

A publication of Michigan Realtors®

# MICHIGANREALTOR®



## *legal hotline* **REVIEW**

**PLUS**

Rules of Supervision  
President's Report      Capitol Report

MICHIGAN REALTORS®  
**THE CONVENTION**  
Grand Traverse Resort & Spa, Acme | Sept. 28-30, 2021  
**2021 Convention Recap**

*SPECIALIZED EDUCATION TO WORK WITH*  
**HOMEBUYERS**

ACCESS TO EXCLUSIVE MEMBER BENEFITS  
PROVIDE *EXTRAORDINARY* SERVICE  
INTERNATIONAL REFERRAL NETWORK

**ADVOCATE**

*FOR YOUR BUYER-CLIENTS*  
INCREASED EARNING *POWER*  
**ACCREDITED BUYER'S REPRESENTATIVE**

Earn your ABR® Designation.  
Get started at [abr.realtor](https://abr.realtor).



COVER STORY

- 06 **Top Legal Hotline Questions of 2021**  
Our hottest legal queries of the year
- 10 **The Convention Review**  
The ins and outs of this year's dynamic Convention
- 14 **Supervision of People and Places**  
Supervisory dos and don'ts for brokers  
by Gail A. Anderson, Esq.

## Features

## Departments

- 02 **President's Report**  
A backward look at forward movement  
by E'toile L. Libbett
- 04 **Capitol Report**  
Beneficial legislative tricks of the trade  
by Brad Ward, Esq.

11.21

{ NOVEMBER | TWO THOUSAND & TWENTY ONE | VOLUME TWENTY | NUMBER FOUR }



BY E'TOILE L. LIBBETT

## A Backward Look At Forward Movement

This has been such a powerful year for me as a person, a Realtor® and a leader. I have always felt most comfortable in a leadership role where the scale is such that I can truly get to know the people that I am serving. With the role of Michigan Realtors® President, there was the unavoidable reality that I wasn't able to meet every one of our 35,000 plus members. Understanding that, I really wanted to make every outreach opportunity impactful. In each speech, article or media request, I wanted the message of community, accountability and embracing the high purpose of our profession to resonate beyond a specific audience in a specific venue. I can only hope that the readers of this column feel that I hit the mark!

As this is my final President's Report in the Michigan Realtor® Magazine, it is nearly impossible to not look back over the course of this year and reflect upon my experience. At the 2020 Virtual Convention, we opened my swearing in with the Marvin Gaye song "What's Going On?" It was intended as a conversation starter and to ask our members to look inward and reach outward, with compassion and intellectual curiosity. I loved starting my Presidency with that kind of challenge. I think a key part of leadership is to inspire and to ask tough questions. In my experience, it's a great way to foster connection while breaking down barriers to communication. To put it differently – to highlight the humanity that is the hallmark of "association." There is no doubt that we associate with people for a variety of different temporary reasons. However, we remain associated with people because we move beyond the temporary and we celebrate

our commonalities, our shared passion and our humanity. And, at the risk of adding even more of a musical backdrop to my leadership journey, I believe that we find strength in association by embracing, as Aretha Franklin famously sang in Rolling Stone Magazine's #1 song of all time, our mutual R-E-S-P-E-C-T for one another.

As Michigan Realtors®, we have chosen to associate for so many wonderful and outward-facing reasons. Our great profession, the way we make a living, resonates positively beyond our own dinner tables, into the lives of countless clients and the communities we call home. And while I was raised to understand that as an individual, I *can* make a difference, I was also raised with the *spirit of community* – to know that as members of this association, we can take positive change and add a multiplier. This was a guiding principle for me this year. And I hope it is one that will reverberate for others as they become more involved in the great work of Michigan Realtors®. Whether mobilizing housing resources for our military veterans, issuing the challenge to all members to not only embrace fair housing education but to become the teacher as well or finalizing the new Michigan Realtors® Headquarters as a remarkable embodiment of the impact that we can all make together – the power of association is undeniable.

And as I turn this column over to 2022 Michigan Realtors® President James Iodice, I want to leave you all with the lasting sentiment that meaningful leadership is really about serving people and finding connections. That's how we get to the bottom of "What's going on" and that's how we establish and maintain mutual R-E-S-P-E-C-T.

