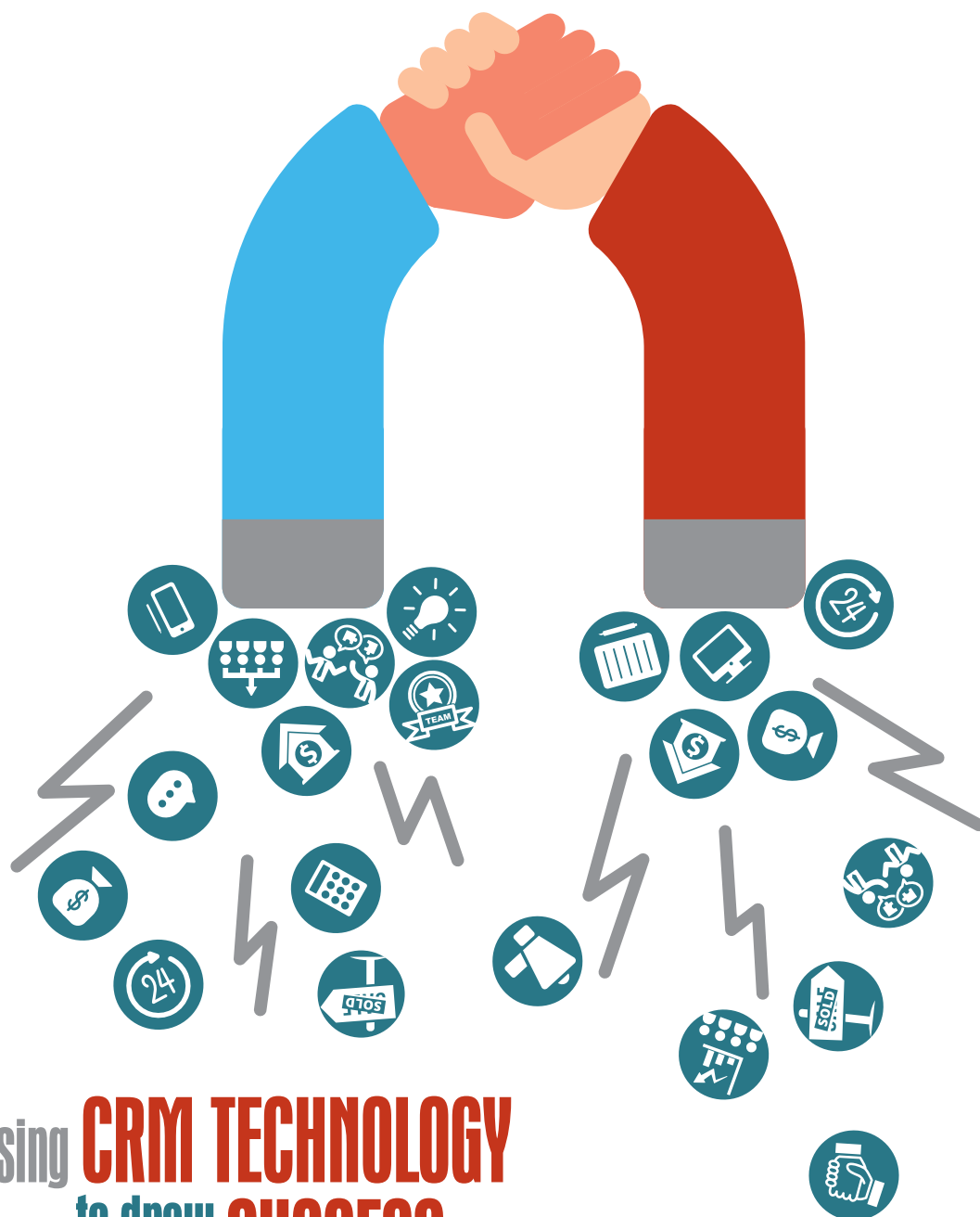


MICHIGANREALTOR®



using CRM TECHNOLOGY to draw SUCCESS



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6 PAGE POSTER INSIDE

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2016 Michigan Realtors® District Director Elections

Online voting begins
Wednesday, September 2, 2015.

There are eight districts
holding elections this year for
district director: 2, 3, 5, 7, 8,
10, 12 and 13. In addition,
district 11 will hold a special
election for a one year term.

To view candidates and learn
how to vote online, visit
[http://www.mirealtors.com/
District-Director-Elections](http://www.mirealtors.com/District-Director-Elections).

Centennial Celebration – the Past, Present and Future for Michigan Realtors®

A huge THANK YOU to the Centennial Task Force and Michigan Realtors® staff for the wonderful 100-year celebration on Mackinac Island! Over 300 guests enjoyed the historic Grand Hotel from unique educational events to a beautiful Gala finale. There were 23 Past Presidents of the Michigan Realtors® in attendance from Richard Dinger (1971) to Carol Griffith (2014) – what a tremendous group of leaders! An historic legal update jogged some memories, as did the historian's tales about Grand Hotel. Presenting the RPAC awards on the porch of the Grand Hotel on a nice, sunny late afternoon was also extra special. Our history was certainly in full display on Mackinac Island as well as a healthy group of future leaders eager to pilot us forward into our second century. Thank you for the opportunity to serve as your President in 2015!

ADVOCACY - WHY WE DO THE THINGS WE DO

One of the cornerstones of being a Realtor® is serving as an advocate for private property rights on behalf of our profession and the clients we serve. Whether it is on a local, state or national basis, we need to be vigilant in our efforts, as new laws and regulations which threaten to erode those rights proliferate daily. Although we all should be prepared to wear our Realtor® advocate hats, we are blessed with effective state and national lobbyists along with a corps of realtor volunteers who go to work on our behalf. These folks give meaning to why we contribute to RPAC.

This year we have headed to the Hill in Washington DC twice – in late March, the Great Lakes Caucus arrived and in one day the six-person Michigan delegation visited 15 of our 16 Michigan Congressional representatives. This allowed us to introduce our talking points for the May meetings as well as provided us with an opportunity to work with new representatives and their staff. These meetings spawned several new co-sponsors to the Mortgage Choice Act, a Bill by Rep Bill Huizenga of Michigan, after we presented our thoughts on the bill to them. After meeting with our Senators, we had a better understanding of what needs to happen in order for the House Bill to make it through the Senate. One of our NAR lobbyists accompanied us on several of the visits, providing insight as well as a united Realtor® front.

