

A publication of Michigan Realtors®

# MICHIGANREALTOR®



PLUS

**Staying Secure** President's Report  
Capitol Report **Responding To Offers**

MICHIGAN REALTORS®  
**THE CONVENTION**  
EVENT GUIDE INSIDE



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\*Google Analytics, January 2017

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# 08.18

{ AUGUST | TWO THOUSAND & EIGHTEEN | VOLUME SEVENTEEN | NUMBER FOUR }



BY SARA LIPNITZ, SFR, PMN

# Go the Distance!

Summer brings out some of the very best that the Mitten State has to offer, and nowhere better is there to bask in all of Michigan's glory than the stunningly beautiful Traverse City. Yes, it's the site of The Convention, and it's time to Go The Distance!

**The Convention**  
Grand Traverse Resort & Spa  
September 26-28, 2018  
*Register by visiting Mirealtors.com*

The Convention is set to exceed your expectations and connect you with countless tools to grow your business, build your pipeline and be the best Realtor® you can be. We have dynamic presenters lined up to address many of your burning issues, and those issues you probably don't even know you have. Be sure to check out the pull-out section in the center of this magazine to learn more.

Our keynote speaker, Tami Evans, will start things off with passion, energy and humor. Tami's presentation is filled with laughter and learning. Tami shares important communication and leadership tools along with fresh ideas like 'Personality upstages Perfection,' you can 'Fail with Flair' and we all need to 'Embrace our Inner Dork!' Her recent claim to fame is a spot on the Dr. Oz Show (where she taught him to chair dance). Intrigued? You should be!

Then, get set to enjoy - and learn from - our Rise & Shine Keynote Speaker, Dave Davlin. Dave has a colorful and accomplished track record in entertainment that he uses as a basis for presenting a powerful message to professionals across

the country. He will teach you 'The Game Winning Three' and show you how to ignite the passion in your life by implementing these strategies. Prepare to see how you can become your best self. Not to be missed!

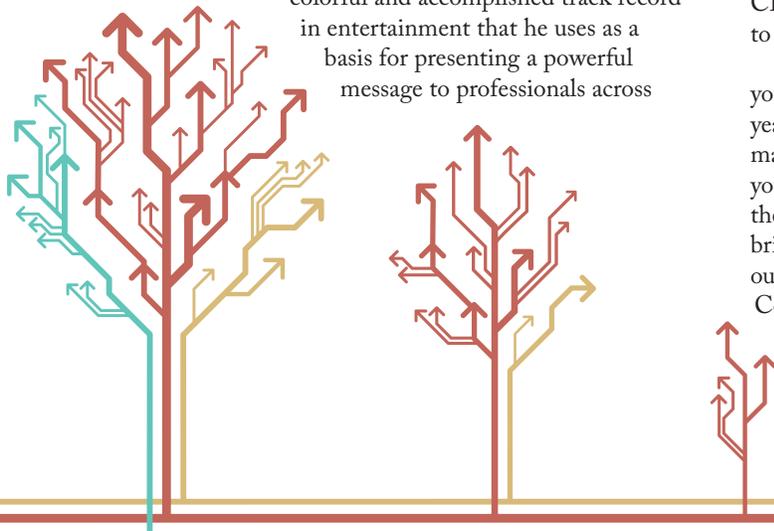
What else does The Convention have to offer?

- *An awesome Expo featuring many exhibitors in the know with so much to offer*
- *RPAC Investor Appreciation Luncheon and the Realtor® Active in Politics Award*
- *A seemingly endless list of speakers, including specialists in technology, consumer experiences, social media, taxes, marketing, productivity and more*
- *A stunning, world-class venue in one of Michigan's most treasured communities*
- *Tremendous networking opportunities with colleagues in your industry, from your state*

At The Convention, we will also be awarding the state Realtor® of the Year Award and installing the 2019 Michigan Realtors® President, Matt Davis. Congratulations to Matt and to all the nominees!