I'll be honest, I am going to miss this enriching experience. But I take great comfort in the fact that, in having the experience, I was surrounded by such kindness and purpose. Thank you all for making this year so magical. I know our shared experience doesn't end here. We still have much to do. And I look forward to seeing where our collective strength takes us next. *AIM HIGH!* ●

“

I think a key part of **LEADERSHIP** is to **INSPIRE** and to **ASK TOUGH QUESTIONS**. . .

it's a great way to **FOSTER CONNECTION** while

**BREAKING DOWN BARRIERS** to communication.”

”

**PRESIDENT**

**E'toile L. Libbett**  
GRI, SRES, AHWD, e-Pro  
GMAR

**PRESIDENT-ELECT**

**James Iodice**  
PSA, C2EX, E-pro, MRP  
GMAR

**TREASURER**

**Natalie Rowe**  
ABR, CDPE, GRI, SFR  
GKAR

**CHIEF EXECUTIVE OFFICER**

**Robert M. Campau, Esq.**  
RCE, CAE  
[rcampau@mirealtors.com](mailto:rcampau@mirealtors.com)

**EDITOR/ADVERTISING**

**Joe Kras**  
MBA, SAG-AFTRA  
[jkras@mirealtors.com](mailto:jkras@mirealtors.com)

**CHANGE OF ADDRESS/UNSUBSCRIBE**

**Kaetana Beech**  
[kbeech@mirealtors.com](mailto:kbeech@mirealtors.com)

2021 Michigan Realtors® Board of Directors: District 1 Christopher Germain, (Upper Peninsula Association of Realtors®); District 2 Michelle Teitsma, (West Michigan Lakeshore Association of Realtors®); District 3 Ingrid Nelson, (Greater Regional Alliance of Realtors®); District 4 Rick Loose, (Midland Board of Realtors®); District 5 Ryan Eashoo, (East Central Association of Realtors®); District 6 George Lucas, (Southwestern Michigan Association of Realtors®); District 7 Mark Baker, (Lenawee County Association of Realtors®); District 8 Beth Graham, (Greater Lansing Association of Realtors®); District 9 Jane Lowell, (Greater Metropolitan Association of Realtors®); District 10 Katie Weaver, (Greater Metropolitan Association of Realtors®); District 11 John McArdle, (Greater Metropolitan Association of Realtors®); District 12 Sandi Smith, (Ann Arbor Area Board of Realtors®); District 13 Fred Pickens, (Detroit Association of Realtors®); District 14 Kamal Cheeks, (Detroit Association of Realtors®); Past President Pat V. Combs (Greater Regional Alliance of Realtors®); Large Office John North, (Greater Metropolitan Association of Realtors®); Large Office Adam Paarlberg, (Greater Regional Alliance of Realtors®); Jason Makowski (CAR) (MiCAR Representative); Cyd Debol (CBOR) (MiCAR Representative); MRAEC Rep. Alan Jeffries (Southwestern Michigan Association of Realtors®)

Michigan REALTOR® provides information about the real estate profession and news of Michigan Realtors® and its members. Opinions expressed in signed feature articles are those of the author and do not necessarily reflect the viewpoint of Michigan Realtors®. Advertising of property, services or products herein does not imply endorsement by Michigan Realtors®.

Michigan REALTOR® (ISSN 1053-4598, USPS 942-280) is published four times per year (January, March, August, 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](http://www.mirealtors.com): e-mail [contact@mirealtors.com](mailto: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

**January 27-28, 2022**

**Achieve**  
Westin Book Cadillac, Detroit

**April 27, 2022**

**Broker Summit**  
The Inn at St. John's, Plymouth

**September 21-23, 2022**

**The Convention**  
Amway Grand Plaza Hotel & DeVos Place, Grand Rapids

Find Michigan Realtors® on your favorite social networking sites:



**Praedium Realty**  
Robin Stressman & Associates  
[www.mtleasant.net](http://www.mtleasant.net)

**Robin Stressman**  
Broker / Owner  
[robin@mtpleasant.net](mailto:robin@mtpleasant.net)

209 E. Chippewa St.  
Mount Pleasant, MI 48858  
989 773-4387

# ANNOUNCEMENTS

**2021 STATEMENT OF OWNERSHIP**





## A Sunset for First-time Homebuyers

Sunsets can be beautiful and awe-inspiring. We snap photos of them on vacation. We plan excursions to the beach or highest point to take them in. Regardless of your disposition, I believe it's safe to say that we have all enjoyed a sunset at some point in our lives.