In the second week of May each year, the Mid-Year meetings are held. It is an opportunity for NAR Committees and the NAR Board of Directors to meet and Committee Forums to be held on a variety of issue. Hill visits are a big component of our time in DC. This year was my 12th straight year of attendance. Your Michigan Realtors® delegation included a Federal Political Coordinator for each Congressperson and Realtors® from each Representatives district as well as state leadership and staff. We visited all 16 of our Representatives in a coordinated effort. Since many appointments conflicted with either each other or NAR assigned meetings, we worked hard to field a team to visit each Michigan Congressional office. As we visited, we presented a letter drafted for the House to the CFPB asking Director Cordray to be lenient in the enforcement of the new regulations on the closing rules scheduled to begin August 1st. We were successful in getting both House and Senate support on this with the culmination being that Director Cordray agreed, on June 4th, to a “soft” opening after receiving nearly 300 letters from members of Congress. We were also accompanied by our NAR lobbyist and further discussed the Mortgage Choice Act with our Senators.

In stealing and paraphrasing a line from Colonel Jessep, played by Jack Nicholson in the 1990's movie “A Few Good Men,” “You want us on that wall. You need us on that wall.” We need to reinforce the daily work of our lobbyists with a Corps of Realtors® willing to invest their time and energy to further our advocacy efforts for the benefit of our profession and those we serve! If you're uncomfortable with, or unable to commit to direct advocacy efforts, then we have easy ways to take action - ALWAYS respond to Calls for Action, INVEST in RPAC and THANK those that are on that wall for you!

Convention Time - Come to the comeback City of Detroit September 30th through October 2nd!

Enjoy our Pure Michigan Summer! ●

02



MICHIGAN REALTORS®

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Michigan REALTOR® (ISSN 1053-4598, USPS 942-280) is published six times per year (January, March, May, August, September, November) by the Michigan Realtors®, 720 N. Washington Ave., Lansing, MI 48906.

Address letters, address changes and inquiries to: Michigan REALTOR®, 720 N. Washington Ave., Lansing, MI 48906: 800.454.7842: Fax 517.334.5568. www.mirealtors.com: e-mail contact@mirealtors.com. Subscription rates: \$8 per year (included in dues) for members, \$25/year nonmembers. Periodicals postage-paid in Lansing, Michigan 48924 and additional mailing offices. POSTMASTER: Send address changes to the Michigan REALTOR®, 720 N. Washington Ave., Lansing, MI 48906

COMING EVENTS

September 2, 2015

Michigan Realtors® District Director Online Voting Opens

September 30 – October 2, 2015

Michigan Realtors® Convention & Expo

Detroit Marriott at the Renaissance Center

November 13-16, 2015

REALTORS® Conference & Expo

San Diego, CA

January 20-22, 2016

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Dearborn Inn

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Where did the summer go?

Let me hit you with a cold hard fact; it's August and there's one month left of summer. Everyone remembers those days when they were a kid and summer seemed to go on and on. I used to think it only seemed that way because memories turn gold as we get older and we only hold on to the good stuff between the hustle and the monotony. I've since changed my mind because I see it on the carefree and energized faces of my kids every day – they're doing it right. I'm now of the belief that breaking out of the routine, meeting new people and having new experiences can prolong that summer enjoyment. Today I'm encouraging you not to let the warm glow of summer to slip away, and to get out and do something new, look beyond your typical involvement in the association and RPAC, and meet with your state legislators.

We talk a great deal about the importance of the Realtors® Political Action Committee (RPAC), but that's just one facet of advocacy. RPAC helps to elect officials that support our industry and share the same ideals as our organization, but our efforts don't stop there. Once in office, we need to maintain contact with our public officials to build mutually trusting relationships and consistent two-way communication and education. This summer, legislators are back in their districts and it is important that they hear from their Realtors®.

Although it isn't an election year, your legislators work hard throughout the summer days, attending in-district meetings and various events connecting with their constituency. Summer

provides the perfect time for local Realtor® associations to set up meetings with their elected officials. These meetings enable the membership to keep the communication lines open on various industry-related topics, and to get important perspectives on issues that the state is facing. As mentioned previously, advocacy is strengthening positive relationships with these decision makers. Michigan Realtors® field staff is happy to help set up meetings with elected officials. Contact Doug Merriam (West Michigan) Amy Taylor (Central and Northern Michigan) or Michelle Brant (Southeast Michigan) to assist you in coordinating a visit to your association.

If you're looking for items to discuss with your legislators there are plenty, but let's start with an initial "thank you" regarding a few items of importance to our industry:

CAPPING FEES FOR TAX RECORDS

Please pass along a word of thanks for the new law providing affordable access to property tax data from counties. New Public Act 39 of 2015, sponsored by Representative Bruce Rendon (R-Lake City) had bipartisan support in both the House and Senate. As a part of daily real estate transactions, disclosing this important property information in a timely manner is critical. This new law modernizes the Transcripts and Abstracts of Records Act (TARA) of 1895 to promote more reasonable cost for electronic property tax record information held by coun-



Summer provides the **perfect time**
for local Realtor® associations to set up
meetings with their elected officials.



04

REALTOR® | AUGUST 2015



by Brad Ward

Vice President of Public Policy and Legal Affairs

ties. This legislative initiative continued on after extensive work done during the last legislative session. The Michigan Realtors® are thankful for the quick attention by House Local Government Committee Chair Lee Chatfield (R – Levering) and Senate Local Government Committee Chair Dale Zorn (R – Ida) for working this issue through the committee process along with all the legislative efforts in both the House and Senate.

ANOTHER EARLY BALANCED BUDGET

Before the legislature headed back to their respective districts in June, they were able to pass a balanced budget. This has been a welcomed and pleasant habit for the last five years under the Snyder administration. They even gave it a hashtag, #5For5. Michigan's constitution requires a balanced budget by October 1 and for many years the legislature held summertime session days in gridlock right up until 11:59pm September 30. This budget marked the fifth time in as many years that the budget was passed before the end of June. State Policy Reports even ranked Michigan #1 in "budget process quality" among all states.

The important thing about having a balanced budget this early is that the legislature can turn its undivided attention to road funding. Michigan voters soundly rejected Proposal 1 on May 4th but still continue to list road funding as one of their top priorities to be addressed by the legislature. The budget as passed included \$115 million more for roads over last year but still well short of the \$1.2 billion Governor Snyder has been seeking for the last few years. Road discussions in the legislature will continue throughout the summer. The House was the first out-of-the-gate with a plan that provides for over \$1 billion in funding by 2019 based on reprioritizing current spending and earmarking expected future revenue for road investment. As of this publication, the Senate plan has not been made public but the word on the street is that their plan will contain elements of the House plan but will also have a dedicated funding source (e.g. specific tax increase). The Michigan Realtors® will continue to provide a voice to these important discussions as legislation moves forward.

After the icebreakers, please make sure to bend your legislator's ear on an important issue to Realtors® and our homebuyers:

RESTORING FAIRNESS TO THE REAL ESTATE TRANSFER TAX

Last month's column contained a lengthy discussion on House Bill 4173, sponsored by Representative Dave Maturen (R - Brady Twp.) The bill moved through the House shortly before the end of June and passed through the Senate Finance Committee before the Fourth of July holiday. While time is not particularly of the essence on this piece of legislation, getting this bill finished early will enshrine these important policies during the important summer sales season.