Keep in mind that the current continuing education licensing cycle ends on October 31, 2018. View your CE record at [cemarketplace.net](http://cemarketplace.net) and know whether you have met your CE requirements for the cycle or how many you still need to complete. A majority of the knowledge sessions at The Convention are CE Marketplace Certified, so this is a great way to hit your goals well before the last minute.

Finally, here's one more plea for you to challenge yourself as you forge through the second half of the year. Commit to going the distance in a way you may never have thought you could: join us. Join your industry colleagues by volunteering. Even at the lowest level, volunteering grows your network, brings you personal satisfaction and strengthens our industry. I look forward to seeing you at The Convention in September. Enjoy your Summer. ●



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## August 28, 2018

2019 Michigan Realtors® District Director Elections  
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## September 26-28, 2018

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Grand Traverse Resort & Spa, Traverse City  
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## Time to Say This About That

When I was a kid I developed a fascination with surfing after seeing Bruce Brown's film *The Endless Summer*. The movie featured two surfers traveling around the world in search of the perfect wave. They hit exotic countries like Tahiti and Senegal, and discovered rare and new surf spots. All these things were perfect for my young imagination.

The older I get the more appreciation I gain for the underlying concept of the film: Would you be able to chase the summer, up and down and around the world, to make it...endless. Between the busy association schedule, primary elections, and my son's travel baseball team, I feel like the summer days have flown by. August is already here. Even if I can't make it endless, I would happily settle for another couple of weeks of summer.

Before the warm weather escapes us, it's important to recap a couple of our priorities that caught some waves to the Governor's desk to become law, and fill you in on developing legislation that could provide a cool breeze concerning an issue that our local associations and MLS providers have been hot on for a long time.

Homeowners selling their new construction that declined in value will be happy to hear about expanded transfer tax relief. Appraisers will be pleased to hear about the new 18-month statute of limitations on administrative complaints. And, recently introduced legislation regarding property tax assessments could move us closer to affordable access to quality electronic property tax information. So, grab your board while the tide is just right.

### TRANSFER TAX EXEMPTION COVERS N(U) CONSTRUCTION. PA 172 OF 2018

If you're an avid reader, you already know about the value that our membership and your clients have found in exemption (u) of the State Real Estate Transfer Tax. In the last legislative session, Representative (and Realtor®) Dave Maturen (R-Vicksburg) sponsored important tax relief legislation in the form of HB 4173 (PA 217 of 2015). The law revised the State Real Estate Transfer Tax Act to provide both clarity and fairness to the Michigan Real Estate Transfer Tax for a seller with declining value under exemption (u). The bill firmly established that the calculation for "declining value" is based on whether the State Equalized Value (SEV) on the day you sell your principal residence is the same or less than the SEV on the day you purchased the home.

With its 4-year retroactive application, this legislation provided significant relief for many Michigan taxpayers that sold property in a declining market and allowed brokers and agents to go back and get transfer tax refunds for their clients. Absent the clarification, many Michigan taxpayers would not have known that they had paid state transfer tax unnecessarily.

Over the past two years, a technicality was discovered in Treasury's application of the law that prevented sellers that had purchased new construction from experiencing the same tax relief. In the case of new construction, in many cases, the SEV at the time of purchase is based on unimproved land. That would be the baseline that Treasury used for calculating exemption (u). No matter how far values fell in Michigan, very few went below the SEV on dirt, meaning that there was not transfer tax relief for those homeowners.

This session, Representative Maturen's HB 4643 addressed the above unfairness by providing that the initial SEV would be the determined as of the first tax day after the issuance of a certificate of occupancy for the residence, or the date of acquisition of the property, whichever comes later. While a relatively simple fix, it is a great example of leadership by Representative Maturen to fight for sound tax policy and, given the law's four-year retroactivity, the fix may provide relief for some formerly disadvantaged taxpayers.