Then there are legislative sunsets. Much less awe-inspiring, more bureaucratic than beautiful, and the only pictures of these are the small print you can't read on the bill, with the Governor and legislator smiling as it's signed into law. Legislative sunsets have become a common budgeting tool in the Michigan legislature, typically in laws dealing with tax deductions or credits.

Legislative sunsets operate as a timer on how long a tax incentive program is allowed to run. They provide a certain date by which a policy expires. In the case I'm referring to, it's when a business or individual is no longer able to avail themselves of the tax deduction or credit. The effect of a sunset is to provide the legislature the opportunity to review a tax program based on its success, utilization, and cost. Not successful in achieving its goal: the program ends. Underutilized: the program ends. Too expensive: the program ends. If, however, the program is spot-on in achieving its intended policy, the legislature has the option to extend the sunset (push it out to a later date) or eliminate the sunset (allow the program to continue ad infinitum).

Back in the bad old days of Michigan's Single Business Tax (SBT) and budget deficits, the state was hemorrhaging money in the form of long-lasting legacy tax credits that paid out taxpayers year after year. Even after the SBT was eliminated in favor of the Michigan Business Tax (MBT) these credits continued to be paid out to companies long after their benefits had run their course. Tax expenditures, money given back or lost by the state, have a budget impact. Year after year of deficits, the budget balancing under self-proclaimed "nerd" Governor Rick Snyder, produced favoritism towards sunsets.

We've worked with sunsets in past legislation. Some were extended and some were not. You may remember a bill that we have worked on over the years that allows county treasurers to create property tax repayment plans for homeowners rather than face tax foreclosure. That bill passed about 8 years ago, and the sunset has been extended twice and the last, in 2019, is set to sunset on June 30, 2026. Another package of bills,

Good Jobs for Michigan, provided tax incentives to business hiring workers when moving to, or expanding in, Michigan. That law was enacted in August of 2017 and was allowed to sunset on December 31, 2019.

As with these previous tax policies, a sunset appears to be on the horizon for the Michigan First-time Homebuyer Savings Account bills. As a reminder Senate Bills 145 and 146, sponsored by Senator Ken Horn (R- Frankenmuth) and Senator Jim Runestad (R- White Lake), and House Bills 4289 and 4290, Sponsored by Representative John Damoose (R- Harbor Springs) and Representative Mari Manoogian (D- Birmingham) set up a tax incentivized savings account program for the purchase of first-time homes in Michigan. These bills were previously vetoed by Governor Rick Snyder and have never been favorites of the Michigan Department of Treasury. Despite these bills passing their respective sides of the legislature by overwhelming and bipartisan support, Treasury maintains the belief that this program will not be successful and woefully underutilized.

Michigan Realtors® is not looking for another veto on these bills, so throughout the summer staff met with the Governor's office and Treasury to find a way forward, making the Department comfortable and secure the Governor's signature. What has been agreed upon is a 5-year sunset on the First-time Homebuyer Savings Account program. To be clear, the sunset only applies to the annual deductibility of contributions to the account (\$5,000/year for an individual, \$10,000 for married filing jointly). The account would still be able to grow with tax-free interest, so long as it is used for a first-time home purchase.

Though the sunset is not ideal, it gets this program started and gives it the opportunity to thrive. The program offers a dedicated savings program to purchase a first-time home and gives our talented young folks starting their first jobs a leg up in becoming a homeowner. The Michigan Realtors® Public Policy Committee wants a program that works, so if we don't meet our policy goal, the program is underutilized or if it has a significantly larger fiscal impact that we believe, the program will end. However, the unique tax incentive combined with Realtors® across Michigan acting as ambassadors will make this program a success and have us back in front of the legislature looking for an extension before the sunset expires.