As you may recall, this bill would revise the Michigan Real Estate Transfer Tax to clarify two items: 1) the party that paid the transfer tax may request the refund if a refund is due, and 2) codify the definition of "True Cash Value" as two (2) times the State Equalized Value (SEV) when applying the criteria under the declining value exemption "u". Currently, there isn't a mechanism for the *buyer* to seek a refund where the transfer tax was paid in error or unnecessarily. Both of these changes offer greater clarity and equity to aspects of the home buying and selling process.

So fire up the BBQ, don't retire those swim trunks just yet, and make a plan to get out and speak with your elected officials. About 1/3 of the Michigan House of Representatives is new to the legislature this year. While RPAC successfully endorsed over 90% of these candidates, our work needs to continue through communication and education on important and timely issues. Again, contact your local association or your Michigan Realtor® field representative for an opportunity near you.

Lastly, I encourage you all to act like kids again, and enjoy your summer. ●

finding & Interviewing RAW TALENT

BY LARRY KENDALL,
CHAIRMAN OF THE GROUP, INC. AND AUTHOR OF NINJA SELLING

WONDER WORKER

Works all psychological conditions • Flexible and adaptable everything (almost) • Friendly and polite. • Required technology and he can use appropriately. • Open minded. • Curious to do all kind of (almost) given job. • Work calmly in busy environments. • Ready to work with other versions. • Ready to negotiate. • Ready to work with half price.



As we mentioned in the May Real Trends newsletter, about five years ago we realized that most of our top producers had started with our company as rookies. Some 62 percent of our top quartile and 7 out of our top 10 sales associates had started their careers at our company. With this *aha!* moment, we decided to focus as much time **finding and developing raw talent (rookies)** as we were spending chasing top producers. This has become our ***secret weapon***.



Here are our results over the past five years:

- Rookies hired: **92 (This represents about 18 per year—about 10 percent of our sales force each year.)**
- Number still with us: **75 (81.52 percent)**
- Average income in 2014: **\$204,845 (gross commission income)**
- Average number of transaction sides in 2014: **23.46**

Where do we find this raw talent? Here are some great rookie sources:

- **College of Business graduates:** Many start with us as interns.
- **Customers:** Our sales associates are always on the lookout for raw talent.
- **Hospitality industry:** Servers, bartenders, etc. know how to deliver hospitality.
- **Athletes, coaches, former military:** They have a work ethic, are disciplined, and follow a system.
- **Police officers, especially investigators:** They know how to ask questions and listen.
- **Nurses, schoolteachers, and moms:** They nurture, are patient, and deliver hospitality.

What do we look for in the interview? After 42 years of interviewing potential sales associates, I know that we cannot always pick the winners. Salespeople come in all shapes and sizes, and their results will surprise you. Instead, we look for the losers and make sure we don't hire them. We screen out the losers and give the rest a chance, as long as they meet these four criteria:

CHARACTER

How do we judge character? Much of it is subjective. Here are five things we look for that is our internal dialog during the interview.

1. Did they show up on time? (Indicates whether they do what they say.)
2. How are they dressed? Are they professional and prepared? What are their manners? Will they represent our company well?
3. Are they likable? Would I like to spend time with them? Will our customers?
4. Would I be proud to introduce them to Steve Murray as a new associate? Once they are trained, would I feel comfortable giving them a referral from Steve?
5. Trust: Am I comfortable giving them the keys to my car and my house?

A no answer to any of these questions disqualifies them from further consideration.

COMMITMENT

Specifically, we are looking for a commitment to a work ethic. We will probe deeply into their past work experience. One of our favorite questions is: *"Tell me about your very first job."* They will often assume we mean their first job out of college or high school. We mean their very first job as a kid. Their first job for money. Paperboy? Babysitting? Mowing lawns? Shoveling snow? Research by Dr. Gerald Bell at the Bell Leadership Institute indicates that those kids who have a job for pay prior to age 14 have a stronger work ethic. We have found this to be the case as well.

CAPACITY

Are they willing to make this a full-time career or do they want to be hobbyists? Do they keep their day job?
Do they have the capacity and commitment to go 100 percent full on?

COACHABILITY

Are they willing to follow our Ninja Selling System or are they focused on doing their own thing? We test them by giving them an assignment to bring to their second interview. Usually, this is their database. If they show up at the second interview without their database, it tells us two things. First, they didn't do what they promised (character issue) and second, they aren't coachable. They are screened out.

We believe that if we can find people of character; who have a work ethic; are willing to make this a full-time career, and are coachable; then we have a system to make them successful. If we can develop enough of them, they become our *secret weapons*. ●