The bill was signed by the Governor on June 11, 2018 and assigned Public Act 172 of 2018. In addition, Realtors® and their clients can now go back 4 years and 15 days from June 11, 2018 for transfer tax refund opportunities.

### 18-MONTH LIMITATIONS: APPRAISERS, AND BUILDERS, AND REALTORS®, OH MY!

Not unlike new construction in the above discussion, many Michigan Appraisers felt a little left out given that their regulatory structure under Article 26 did not include a meaningful limitation period on administrative complaints brought under the Occupational Code. This put Appraisers out of step with similarly regulated real estate professions. Absent any limitation, an appraiser could be subject to defending against a claim where facts and information are no longer available or credible. It was not outside the realm of possibility for valuations from 2008 to be the focus of an administrative complaint a

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decade later. To address this inequity, Michigan Realtors® supported HB 5199, sponsored by Realtor® member and State Representative Brandt Iden (R-Portage). The bill, now Public Act 157 of 2018, created uniformity similar to the treatment that builders and real estate licensees receive under Articles 24 and 25, respectively.

Article 26 now provides that any claim brought against a licensee under the Code or Rules must be brought within 18-months of the later of: (a) the date of the alleged violation; (b) if the alleged violation occurs in connection with the performance of an appraisal, the delivery of the appraisal to the client; or (c) if the alleged violation occurs in connection with an appraisal or appraisal review performed in the capacity of an expert witness, delivery of the appraisal or appraisal review to the opposing party. This change provides a fair and concrete statute of limitations for claims against appraisers brought under the Code. It is important to note that the limitation periods under the occupational code would not impact civil claims. Those limitation periods are fairly established; Negligence (3 years) and Breach of Contract (6 years).

## ASSESSING ASSESSMENTS

In early June, Senator Jim Stamas (R- Midland) and Representative Jim Lower (R- Cedar Lake) introduced legislation to increase the integrity of Michigan's property tax assessment system. Senate Bill 1025 and House Bill 6049 are mirror versions of each other, with the later having already received its first hearing in the House Tax Policy Committee.

The bills, supported by the Michigan Department of Treasury, provide required minimum standards that local assessing districts must maintain, or transfer the authority to the county equalization department. If passed, local assessing units would have until December 31, 2021 to come into compliance with the requirements. The push for increasing the level of assessments comes from Treasury to make sure that they are fair, but also to make sure that local communities are not missing out on tax revenue through a deficient process.

Among the baseline requirements, locals would need to employ a level 4 or level 3 assessor. The assessor would need to be employed full time by the local or could be hired as a full-time assessor to serve a group of communities (there is also an ability for the local to file

a waiver of this requirement). The local would also need to use mass appraisal software, maintain office hours, meet staffing levels and provide on-line information.

In case you missed that, I'll restate it - "provide on-line information." As many of our members can attest, there are still regions of this state where tax records are not maintained electronically. For years, our local associations, MLS providers and the National Association of Realtors® RPR have run up against this issue in trying to procure tax records for Realtors®. This provision alone was enough for the Michigan Realtors® Public Policy Committee to initially support the bills as introduced.

Realtors® repeatedly use tax assessment information throughout their business and, depending on the area of the state, access comes in all shapes and sizes. Some options are free, some charge. Some tax records are loaded with information, some aren't. As you will recall, Michigan Realtors® worked hard to pass legislation to cap the cost of purchasing bulk electronic records because the price in some counties was as high as \$30,000. These records are public information and should be made conveniently available to promote transparency over the local assessment process.

These bills stop short of mandating that local governments turn over assessing duties to the counties, but they certainly will reduce the number of assessing districts in Michigan. Consolidating the information and providing uniformity in the records in fewer places makes this access easier. In addition to the measures already included in the bills, Michigan Realtors® is interested in making sure that what is included in online records is consistent from jurisdiction to jurisdiction, and if there is an ability to reign in the cost of access, make sure that the cost is reasonable.

