sales associate's email address and use it to correspond with the buyer or seller. The messaging in these scams usually involves a false sense of urgency that a payment is needed, along with wiring instructions. Steps that brokerages can take to prevent these complex forms of fraud include:

- »»» Hold cybersecurity training seminars
- »»» Become familiar with red flags that indicate a threat
- »»» Avoid wiring large sums of money
- »»» Instruct customers up front that you will not request wiring changes
- »»» Be present when the client wires money
- »»» Take out cybercrime insurance
- »»» Conduct a cybersecurity audit

Cybercrimes will only become more sophisticated. It's more important than ever to invest in understanding and preventing these potentially disastrous infractions. ●

exploit on March 14. If your computer was updated properly, this shouldn't be an issue.

Although this isn't an Iota problem per se, it's a good reminder to make sure that the devices and Wi-Fi routers in a home are updated as needed. Make sure the router's software is current, or encourage homeowners to purchase a new router with extra security features.

OPEN DEVICES

If you set up your devices as open, then anyone can see what's going on. Perhaps you would like others to view a security camera view of non-sensitive areas or some other type of data, but obviously, you'd like some control over what's seen. In fact, a site called Inseam features a directory of publicly-accessible network security cameras. Though cameras are generally public, on the Inseam homepage, it's noted, "Only filtered cameras are available now. This way none of the cameras on Inseam invade on anybody's private life." This would imply that some people set cameras up without thinking about whether someone could be looking in on them—a scary thought.

OTHER IOTA CONSIDERATIONS

Though securing these devices—cameras, DVRs, thermostats and more—is a relatively new concept, taking an active role in one's security should not be. Just as you wouldn't set a key in plain view outside of your house, there's no reason to give out the digital keys to your devices either! ●



*As an engineer, **Jeremy Cook** writes for The Home Depot and explores technology topics. He provides advice on everything from how to keep your wireless router from being hacked to powering your home with alternative energy.*

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Keep Compliance on the Radar

As you may have heard, beginning January 1, 2018 the Department of Licensing and Regulatory Affairs (LARA) will undertake greater enforcement of real estate advertising, including the clarification on type size. Over the next several months, Michigan Realtors® will be embarking on a communications campaign to make sure that all Realtors® are informed and in compliance. LARA is indicating that it will be more active in the enforcement of real estate advertising. To this end, it is important that all Realtors® review their advertising to ensure that it satisfies the current requirements as well as those that are forthcoming on January 1, 2018.

“LARA is indicating that it will be more active in the **ENFORCEMENT OF REAL ESTATE ADVERTISING.**”

The rules governing real estate advertising in Michigan have been in place for decades, subject to enforcement by LARA. Generally, all real estate advertising must affirmatively state the name of the employing broker (either as licensed or the assumed name on file with LARA). In addition to the employing broker's name, the advertising must include either the broker's telephone number or street address. This information is designed to tell a consumer with a question or complaint whom to contact and how to contact them. Thus, it is very important to note that the broker's logo or franchise name is rarely ever sufficient to satisfy the requirements under the prior rule or the newly revised law. The exception would be where the employing broker's name as licensed,

or the assumed name on file with the state is featured in the logo itself.

As of January 1, 2018, the above requirements will also impose an objective standard for type size. In all real estate advertising (including online), the type size used for the employing broker's name must be at least as large as the type size for the individual licensee or team name. The names, however, do not need to be the same font or color. The adoption of an objective type-size standard gives LARA and Realtor® members a clear and measurable standard for enforcement and compliance.

In anticipation of January 1, 2018, Michigan Realtors® President Jason Copeman has appointed a Presidential Advisory Group (PAG) to discuss standards of practice relating to the advertising law and the type-size requirement, requesting input from

LARA on compliance. Michigan Realtors® will publish all PAG findings and any guidance that it receives from LARA.

In the meantime, it is important for Realtors® to take the initiative, ensuring that existing advertising satisfies the current law while preparing for the objective type-size standard effective on January 1, 2018. Noncompliance with any provisions of the Occupational Code or administrative rules can result in suspension or revocation of a license, censure, probation, restitution and/or an administrative fine of up to \$10,000. A forward-thinking approach to compliance is a very good idea.

The key changes in Public Act 502 can be reviewed here: www.mirealtors.com/Legal-Resources

If you have any questions, please feel free to contact Michigan Realtors® at 517-372-8890. ●

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Requirements, Referrals and Rebates

Below are several common questions that may seem only loosely related. However, since none of which are worthy of an entire article, I will combine them in a single article and expect a low grade for composition.

REQUIREMENTS

During the great recession, it was quite common to see a listing of a foreclosed property containing a requirement that a buyer have a pre-approval letter from a specific lender as a condition to submitting an offer on the property. The imposition of this condition has now moved one step farther. On more than one occasion, a buyer has received a counteroffer from a seller specifically requiring that buyer to obtain the financing from a specific lender, *e.g.* Acme Bank. Many members worry that in dealing with such a counteroffer, they may become entangled in a RESPA violation.

Section 8(a) of RESPA prohibits anyone from giving or receiving a fee, kickback or anything of value as part of an agreement or understanding to refer any person to another settlement services provider, *e.g.*, Acme Bank. The condition in the seller's counteroffer requiring the buyer to use Acme Bank only violates RESPA if the seller or listing broker has an agreement with Acme Bank under which Acme Bank will compensate the seller for referring the buyer to the bank.