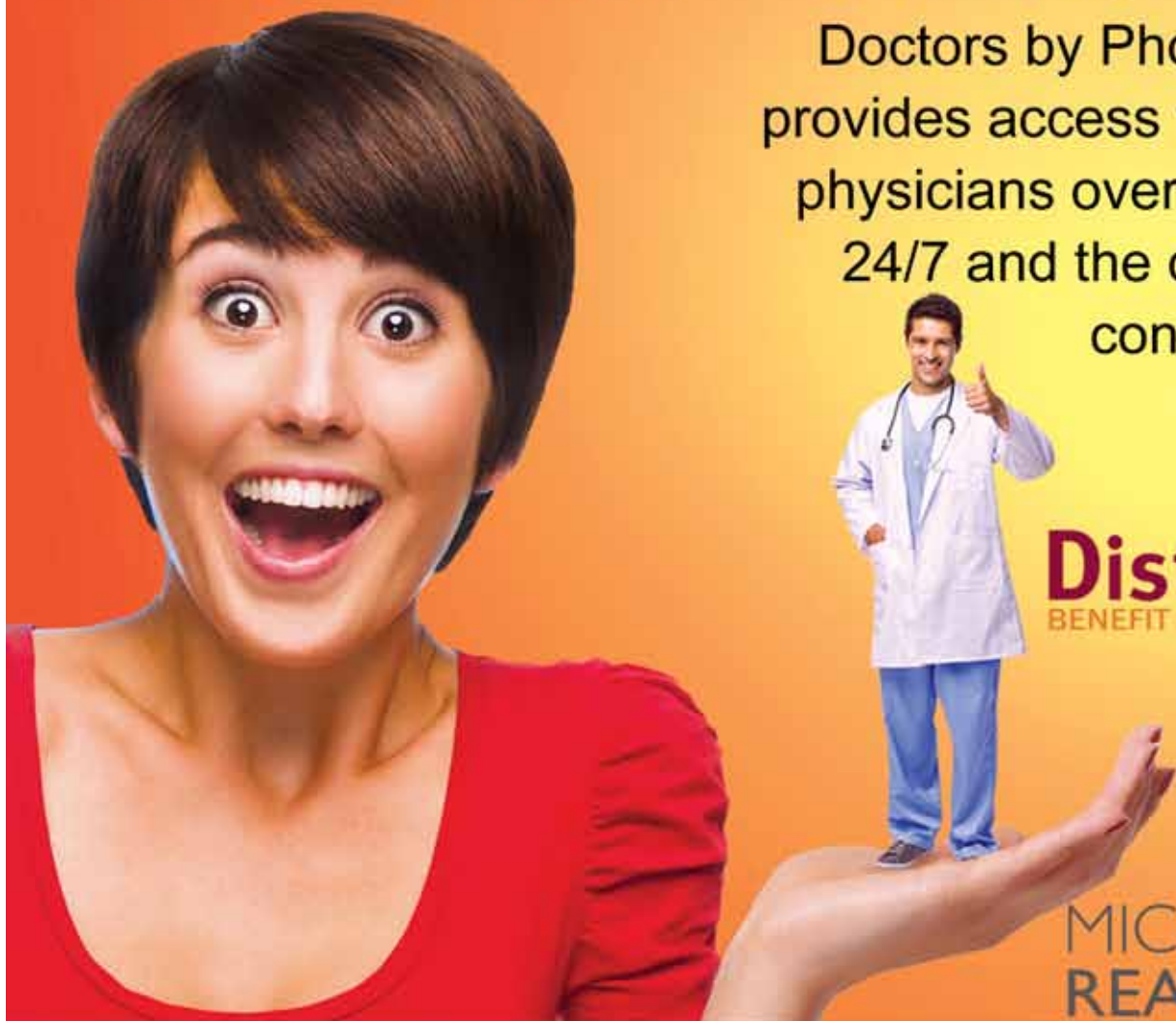
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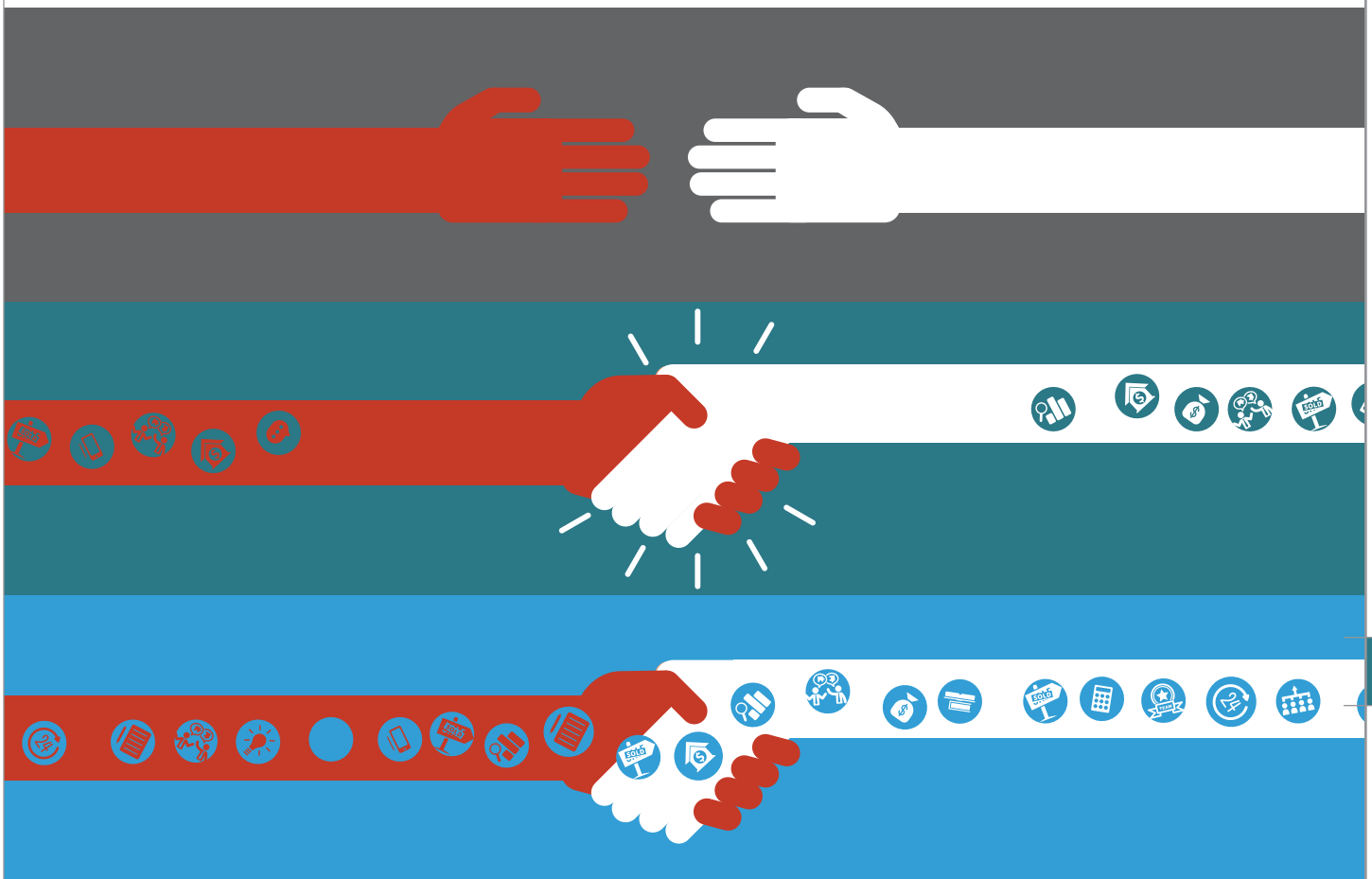
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the Impact of **LEADERSHIP** on **AGENT ADOPTION**

EXCERPTS AND ELABORATION FROM THE STUDY, "CRM + AGENT ADOPTION = PRODUCTIVITY"



09

BY TRAVIS SAXTON, VICE PRESIDENT OF TECHNOLOGY, REAL TRENDS, INC

What are some of the common pitfalls with real estate **CRM SYSTEMS** and how do **LEADERSHIP** and **COMMITMENT** **PLAY INTO THE EQUATION?**

REAL Trends recently published a study on the impact of agent adoption and Customer Relationship Management (CRM) use on productivity. In collaboration with Boston Logic, we identified what was or wasn't being used. For those agents that did use CRM, we found a statistically significant increase in productivity. Even without our findings, it was alarming that nearly all of the agents and brokers that participated in this study felt there was a significant increase in productivity, nearly 100 percent more productive than agents who don't use CRM. They may have been optimistic, as the actual percentage was just over 26 percent, but at least we have a collective sentiment that using a CRM does indeed increase productivity. So, if this is the case, why do we see only 50 to 60 percent agent adoption of CRM tools nationwide? At least it was up from 40 percent a year and a half ago.