These bills are in their early stages in the legislative process and the will be subject to a workgroup before moving this fall. Michigan Realtors® staff will be relying on input from our members, local associations, and MLS providers to make sure that our voice is heard as the bills move forward and before the crest of this gnarly wave releases towards the shoreline.

Please be sure to stay up to date on all the latest goings on with Michigan Realtors Public Policy by visiting <http://www.mirealtors.com/Advocacy-Initiatives>, or subscribing to and liking our YouTube channel <https://www.youtube.com/MICHREALTORS>. ●

# Are We Picking Convenience Over Security?

*How to protect your brokerage from cybercrime*

BY NIKKI LINDHOLM

In 2018, it's become a common practice to lock your car doors, install security cameras and add home security systems. So, why isn't it a common practice to apply the same security measures to your online accounts? Physical safety is a threat you can see, whereas digital protection is typically out-of-sight, out-of-mind. Until now. With wire fraud, ransomware and identity theft wreaking havoc in our industry, answer this question: In the last year, what steps have you taken to secure yourself and your brokerage against cyber-attacks? Brandon Wells, president and former chief technology officer of The Group Inc. spoke about cyber security this past week at The Gathering of Eagles. He hit the nail on the head when describing why our industry is falling for these attacks. "One, we are trying to keep up with the pace of innovation in our industry and two, I don't think we're asking a lot of security questions to the vendors we are plugging into in this industry."

## REAL LIFE SITUATIONS

Wells shared a video during his presentation of a man volunteering to be hacked. With the man sitting across from his hacker (a woman), she proceeds to dial his cell phone provider. Before calling in, the woman began audio of a crying baby (found on YouTube). She told a story of how she and her husband just had a baby and that she needs to fix a discrepancy in their account. After apologizing for the crying baby, and explaining how she's exhausted, the hacker can convince the customer service representative not only to add her to the account but also to change the password—all in under two minutes. Now, it's easy to get hung up on the fact that she was only on the phone with customer service for a few minutes (jealous!), instead, let's focus on how EASY this was for the hacker to accomplish. Why was this so easy? Well, we typically imagine hackers in one of two ways, someone overseas maliciously hacking our accounts from afar, or as someone





with his face hidden, typing away in a dark basement. Few see hackers as what they can be: everyday people! Hackers are much smarter than we give them credit for. They don't get our information by accident; they get it with intentional and calculated schemes. Another reason this task was so easy for the hacker is that she tapped into human emotion. It's already become harder for customer service reps, or clients, to distinguish real vs. fake, because these schemes are no longer a prince from Nigeria requesting money. Today, people say they know your Aunt Susie, and she said you would help them in a dire situation.

### WHAT CAN YOU DO?

Brandon provided a list of five things a brokerage can implement. We suggest you do them as soon as possible.

#### 1. MULTI-FACTOR AUTHENTICATION

Encourage agents to use company email accounts that have multi-factor authentication over their email. This step can be a hard one to convey to your agents, especially if they run their business primarily through their g-mail or other personal accounts. But merely adding this process makes you less of an easy target. However, don't stop at e-mail

#### 2. ENCRYPTION

As a brokerage, you have a lot of sensitive information on file. Using a form of encryption provides more security and allows those with authorization access to your private information.

#### 3. BROKERAGE TRAINING AND EDUCATION

Incorporate in-house training with your agents and staff members so they know what a cybersecurity threat is and what it can look like. Don't forget to include your loan officers and insurance providers. It's your responsibility to arm your agents and staff with what to do if a threat takes place.

#### 4. CONSUMER EDUCATION

It's not enough to only educate your brokerage- don't forget about the consumer! Add more than a wire disclosure to the bottom of your email. Make this education piece a part of a listing presentation and explain it again during the purchase agreement and again when your buyer or seller is meeting with a mortgage firm.