To get REALTOR®  
PARTY MOBILE ALERTS,  
text "Realtor" to 30644.



The effect of a  
sunset is to provide  
the legislature the  
**OPPORTUNITY  
TO REVIEW** a  
tax program based  
on its **SUCCESS,  
UTILIZATION,**  
and **COST.**



Right now, the Senate Bills have moved through the House Tax Policy Committee and await a vote on the House Floor. It is our hope that the House bills will move through the Senate Finance Committee in the upcoming weeks, with the final versions hitting the Governor's desk for her signature before Thanksgiving. And, like a big Thanksgiving meal, it would be nice to get this issue off our plate.

I think it's about time to sunset this Capitol Report before I make more bad jokes.

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



## Go big with a land loan!

This season, grab hold of the great outdoors with a recreational land loan from GreenStone. With affordable terms on unlimited acres, it's never been easier to hunt, camp, hike or just get out there on your very own land.

To get started, and qualify for a special fall loan rate, contact your local GreenStone team today.

**800-444-3276**


 **GreenStone**®  
FARM CREDIT SERVICES  
[www.greenstonefcs.com](http://www.greenstonefcs.com)




# TOP *legal hotline questions* OF 2021

As 2021 comes to a close, its time again to review and reflect on the year behind us. This article will revisit this year's most frequently asked questions at the Michigan Realtors® Legal Hotline.



 I have a property that I am trying to move. To generate interest, I plan to offer tickets to a Detroit Red Wings game to anyone who refers a buyer to me, provided that the sale successfully closes. Can I do this?

 No. This would be considered an illegal referral fee. The Occupational Code prohibits such a payment to anyone who is not licensed. It would, however, be permissible to offer the tickets to the actual buyer of the home. The Department of Licensing and Regulatory Affairs (LARA) has taken the position that it is not a violation of the Occupational Code to offer something of value (or make a payment) directly to a buyer or seller.



My buyer submitted an offer. The listing agent texted me and told me that the seller had accepted my client's offer and that she would be emailing the final signed purchase agreement later that same day. Two hours later, the listing agent called me and told me the seller had accepted another offer. Doesn't my client have a binding contract?



No! The buyer does not have a binding agreement until there is a written contract that is signed by both parties. Furthermore, the seller's acceptance must be delivered to the buyer. Until this happens, there is no binding contract.



My sellers are not going to provide a Seller's Disclosure Statement because they have never lived in the home and have only used it as a rental property. Is this ok?



No. Sellers are not exempt from the requirements under the Seller Disclosure Act just because they have never lived in the property. Sellers who have owned and leased a residence must still fill out the Seller's Disclosure Statement to the best of their knowledge. It's unlikely that a property owner who has leased the residence will know absolutely nothing about the condition of the property.

**?** I represent a buyer who has entered into a purchase agreement. My buyer was not satisfied with the home inspection and has decided not to buy the house. The purchase agreement clearly states that if the buyer is dissatisfied with the inspection report, he can terminate the contract and receive a full refund of his earnest money deposit. The sellers disagreed with the buyer and have stated that they want to keep the earnest money deposit. I'm of the opinion that I can release the money to the buyer based upon the clear language of the purchase agreement. Am I correct?

**!** No. If there is a dispute between the buyer and the seller over the deposit, the law requires that the money stay in a broker's trust account until there is either an agreement between the parties or a court order. Since the sellers are making a claim to the earnest money, you cannot release the money to the buyer. Even though it appears likely that the buyer would prevail in any litigation over the earnest money deposit does not mean that you can release the earnest money to the buyer over the objection of the sellers.

**?** I represented the buyer in a transaction that did not close because the seller defaulted. I clearly produced a ready, willing and able buyer. The listing broker refuses to pay me my commission. Can I collect a commission from the seller instead?

**!** No. A buyer's agent cannot collect a commission directly from a seller, because the buyer's agent does not have a contractual relationship with that seller. A cooperating broker's right to a commission comes through the MLS and is only enforceable against a listing broker (not the listing broker's seller-client). Remember also that a cooperating broker does not have an enforceable claim to a commission if the transaction does not actually close. This is the case even if the cooperating broker produced a "ready, willing and able" buyer.