This, then, is the basis of this article. What are some of the common pitfalls with real estate CRM systems and how do leadership and commitment play into the equation? Let's dive deeper into these critical areas by first taking a look at the technology itself.

LACK OF OVERSIGHT

One of the biggest flaws we see in many CRM systems is the lack of

oversight on the features that truly matter. In our study, both brokers and agents indicated that email and drip marketing campaigns are the most important features. When we look at most CRM systems, those that are not industry specific, such as Salesforce, InfusionSoft, and Microsoft Dynamics, do not adequately offer email marketing solutions in their base packages. Many offer plugins (for an additional cost) through their app stores and are nice marketing platforms, but they lack real estate-specific campaigns. This taxes the resources of either the broker's marketing department or the agent. This is one of the reasons agents aren't adopting CRM systems.

LACK OF FEATURES THAT MATTER MOST

Shifting our focus to real estate specific CRM systems, we are still seeing a lack of emphasis from technology providers on the features that matter most. This doesn't happen in all cases, of course, but many times the technology vendor puts too much time and energy into features that simply are not as important as a high-quality, email-marketing platform. This will impact adoption. We see brokers that offer real estate CRM systems get adoption rates in the 50 percent range, mainly due to the real estate-specific email marketing platform.

LEADERSHIP AND TRAINING

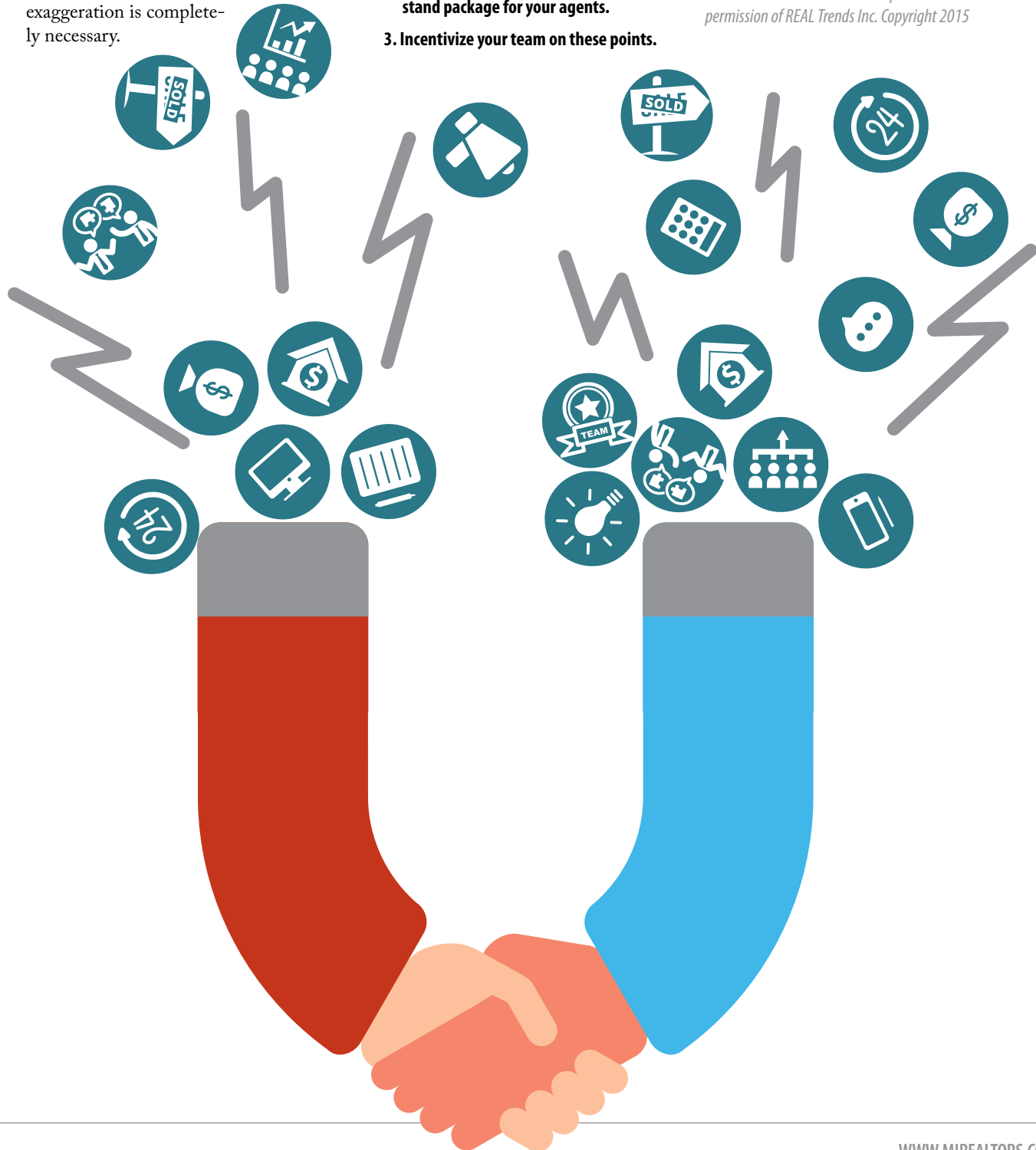
The last part of the equation is simply leadership, commitment and training. While these may be separate items, they intertwine on a multitude of areas. This is the single biggest factor in driving agent productivity through the use of technology systems, not just CRM systems. Here are a few common pitfalls we see in this vast area:

- 1. Failure of leadership to commit.** If the broker/owner or the office manager doesn't use the systems, then they are setting a bad precedent. That will ultimately feed into the commitment level of agents.
- 2. The rollout and hope strategy.** This is all too common in our space. The leadership is sold on a great new technology, and they put some emphasis on training early on; then sit back and watch. Adoption of any technology by a mass crowd takes time. Look at the cell phone. It took nearly 5 to 10 years since its inception to be adopted. CRM use is no different. This ties into the next point as well.
- 3. Lack of training.** Another common pitfall is the monthly or quarterly training sessions. These need to be weekly and, in some cases, more often. One company we work with instituted a drop-in, help desk that any agent can pop into and get CRM advice and help.
- 4. Focus of training.** Some firms have too broad a focus during training sessions. If you are hosting a technology training day, you have already lost. The training sessions need to be much more focused and goal-oriented. A rule of thumb we use is the 1-3-5 Rule. Focus on one goal. Your goal should not be "CRM Training" or "Getting Agent Adoption of our CRM," it should be something like, "5 ways our CRM can help increase your productivity." Name the training this as well. Place this title on the calendar. Then, shift to three specific strategies in the CRM, such as email marketing, contact management, and social media. Breaking those down into no more than five specific tactics or tasks. Any more than this and you will lose the attention of the crowd.