#### 5. CYBER INSURANCE

Wells sources a study that says 74 percent of our industry has no cyber insurance. While it can't solve all your cyber-security problems, if you were to run into an issue (much like regular insurance!) it's important to know your options for additional protection.

### TAKE ACTION!

Don't wait for a cyber-attack to get to your brokerage before you take action. Cyber threats are becoming more frequent and have already made their presence known in the real estate industry. Protect your brokerage's digital safety just like you would its physical security. ●



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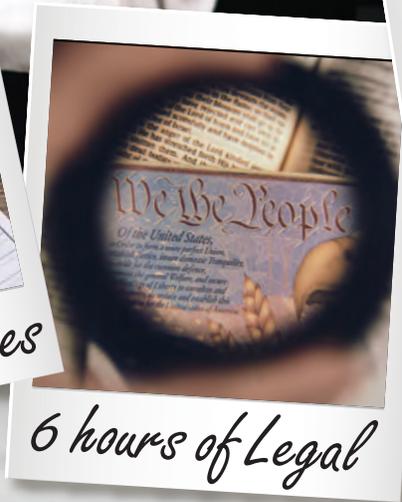
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# Why Won't The Seller Respond?

One of the more common complaints that we hear on the hotline is from buyers' agents who suspect that the listing agent has not presented their client's offer to the seller. Buyers in multiple offer situations, who have often competed and lost out in prior multiple offer situations, often assume that they have a right to some type of response from the seller. These buyers express their frustration to their buyers' agent and the buyers' agents, in turn, often pass on that frustration to the hotline.

BY GAIL A. ANDERSON, ESQ.  
MCCLELLAND & ANDERSON, LLP

Realtors® who have called the hotline with this problem are very familiar with the analysis:

*A seller who receives an offer, can accept, reject or counter that offer. In addition, the seller can choose to do nothing. There is no requirement that a seller ever acknowledge receipt of the offer. A buyer can request that the seller respond in writing, however, the seller has no obligation to do so.*

In our experience, no one is very happy with this response, particularly the cooperating agent whose buyer-clients are beginning to suspect that their agent is either incompetent or simply does not have their best interests in mind.

In an effort to assist buyer's agents who find themselves in this situation, several years ago Michigan Realtors® put together a "Primer on Multiple Offers." This brochure, which is available on Mirealtors.com, was expressly written for buyers and is intended to explain the law as it relates to multiple offers. The idea behind the brochure was that buyer's agents might find it helpful to have something "official" to give to their buyer-clients that explains the rules on offer and



acceptance, including, for example, the rule that the seller has no legal obligation to respond to their offer.

NAR must have received some of these same complaints because beginning in 2019, the NAR Code of Ethics will require listing Realtors® to confirm in writing that an offer was submitted to the seller if the cooperating broker who submitted the offer so requests. The listing Realtor® must respond in the affirmative unless the sellers have provided written notification waiving their listing agent's obligation to present the offer. A listing agent who fails to comply with this requirement may be found to be in violation of Article 1 of the Code of Ethics.

It seems unlikely that this new ethical obligation will entirely satisfy buyers' concerns. Keep in mind that the written confirmation will come from the listing agent and not the seller. Suspicious buyers may feel that without anything directly from the seller, they have no way of knowing whether or not the listing agent is telling the truth. Remember, the Code of Ethics already requires Realtors® to submit all offers and counter-offers until closing unless the seller has waived this obligation in writing. The new requirement simply requires



the listing Realtor® to confirm in writing that he or she has done so. Moreover, the exemption applies whenever the seller has provided the listing Realtor® with notification waiving the obligation to present all offers; it does not require the listing Realtor® to provide copies of that seller's written waiver to the cooperating agent. If your buyers did not believe the listing broker when he told you verbally that their offer has been submitted (or that the seller waived that requirement), it seems unlikely that your buyers will believe the listing broker just because he says so in writing.