**?** My seller just received an offer that states that the buyer will submit the earnest money deposit within 1 week after there is a binding purchase contract in place. Is this legal? I thought that the earnest money deposit had to be made within two banking days.

**!** This is permissible. A buyer and seller can make any agreement they want with regard to when the buyer will deliver the earnest money deposit. The Occupational Code's two banking day rule only applies to money already in the hands of the broker. If the broker is holding the earnest money deposit check, the broker must deposit that check within 2 banking days after the broker receives notice that there is a binding purchase contract in place.

**?** I represent a seller in a transaction. The parties have a binding purchase agreement that included a date for closing. The buyer has experienced delays in obtaining financing and the closing deadline has now passed. The buyer wants to extend the closing date, but my seller wants to terminate the contract and accept a back-up offer. What can be done here?

**!** For questions about the enforceability of a contract deadline, refer your clients to legal counsel. The current law on this question is unclear and it would be appropriate for a Realtor® to give a buyer or seller advice in this situation. You do not want to put yourself in a position where you are asked to give legal advice to a client.

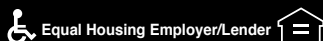
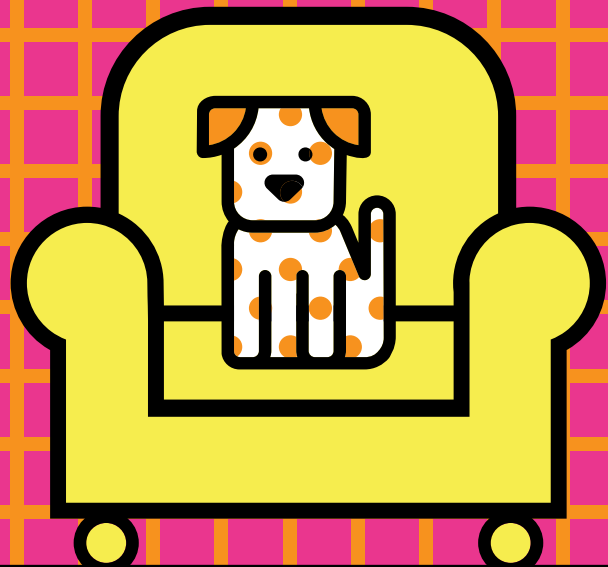
Do you have a legal question? Reach out to the Legal Hotline at 800.522.2820. This service operates Monday – Friday (9 am – 3 pm) and is available exclusively to Michigan Realtor® members.

To read more frequently asked questions from the Michigan Realtors® Legal Hotline, be sure to check out the 2021 Legal Hotline Companion. This annual publication is compiled by your Michigan Realtors® legal counsel and is available at the “Legal Resource” page at <https://law.mirealtors.com/legal-resources/>

**You've got clients.  
We've got  
home loans.**

Our Down Payment Assistance loan – combined with a Conventional, Rural Development or FHA home loan – can make home buying up to \$7,500 better.

More at [Michigan.gov/Homeownership](http://Michigan.gov/Homeownership).



1.844.984.HOME (4663)

Terms and conditions apply. Find out more at [Michigan.gov/Homeownership](http://Michigan.gov/Homeownership).



# The Convention *Review*

The Convention, presented by Michigan Realtors®, was held in September at the Grand Traverse Resort & Spa in Acme. Over 1,000 real estate professionals and affiliates attended this highly-praised, 3-day event filled with learning, networking and personal growth.