- 1. Have a staff meeting.** Create a manifesto that collects input from the whole team. This may include 5 to 10 technology and marketing initiatives for the company. Things like: roll out a CRM, get better adoption for our CMA tool, get agents to adhere to the 5- to 15-minute response window on all leads.
- 2. Create this in a clear, easy-to-understand package for your agents.**
- 3. Incentivize your team on these points.**

6. Reinforce this clarity REGULARLY. ●





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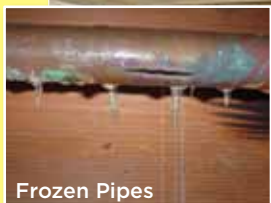
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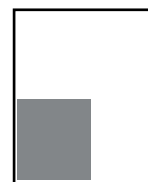
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SHARE THESE TIPS WITH YOUR CLIENTS!

choosing

LIGHT BULBS

based on
your fixtures

In the brave new world of light bulb choices, let your fixture be your guide.

BY KARIN BEUERLEIN, HOUSELOGIC.COM



Light bulb shopping used to be as simple as turning on a light switch. Today, it means weighing priorities for cost, energy efficiency, and aesthetics. Since you're probably replacing bulbs one fixture at a time, here are some best-bet picks for each type.

TABLE AND FLOOR LAMPS: *Halogen Incandescent*

- *Light shines in all directions, providing a warm glow.*
- *Dimmable.*
- *Looks most similar to the traditional incandescent.*
- *Uses 25% to 30% less energy than the incandescent.*

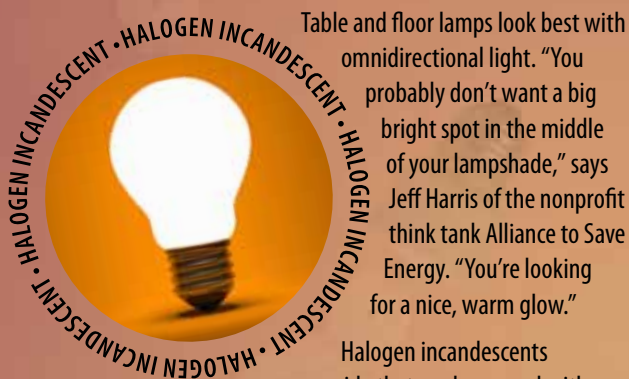


Table and floor lamps look best with omnidirectional light. "You probably don't want a big bright spot in the middle of your lampshade," says Jeff Harris of the nonprofit think tank Alliance to Save Energy. "You're looking for a nice, warm glow."

Halogen incandescents provide that, and are good with dimmers. You may be able to find a dimmable compact fluorescent lamp (CFL), but it's common to experience humming or flickering at low light levels.

For non-dimming lamps, CFLs are great if you can find a color temperature you like.

- *Color temperature is measured on a warmth (candlelight) and coolness (blue sky) scale. LEDs, CFLs, and halogen incandescents all come in a wide range of color temperatures.*
- *Buy covered globes or A-lamps — bulbs shaped like old-fashioned incandescents — rather than spirals if you can see the bulb and aren't a fan of the spiral look.*
- *Otherwise, just go with halogen incandescents and don't sweat the fact that CFLs are more energy-efficient than halogens. You're still saving over a traditional incandescent and the glow is pretty.*

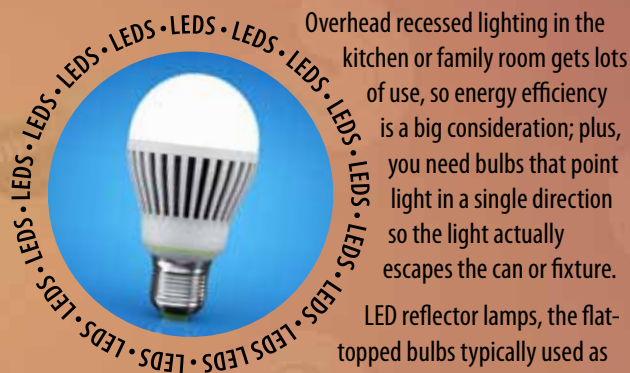


So why not LEDs? LEDs point light in a single direction, although new LED-containing A-lamps are designed to compensate for that by using prisms or special coatings. But, all that extra technology makes them expensive — probably not worth it for your bedside lamp, which isn't a big energy hog anyway."

RECESSED CEILING LIGHTS (KITCHENS, FAMILY ROOMS):

LEDs

- *Energy efficiency is key in high-use areas.*
- *80% energy savings over incandescents.*
- *Bulb life (up to 50,000 hours) much longer than CFLs.*
- *Shine light a single direction — rather than glowing.*
- *Brighter than halogens or CFLs.*



Overhead recessed lighting in the kitchen or family room gets lots of use, so energy efficiency is a big consideration; plus, you need bulbs that point light in a single direction so the light actually escapes the can or fixture.

LED reflector lamps, the flat-topped bulbs typically used as floodlights or spotlights, are designed to shine light in a single direction. And that means you'll get a brighter look with less energy output than CFLs or halogens.

New conversion kits let you put LEDs into your old can fixtures designed for screw-in bulbs.

A word of caution: LEDs don't dim well unless they're connected to a wall-dimming switch specifically designed for them. You can get LED-compatible dimmers at big-box stores starting at around \$30... and the same goes for CFLs.

If you do decide on CFLs or halogen incandescents for a warmer quality of light:

- *Buy reflector-lamp style bulbs, not A-lamps or globes, so the light isn't trapped inside the can.*
- *If you have multiple cans, you can probably get away with a lower-wattage halogen incandescent reflector bulb and save energy while still having plenty of light.*

BATHROOM VANITY FIXTURE: *Halogen Incandescents*

- *Better for showing color and texture than CFLs or LEDs.*

Lighting over the bathroom vanity is a highly personal lighting choice, especially when there are women in the house. If the light isn't flattering to your skin tone or makes it hard to apply makeup, you'll be dissatisfied.

That's why halogen incandescents, with their pleasing light, are a good bet.

However, if the bathroom where you primp is a high-traffic area and you're concerned about energy use, experiment with CFLs in a warm color temperature and get a separate lighted mirror for your beauty routine.