As an aside, remember that many listing contract forms used in Michigan, including MR's form, contain a provision whereby the seller agrees that the listing Realtor® will not present any additional offers after the seller enters into a binding purchase contract. Although the ethical obligation speaks of a duty to present all offers "until closing," presumably a seller who has signed such a listing agreement form has waived the listing agent's ethical obligation to present all offers "until closing."

While the new ethical obligation is not perfect by any means, there is really not much more that NAR can do to address this issue. Sellers are not regulated. Neither NAR nor anyone else can require sellers to reject all offers in writing. Moreover, even if a listing agent did return every rejected offer signed by the seller, it is easy to imagine how a disappointed buyer might still not be satisfied that the transaction was aboveboard unless he was explicitly told why his offer was rejected and how his offer compared to the successful offer.

As a practical matter, it seems unlikely that listing agents are withholding offers from their seller-clients with any frequency. In addition to having an ethical obligation to present all offers, Michigan licensees are also required to do so under the Occupational Code (at least until the seller is under contract). And, listing brokers owe a fiduciary duty to bring all offers to the seller. As Realtors® are well aware, breaching this fiduciary duty may result in the forfeiture of their right to a commission and, in addition, a potential damage claim should the seller suffer damage as a result of

the listing broker's failure to submit a particular offer. Buyers who are generally unfamiliar with the process and thus suspicious may assume that there is something nefarious going on if the seller does not acknowledge receipt of their offer in any way. On the other hand, Realtors® who are familiar with the process understand that this is unlikely to be the case and should do their best to assuage the suspicions of their buyer-clients.

While we are on the topic of multiple offers and disappointed buyers, in addition to providing buyers with a copy of the Primer on Multiple Offers, there are a few other steps that you, as a buyer's agent, can take in an effort to assist your buyer-clients to better understand (and trust) the negotiation process.

First, if the listing agent calls you to advise that the seller has accepted your buyer-clients' offers, do not advise your clients that they have a deal unless and until the written acceptance is actually delivered to you. As Realtors® are well aware, in order for there to be a binding contract, the acceptance must be actually delivered. A buyer's agent who advises his or her clients that they have bought

“

A buyer can request that the seller respond in writing, however, the **SELLER HAS NO OBLIGATION**

to do so.

”





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the home of their dreams based on a phone call from the listing agent will be in a very awkward situation if the sellers subsequently change their minds and accept another offer.

Second, remember that a text or email from the listing agent stating that the seller has accepted your clients' offer is no more binding than a telephone call from the listing agent stating the same. While it is true that the law allows parties to contract electronically, the law still requires a signature from the actual party to the contract, in this case, the seller. A text or email from the listing agent notifying you of her seller-clients' acceptance is not sufficient (unless the actual signed contract from the seller is attached).

Third, make certain that your buyer-clients understand that even if the sellers' counteroffer contains a deadline for a response, the sellers can revoke their counteroffer at any time prior to your clients' acceptance of that counteroffer. Buyers who

rely on the fact that they have a stated period of time in which to make a decision on a counteroffer are going to be very surprised – and very unhappy – if the counteroffer is rescinded prior to the stated deadline.

Fourth, if, in the interest of time, the parties are working out the details of the transaction verbally, make certain that your buyer-clients understand that regardless of what is said, there is no enforceable contract unless and until the agreement is reduced to writing and signed by both parties. Oftentimes, these verbal back and forth negotiations are very stressful and last for several days. Imagine the disappointment of a buyer who has lived through such a negotiation and is relieved to finally have a deal, only to find out later that the seller is moving forward with a different buyer and that there is nothing she can do about it.

Fifth and finally, if you are going to conduct business electronically, do not agree to follow up with a

paper copy. If you email a signed contract that indicates that “originals to follow,” you may be creating ambiguity as to when the contract becomes binding – i.e., whether upon transmission of the electronic signature or upon delivery of the original. To avoid any confusion, select one, and only one, method of delivery.