Michigan Realtors® members enjoyed full registration and informative and entertaining presentations by dynamic speakers, a lively Expo and quality networking opportunities. A long list of engaging sessions on important topics included:

- Your Safety is Non-Negotiable: The Beverly Carter Story
- Real Estate and the Economy in a Post-Covid World
- Get Over It! Embrace the Comfort of Change
- Burning the Hamster Wheel: 10 Strategies for Achieving Life Balance
- Transitioning to Commercial Real Estate
- Herding Cats: Best Business Practices for Brokers
- HYRE: Host Your Own Real Estate Show

The Grand Assembly featured keynote speaker, Inky Johnson, who shared his powerful story of overcoming adversity from the football field to the stage. Other important highlights of the Grand Assembly included:

- The swearing in of 2022 Michigan Realtors® President, **James Iodice** of the Greater Metropolitan Association of Realtors®
- The announcement of the 2021 Michigan Realtor® of The Year, **Rick Loose** of the Midland Board of Realtors®
- The announcement of the 2021 Michigan Realtors® Good Neighbor, **Stacey Ruwe** of the West Michigan Lakeshore Association of Realtors®
- The graduation of the Michigan Realtors® Leadership Academy, Class of 2020-2021

Another highlight of Day 1 was the 2021 RPAC Appreciation Luncheon, featuring guest speaker Chad Livengood, Senior Editor of *Crain's Detroit Business*. The winner of the 2021 Realtor® Active in Politics award was also announced: **Karen Greenwood** of the Greater Metropolitan Association of Realtors®.

Day 2 featured the Rise & Refocus Morning Keynote with Ben Whiting. Ben is a magician, mind reader and virtual trainer. Through audience participation and a little magic, Ben demonstrated the ability of mind over matter when striving to achieve your goals.

Finally, the RPAC LIVE and Silent auctions were once again a big hit. Local Realtor® associations from across Michigan generously contributed unique items and gift baskets in all price points to raise money that will be used to safeguard the real estate industry. Participants were also able to bid on items through a virtual platform all week.

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



Over **1,000** real estate professionals and affiliates attended this highly-praised, **3-day** event filled with **learning, networking** and **personal growth**.



MICHIGAN REALTORS®

# THE CONVENTION

Day 3 featured two legal sessions from the Michigan Realtors® *Within The Law* Legal Team. An overview of timely topics followed by audience Q&A make “Legal Day” one of the most interactive and informative opportunities for attendees. Knowledge session handouts are available by visiting <https://convention.mirealtors.com>.

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

## THE CONVENTION

(A Michigan Realtors® Event)

September 21-23, 2022

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

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

Thank you, for your support in 2021, and see you next year in Grand Rapids! ●



2022 Michigan Realtors® President  
**James Iodice**  
Greater Metropolitan Association of Realtors®



2021 Michigan Realtor® Active in Politics  
**Karen Greenwood**  
Greater Metropolitan Association of Realtors®



2021 Michigan Realtor® of The Year  
**Rick Loose**  
Midland Board of Realtors®



2021 Michigan Good Neighbor Award  
**Stacey Ruwe**  
West Michigan Lakeshore Association of Realtors®  
Cause: Soup For All



Congratulations,  
Michigan Realtors®  
Leadership Academy  
Class of 2020-2021!

**Hassan Ahmad**, Dearborn  
**Melissa Botsford**, GMAR  
**Michele Brown**, GKAR  
**Karin Buda**, SWMAR  
**Aaron Fox**, GLAR  
**Kittyanne Hudson**, Jackson  
**Renae Johnson**, GMAR  
**Rachel Major**, GRAR  
**Bryant Mitchell**, GRAR  
**Tracy Rose**, Ann Arbor  
**Jaye Sanders**, GMAR  
**Kellie Sergent**, Aspire North  
**Devon Smith**, GMAR  
**Carrie Vos**, GRAR

MICHIGAN REALTORS®

# THE CONVENTION

# THANK YOU, 2021 SPONSORS!

## Platinum

# CENTURY 21®

## Diamond



## Gold



## Silver



## Bronze



## Supporting





# • Yes, our culture does make a difference.

**You'll never feel alone when you are with Weichert®.** We believe a positive, encouraging environment is key to success. You'll be plugged into a skilled team who wants to see you succeed and motivate you to be your best. You'll be recognized for your achievements with annual awards. You'll get up-to-date information, weekly webinars, in-person workshops, and Weichert University support to help you grow. Don't settle for good enough. Go for great. Give your local Weichert office a call today or visit [jobs.Weichert.com](https://jobs.Weichert.com)



# Weichert®

Each Weichert® franchised office is independently owned and operated. ©2021 Weichert Real Estate Affiliates, Inc. Weichert is a federally registered trademark owned by Weichert Co. All other trademarks are the property of their respective owners.