STAIRWELL LIGHT: *LEDs*

- *Inconvenient fixtures are a good place to use long-lasting LEDs.*

How many times are you willing to drag out a ladder and change the bulb in a tough-to-reach fixture? Take advantage of LEDs' long life by putting them in spots you don't want to revisit often:

- *Fixtures hanging in stairwells*
- *Track lighting suspended from a cathedral ceiling*
- *Cabinets*
- *Ledges*
- *Tray ceilings*
- *Recessed areas*

OUTDOOR FLOODLIGHT: *Halogen Incandescent*

- *For security and efficiency, use fixtures with daylight/occupancy sensors.*
- *Since outdoor lights aren't used often, it's not worth investing in LEDs.*
- *CFLs don't come on easily in cold weather.*
- *CFLs don't last as long as advertised when turned on and off frequently.*

If you don't want to get new fixtures with sensors, you can buy sensor attachments that screw into each socket.

RARELY USED FIXTURES: *Low-Cost Bulbs*

- *Opt for what's easy on your wallet.*
- *Use the most energy-efficient bulbs, such as LEDs, in most-used fixtures.*

If the total yearly hours for the fixtures in your closets, dining room chandeliers, and the naked bulb in your attic are low, go cheap. •

“ Since you're probably replacing bulbs one fixture at a time, here are some best-bet picks for each type. ”



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appraisal reporting: **HOW MUCH** is **ENOUGH?**

BY MICHEAL R. LOHMEIER



One of the significant changes that occurred within the 2014-15 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is the change from three reporting options to two reporting options. Currently then, the reporting options include (1) Appraisal Report and (2) Restricted Appraisal Report.

Fundamentally, the substantive contents of an Appraisal Report mirror that which we used to refer to as a Summary Appraisal Report, while the substantive contents of a Restricted Appraisal Report mirror the contents of that which we used to refer to as a Restricted Use Appraisal Report. Standards Rule 2-2(a) addresses the minimum communication elements for an appraisal report, while Standards Rule 2-2(b) addresses the minimum communication elements for a restricted appraisal report.

The third option that used to be available was the Self-Contained Appraisal Report, which has been eliminated entirely.

The differences between the two reports is simple. If a client is the only intended user for a report and fundamentally just needs facts and conclusions to reach a decision, then a Restricted Appraisal Report may be sufficient. But if the intended user includes parties other than a client, then an Appraisal Report is required as it includes information leading to how the appraiser's conclusions were developed.

USPAP provides the minimum substantive contents of the two reporting options. A Restricted Appraisal Report may only provide the facts underlying the appraisal problem and the appraiser's conclusions. It does not necessarily have to provide the information for the appraiser's client to understand either the appraiser's analyses or reasoning for any conclusions. Appraisal Report, however, provides, at a minimum, a summary of the appraiser's analysis and the reasoning underlying his/her conclusions.

This story is brought to you by MiCREA

The Michigan Council of Real Estate Appraisers was created in 2004 with one purpose: to serve Michigan's Realtor®-appraisers through advocacy, benefits, data resources, and educational offerings. The Council, steered by a committee of fifteen appraisers representing more than 2800 members, is Michigan's strongest voice for the rights and needs of appraisers in the state. The services and value MiCREA provides to its members complement in numerous ways the services provided to members by their local associations and appraisal organizations.



HOW MUCH IS ENOUGH?

I'm often asked how much information is enough to put in each type of report. Well unfortunately, I don't have a one-size-fits-all answer. My response has always been "it depends." It depends on the inherent requirements that envelop the assignment's intended use and the expectations for the assignment's intended user.

“ Fundamentally, the substantive contents of an **APPRAISAL REPORT** mirror that which we used to refer to as a **SUMMARY APPRAISAL REPORT**, while the substantive contents of a **RESTRICTED APPRAISAL REPORT** mirror the contents of that which we used to refer to as a **RESTRICTED USE APPRAISAL REPORT**. ”

Although USPAP provides the essential elements for each type of report option, these elements represent minimums and it's the appraiser's responsibility to recognize *when* and *how* additional information is needed to meet the intended use of the assignment and the intended user's ability to understand the report properly.

- **Intended use** is defined by USPAP as "the use or uses of an appraiser's reported appraisal or appraisal review assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment."
- **Intended user** is defined by USPAP as "the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser on the basis of communication with the client at the time of the assignment".

So, any appraisal report prepared must meet both the requirements of the assignment's intended use and the expectations, or needs, of its intended user.

INTENDED USE

Every appraisal problem requires the appraiser to identify the intended use of the assignment. If the assignment is for a generally regular use, such as collateral valuation for financial institution decision-making or relocation, there are pre-developed forms the appraiser uses to report its findings, analyses and conclusions. It's the appraiser's responsibility to understand how and why these forms are created to ensure that they are properly prepared. Further, it is the appraiser's responsibility to add to these forms to ensure they meet all USPAP related requirements as well as meeting the legitimate needs for their use.

For an assignment where a form is not pre-developed, such as divorce, property tax appeal and financial reporting, it is the appraiser's responsibility to research the needs for the use to ensure that sufficient information is being provided. In many cases these types of uses will require a very specific and sophisticated knowledge of current policies and past practices to ensure meeting their legitimate needs.

INTENDED USER

All appraisal reports must be communicated in a manner that is not misleading. While some intended users will create forms to aid in the processing of appraisal reports, such as bank reviewers, it's imperative for an appraiser, in reviewing these reports to still understand the thought process involved and what the users are looking for.

For assignments where the intended users do not rely on pre-developed forms, such as in the case of property tax appeals, the appraiser needs to review any communications

from these user groups to determine what kind of information, and the degree of information, is needed for them to make prudent and knowledge decisions based, again, on understanding the report properly.

REGULAR USERS AND APPRAISER'S PEERS

One of the most helpful ways an appraiser can better understand how much information is needed is to interview regular users and his/her appraiser peers. Go to meetings where regular users congregate and discuss their trials and tribulations regarding appraisal reports. Whether it's a meeting, conference or even a simple lunch-and-learn, these interactions can help you understand the needs underlying the intended use of an appraisal report as well as the user expectations.

Another way an appraiser can better understand how much information should be provided is to develop relationships with his/her appraiser peers concerning similar assignments. Attending organizational meetings, classes, and reading appraisal-related periodicals can help explain the problems and potential solutions for assignments. ●



Micheal R. Lohmeier, MMAO(4), FASA, MAI, SRA, RES is the City Assessor for the City of Auburn Hills.



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Attorney Has Final Say

If the Michigan Realtors® Legal Hotline is any indicator, it would appear that more and more Realtors® in Michigan are inserting a new condition in buy-and-sell agreements for the benefit of their seller client. This condition generally provides that the seller's obligation to complete the transaction is subject to the review and approval of the seller's attorney on or before a specific date. Realtors® have inquired as to whether such a provision is an enforceable condition and, if so, what limits are there, if any, on the seller's attorney's right to approve or disapprove the terms of a Purchase Agreement. For once, Michigan case law provides very specific guidance on these issues.