In conclusion, buyers who compete and lose out in a multiple offer situation are always going to be disappointed and frustrated. There is nothing that can be done about that. What Realtors® can do, however, is try and make certain that their buyers better understand (and trust) the negotiation process so that if they do lose out on a home, they do not immediately jump to the conclusion that they were wronged in some fashion. Remember that if you, as a buyer's agent, express confidence in the negotiation process and in your fellow Realtors®, it is more likely that your buyer-clients will as well. ●



# COMPETING WITH NEW BUSINESS MODELS

*New business models will keep you on your toes, but complaining won't get you anywhere.*

BY STEVE MURRAY



The onslaught on new venture-backed realty firms entering the industry is somewhat breathtaking. Along with Redfin, Compass and eXp, we have Open Door, Offer Pad, Knock.com, Purple Bricks and others not so well known. It goes without saying that Zillow, Realtor.com, Homes.com and myriad other real estate tech firms have also had an impact. What is less known currently is there are at least four private-equity firms that we are aware of carefully examining investment options in brokerage and real estate tech.

It is not so much that there are so many new entries that is causing angina among incumbent realty firms. It is that they compete by offering a) lower costs to consumers, b) higher costs to recruit and retain agents or c) both. In fact, it is not the fact of one of them, it is the totality of all of them. Lastly, it is that many of them raise enormous amounts of capital with which to enter markets and compete with incumbents. It is also that their backers don't seem to require any earnings potential for the foreseeable future with these new companies. Zillow and Redfin have been out over ten years and neither has produced annual earnings – yet. Certainly, this is a new form of competition for the residential realty industry.

But is it all that different than what brokerage firms faced in the past? Merrill Lynch and Sears entered the business from 1977 to 1982 buying brokerage firms. Their size and scale scared everyone back then. At just the same time, RE/MAX gained strength and raised the cost of recruiting and retaining agents enormously. Don't forget, this is also when savings and loans started buying brokerage firms and entering the business.

Brokers detested all of them.

They saved their particular dislike for RE/MAX because the cost of keeping top producers soared while the others played by the incumbent's rules. Brokers at the time felt they wouldn't know how to compete should gross margins fall below 30%. Yet many of those brokers today are healthy and growing.

Later, in the early to mid-2000's after an initial wave of real estate tech firms enter the market, there was fear that opening up the MLS to public access would wreck the industry. Keller Williams gained share and again raised the cost to brokerage firms for recruiting and retention of agents. And brokers shifted their dislike from RE/MAX to Keller Williams and Zillow. Brokers felt like there was little hope that they could remain viable when gross margins fell below 20%. Yet traditional brokerage firms continue to find ways to compete and to remain profitable.

### WHAT CAN WE LEARN FROM HISTORY?

First don't waste any time complaining about today's villains. It won't make a difference. Redfin, Compass, Zillow and others are likely here to stay. Years ago,

incumbent independent brokerage firms complained about RE/MAX and franchised brokers in general. It didn't stop them, and it didn't change anything on the ground. Later incumbents (now including RE/MAX firms) complained about Keller Williams and Zillow. It didn't stop them, and it didn't change anything. Now incumbents (now including Keller Williams) are complaining about eXp, Redfin and Compass. It won't help.

Brokerage firms are remarkably resilient and adaptive. With average gross margins now at 18% and falling, nationally, the business will be tougher, both in terms of how to grow and how to maintain margins. But not impossible. When once it was thought that there was no way to make money with gross margins under 30%, then 20% now lower than 18% for most brokerage firms, we find that there are numerous companies still making 4-6% pretax on their gross revenues.

## WHERE IT IS HEADED

Industry structure.

Many years ago, we commented that the residential brokerage may well evolve as other retailing industries had. A few very large market share participants, with low costs and low margins. A few more niche players specializing in certain segments of the market generally with smaller market shares but with higher margins. The key is not to get caught between these two models.