There may well be a perfectly lawful explanation why a seller would impose a requirement on a buyer that he or she borrow from a specific lender. The seller may have done business with Acme Bank for several years and always enjoyed its excellent service. Further, the seller may have experience with other buyers who have used other banks that resulted in delays and in some cases, failed transactions. The seller may also be imposing this condition based upon the recommendation of the listing broker. It may well be the listing broker's experience in dealing with hundreds of transactions that the excellent service provided by Acme Bank creates the greatest likelihood that the buyer will get a loan that will close in a timely manner.

Based on past enforcement actions, it is possible that the Consumer Finance Protection Bureau would take the position that requiring a buyer to use a specific bank for a transaction is evidence from which an inference can be drawn that there has been a RESPA violation. However, in the absence of an agreement and payment

of consideration, there is no RESPA violation. When a Realtor® representing a buyer sees a counteroffer containing a requirement that the buyer use a specific lender, the Realtor® need not be shy. He or she should simply ask the listing broker why the seller is requiring the use of a specific lender. The response may well be that the seller simply has great confidence in that lender.

This requirement is very different from a requirement that the buyer use a specific title company to obtain the lender's policy of title insurance. Sometimes this requirement is posed as a "choice," *i.e.*, the buyer can use Acme Title Agency and pay half of the closing fee or use the agency of his or her choice and pay for entire closing fee. Again, members who see this type of requirement in a counteroffer have concerns about RESPA, as well they should.

Section 9(a) of RESPA prohibits a seller from requiring "directly or indirectly," as a condition of selling the property, that the buyer purchase title insurance from a specific title company. A requirement in a counteroffer that the buyer must use Acme Title would be a clear violation of Section 9(a) of RESPA. The more difficult question is whether giving the buyer a choice – incurring additional closing costs as a condition of using the title insurer of his or her choice – violates Section 9(a) by "indirectly" requiring the buyer to use Acme Title. This type of requirement is a fairly common practice, but there is a lack of case law to provide an answer. The lack of case of law may well be caused by Section 9(b) of RESPA which limits the liability of a seller for requiring a buyer to use a specific title company to damages in an amount equal to three times all the charges paid by the buyer for title insurance.

There is one situation in which a seller can require a buyer to use a specific title company without violating RESPA. If the seller requires the buyer to use a specific title company and the seller indicates he or she will pay for the buyer's title insurance, then there is no RESPA violation. So long as the seller pays, he or she can dictate from where the title insurance will be purchased.

REFERRALS

Realtors® often have questions regarding both the payment and receipt of referral fees with regard to the payment of referral fees, many Realtors® seek to reward persons who refer buyers and sellers to them and to

encourage them to make referrals in the future. More than one Realtor® has attempted to set up a form of rewards network to encourage referrals of potential sellers and buyers. The primary problem with such a program is that if it involves the payment of a “fee, commission or other valuable consideration” to a person who is not a real estate licensee for the referral of a potential seller or purchaser it is a violation of the law. In Michigan, an unlicensed person cannot be paid a referral fee by a Realtor®.

Questions regarding the payment of referral fees often arise when a Realtor® sets up a program in which he or she agrees to donate a portion of the commission to a charity. If a Realtor® sets up such a program with a single charity and that charity refers prospective buyers and sellers to the Realtor®, then the donation by the Realtor® to the charity may be seen as a disguised payment of a referral fee. The most practical way to avoid such a claim is to provide the client with a menu of charities to which the Realtor® will donate a portion of his or her commission. The use of multiple charities helps eliminate any claimed link between the donations to a specific charity and referrals from that specific charity.

The second question arises when Realtors® question when they can lawfully make referrals to their clients. If I am an out-of-town buyer and come to a new town looking to buy a home, I am almost certainly going to look to the Realtor® who represents me to help me fill in the blanks, if necessary, on a purchase agreement form and obtain the services I need to purchase and move into a new home. If, for example, there is a blank in a purchase agreement for the name of a title company, some Realtors® are concerned about a possible RESPA violation if a client asks whose name should go in that blank. As an out-of-town buyer, it is highly unlikely that I would know anything about title insurance companies in the area. There is absolutely no law preventing a Realtor® from providing such a recommendation to his or her clients. If one specific title insurance company provides quick, reliable and reasonable title services, it is in the Realtor®’s client’s interest to use that title company. As discussed above, there is no problem with RESPA when Realtors® make such a referral so long as they have no

agreement with the party to whom the referral is being made and do not receive any valuable consideration from that party. Again, it is perfectly lawful for Realtors® assist their clients through the transaction process.

REBATES

Some Realtors® seek to generate business through a program in which they advertise that they will return some portion of the commission they earn to their client. Many Realtors® are under the mistaken belief that such a program is unlawful. This is simply not true. Payments to clients in this situation are known as rebates. While payment of a commission to an unlicensed third party is prohibited, payment of rebates to the buyer or seller are perfectly lawful in the State of Michigan. In fact, some years ago the real estate commission for the State of Tennessee passed a rule prohibiting payment of rebates. The rule was rescinded after the federal government threatened antitrust litigation against the Tennessee Real Estate Commission.

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As an aside, if a Realtor® is paying a rebate to someone other than his or her own client, *e.g.*, a listing broker paying a rebate to a buyer, prior disclosure and consent from his or her client is required.

Realtors® are bombarded with snippets of legal sounding news and information on almost a daily basis. Unfortunately, in order to keep up with the flow, each issue has to be thoroughly understood. If you feel you are knee-jerking, you may be wrong on an issue. Take your time and be right, or better yet, call the Michigan Realtors® Legal Hotline. ●



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