In this case, the Sellers owned a party store and land along with fixtures, equipment and a liquor license. Apparently, the Sellers were amenable to selling a combination or all of this property. On October 11, 2004, Buyer One submitted an offer for \$55,000 for the purchase of the liquor license and the fixtures. On October 14, 2004, the Sellers accepted Buyer One's offer to purchase the liquor license and the fixtures. However, the Sellers' acceptance was conditioned upon the Sellers' attorney's approval of the Purchase Agreement. The following condition precedent was imposed by the Sellers:

This Purchase Agreement is subject to the review & approval of attorney Lynn Stedman, on or before October 22, 2004.

At the time the offer was accepted with a condition by the Sellers, Attorney Stedman was on vacation. In the meantime, the Sellers were presented with a second offer from Buyer Two who offered to purchase not only the liquor license and fixtures, but also the real property for the total amount of \$250,000. The offer from Buyer Two was conditionally accepted by the Sellers. The Sellers' acceptance was also conditioned upon approval of the second Purchase Agreement by Attorney Stedman.

Upon his return from vacation, Attorney Stedman reviewed both Purchase Agreements. Not unexpectedly, Attorney Stedman approved the Purchase Agreement with Buyer Two (for \$250,000) and disapproved the Purchase Agreement with Buyer One (for \$55,000). By his own admission, Attorney Stedman approved the Purchase Agreement with Buyer Two because it was a much higher offer. The Sellers

then refused to proceed forward with Buyer One and tried to close their transaction with Buyer Two. Buyer One immediately sued the Sellers for breach of contract and for specific performance, *i.e.*, for a court order to require the Sellers to sell the property to Buyer One.

The Trial Court found in favor of Buyer One. The Trial Court found that by soliciting and submitting the competing Purchase Agreement from Buyer Two to Attorney Stedman for review, the Sellers had placed an obstacle in the way of Attorney Stedman's approval of the Purchase Agreement with Buyer One and hindered the fulfillment of the condition precedent (*i.e.*, Attorney Stedman's approval of Buyer One's Purchase Agreement). The Trial Court found that where there was a condition precedent, such as attorney approval, the Sellers have an implied agreement that they will not place an obstacle in the way of satisfaction of that condition. The Trial Court determined that it was an improper action by the Sellers in obtaining the Purchase Agreement from Buyer Two as it hindered Attorney Stedman's possible approval of the Purchase Agreement from Buyer One.

The Michigan Court of Appeals disagreed and reversed the finding by the Trial Court. The Court of Appeals found that the attorney approval clause was a "condition precedent." A condition precedent "is a fact or event that the parties intend must take place before there is a right to performance." If the condition is not satisfied, then there is no claim against a party for failure to perform the contract. However, a seller cannot avoid liability on a contract for failure of a condition precedent where he or she caused the failure of the condition. Under the common law, there is an implied agreement that the person imposing the condition precedent (in this case the Sellers) will take no steps or action to put an obstacle in the way of the happening of the event (*i.e.*, in this case Attorney Stedman's approval of the Purchase Agreement with Buyer One).

The Court of Appeals found that the attorney approval clause was clear and unambiguous. The clause meant what it said – the Sellers' acceptance of Buyer One's offer was subject to their attorney's review and approval. There was no limitation on what aspects or terms of the Purchase Agreement were subject to the attorney's review and approval. Further, the attorney



was authorized to review and approve (or disapprove) any part of the contract or of the entire Purchase Agreement as a whole. Since the parties did not impose any limitation on the scope of the attorney's review and approval, the Court of Appeals refused to do so. If the parties wanted to limit Attorney Stedman's scope of review, they could have put it in the Purchase Agreement.

Further, the Court of Appeals determined that there was no finding by the Trial Court that the Sellers otherwise actively interfered with the attorney's approval, such as instructing Attorney Stedman to disapprove the Purchase Agreement with Buyer One. Instead, the Purchase Agreement with Buyer One required the Sellers to do only one thing which was submit the Purchase Agreement in a timely manner to Attorney Stedman for review and approval. There was nothing in the Purchase Agreement with Buyer One which prevented the Sellers from submitting other offers to Attorney Stedman before he made a decision on the Purchase Agreement with Buyer One. The Court of Appeals determined that the Sellers had performed in complete conformity with the terms of the Purchase Agreement with Buyer One.

Buyer One also contended before the Court of Appeals that the submission of the Purchase Agreement with Buyer Two to Attorney Stedman constituted a breach of the implied agreement of Sellers with Buyer One that the Sellers would take no action to create an obstacle for Attorney Stedman to approve the Purchase Agreement with Buyer One. Buyer One also claimed the Sellers acted in bad faith. The Court of Appeals reviewed case law from around the United States and found that courts had consistently held that the submission of a second, competing Purchase Agreement to an attorney for review at the same time the attorney was reviewing another Purchase Agreement, did not create an obstacle or hindrance by the Sellers which would have caused a waiver by the Sellers of the condition precedent (*i.e.*, Attorney Stedman's approval) in the first Purchase Agreement. In addition, the Court of Appeals found that the Sellers did not act in bad faith in submitting the Purchase Agreement with Buyer Two to Attorney Stedman at the same time the Purchase Agreement was with Buyer One was submitted to him.

The Court of Appeals concluded that when "dickering" as that term is used in our system,

there is nothing legally impermissible in trying to better an offer that has only been conditionally accepted by a seller. In sum, an unambiguous attorney review and approval clause such as the one in this case, is totally enforceable in Michigan. If, for example, a buyer wants to limit the condition to prevent other offers from being submitted to an attorney for review and approval, he or she needs to put that limitation in the Purchase Agreement.

COLLECT THOSE EMDS

The vast majority of form buy-and-sell agreements in Michigan contain a provision that requires the buyer to deposit an earnest money deposit ("EMD") upon seller's acceptance of the offer. Traditionally, the EMD has been collected by the Realtor® when the accepted offer is presented to the buyer for execution to evidence the buyer's receipt of acceptance (casually known as bottom-lining). However, more and more offers are being made, delivered, accepted and returned to a buyer for receipt of acceptance by electronic means. The elimination of the physical delivery of the accepted offer to the buyer is causing some Realtors® to fail to timely obtain the EMD from the buyer as required by the buy-and-sell agreement.

The fact that transactions now are being done electronically does not change the obligation of a Realtor® to timely collect an EMD. If a transaction fails and the seller believes the buyer defaulted, then under a typical clause regarding an EMD, the seller may claim the EMD as damages. If the seller discovers that the EMD was never collected from the buyer, then the seller may well pursue the Realtor® who failed to collect the EMD and failed to advise the seller there was no EMD on deposit. Historically, these cases have resulted in the seller obtaining the EMD from the Realtor® and the brokerage firm with whom the Realtor® was affiliated.

Realtors® need to adjust their checklists and best practices to conform with any new way of doing business. This may include adding "collect EMD" to a current checklist. The failure to do so could be expensive.

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