The "value proposition" guides decisions for all consumers. Its component parts are Price, Convenience and Trust. If you are not focusing your conversation with your agents and key employees on Convenience and Trust, then the discussion will be about Price (agent splits for instance)

We do believe one key point. If a choice of a brokerage firm were always and only about money, then every brokerage today of any size would be out of business. Obviously quite a few agents and teams value more than just their commission

plan. The key is in finding the right blend that gets you the type of agent, and builds the kind of company, that you most want. It may be different than where you started.

## COMMISSION RATE PRESSURE

In addition to the downward pressure on gross margins at the brokerage level, we have been watching national average commission rates decline steadily since 2011 when the market truly began to recover. As we published in our book "Game Changers" in 2014, there is a remarkable correlation between the average number of listings available in the market and the number of Realtors® serving the market. Turns out that over the last six years or so, the average number of listings per Realtor® at any given time has dropped by nearly 50% - from 2.9 to 1.4. And while that happened the national average commission declined from 5.4% to 5.08%. With no end in sight for tight inventory conditions, and Realtor® membership climbing, we expect that the downward trend in national average commission rate will likely continue.

## THE IMPACT OF TECHNOLOGY

Our favorite questions:

- *If technology is a truly sustainable competitive advantage, then why does Redfin need to discount its charges to consumers?*
- *If technology is a truly sustainable competitive advantage, then why does Compass have to 'acquire' agents to build its business?*
- *If technology is a truly sustainable competitive advantage, then why can we find no evidence that brokerage firms that are huge users of technology have any different levels of productivity or profit margins than those who aren't big users?*

Once Berkshire Hathaway, Keller Williams, Realogy and RE/MAX all have fully developed and integrated technology platforms, or at least ones that are mostly indistinguishable from each other as well as other realty firms, how will they be any more differentiated from each other than they are today?

## THE VALUE EXCHANGE

I had an interesting discussion with a leader of a realty firm the other day. We were talking about the fact the largest and most important repository of data or information in the industry is basically off limits to brokerage firms. Of course, we were talking about the client and customer data of the agents. While having great access to data about listings and sales and revenues and costs are all very valuable, customer data has potentially far more value.

Yet the great majority of brokerage firms don't have access to it. And while brokerages do have access to some of the personal information from listings and sales, few collect this data and manage it for some other use. We personally know of only one brokerage that does retain it in a useful way - they offer company underwritten follow-up programs for their agents and use it to market their mortgage and property casualty insurance products to those customers for years after a closing. Last I checked they had over 20,000 customer profiles in their database.

As we discussed this further, my friend commented that perhaps brokerage firms needed to think about a) what exactly could, or would a broker use this data without damaging the relationship with their agents and b) what services could they then offer that customer data base? Option b) was a lot easier to answer - mortgage, insurance, home warranty, home maintenance, etc.

The first, a), was not so easy. After thinking about it for a moment he thought that a broker could offer a service that automated the follow-up and marketing process for their

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agents, pay for it or underwrite it in some fashion for the right to offer these non-brokerage related services. He opined that he thought a broker would also have to offer some assurances that the customer data was the property of the agent and that it could be withdrawn from the brokerage at any time.

Hence the exchange of value from broker to agent. I commented that he was likely on to something and that it should merit some of his attention. Soon.

These kinds of discussions are likely taking place at the headquarters of Berkshire Hathaway, Keller Williams, Realogy and RE/MAX as we speak. Theirs might be how they not only can get brokerage and market data but also their agents customer data. We know that Keller Williams is headed this way from Gary Keller's comments at the Family Reunion back in February. And, of course, Redfin is already there and likely Compass not far behind. One also wonders

how many of the large agent team businesses are building their own databases for these kinds of uses.

Anyone who doesn't think this a big part of the future of brokerage is not thinking clearly. Artificial intelligence and big data are just descriptors of how to assemble customer data and how to leverage it. ●



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