# Supervision of People and Places

BY GAIL A. ANDERSON, ESQ.

The Occupational Code contains two basic rules regarding supervision, one covering the supervision of salespersons and the other covering the supervision of offices. Under the first rule, the work of all real estate salespersons must be supervised by an associate broker. Under the second rule, if a broker has a branch office more than 25 miles away from the city limits where the main office is located, that office must be under the “direct supervision” of an associate broker.

As to the second rule, it is important to remember that the rule is triggered by the existence of a physical office. The fact that a particular salesperson lives and/or conducts business in a community that is more than 25 miles away from the main office does not trigger the “remote” branch office supervision rule. The “remote” branch office supervision rule is clearly aimed at the supervision of the place of business and is a rule that is separate and apart from

the general requirement that a broker supervise the work of all salespersons wherever they live and work. There is no requirement that a broker set up a branch office no matter how far away from the main office a particular salesperson is conducting business.

If there is, in fact, a “remote” physical office, then the Code requires that an associate broker be “physically present at the branch office on a regular basis to supervise and manage the business during ordinary business hours.” DLARA has not provided any guidance – either formally or informally – as to what it means to be physically present on a “regular basis” during ordinary business hours. But it is certainly the case that an associate broker cannot meet this obligation by only being available by phone and/or email.

In addition to the rule that “remote” branch offices be supervised, the work of all salespersons – regardless of where they live and work – must also be supervised by

an associate broker. This supervision does not require a physical presence but does require “direct communication” on a regular basis, which may be in-person, by phone or through electronic communication. The broker is responsible for overseeing a salesperson’s business practices and performance of all regulated activities.

Brokers should keep in mind that supervision of salespersons is important not only because it is required under the Code but also because as a general matter, brokers are legally responsible for the actions of their salespersons. For this reason, “supervision” requires more than being available to answer questions that the salesperson brings to the associate broker. “Supervision” should mean paying enough attention to know that the salespersons who are working for and in the name of the firm are both ethical and competent.

Too often, the focus of a supervisory broker’s review is simply to make certain that an agent’s file contains a specific list of documents. In order to better protect the broker a supervisory broker should, from time to time, spot-check a salesperson’s file in more detail. When spot-checking the file, the supervisory broker should, for example, review the purchase agreement and addendums to make sure that they are clear and consistent. Are all blanks filled in? Is the agency disclosure form correctly filled



"Supervision" should mean **PAYING ENOUGH ATTENTION** to know that the **SALESPERSONS** who are working for and in the name of the firm **ARE BOTH ETHICAL** and **COMPETENT.**





in, and is it consistent with the agency disclosure language in the purchase agreement form? Was the transaction closed consistent with the purchase agreement?

A supervisory broker should also spot-check its salespersons' advertising. Occasionally, a supervisory broker may want to set aside time to see how the firm is being represented on social media. The broker should also make certain that all advertising makes clear that the business is being conducted by the brokerage firm and not the individual salesperson or team. This is important not only because of the Occupational Code requirements but also for liability reasons. If a salesperson's advertising does not make clear that the salesperson is working for the brokerage, in the event of a lawsuit the salesperson may be personally liable (in addition to the firm), and the broker's insurer may deny coverage for the firm.

As part of the broker's supervisory responsibilities, the Occupational Code also requires that a broker have written operating policies and procedures that it provides to his/her salespersons. For many brokers, the thought of drafting such a manual seems like an impossible task. But it doesn't need to be. The Code does not provide any specific requirements as to the contents of such a manual. It is not necessary for a broker's operating policy and procedures manual to explain everything a person needs to know in order to be a real estate licensee. Instead, the manual should focus on what a person needs to know about how that particular broker does business. When preparing its manual, a broker can start small and expand.

One goal of a broker's policies and procedures manual should be to make clear what business practices are prohibited and what practices require the prior approval of the supervisory broker. A broker's manual should make clear what decisions a salesperson has the authority to make on his/her own and what decisions must be referred to the supervisory broker.

We have included a list of potential topics that brokers may want to consider covering in their operating manuals. The list is not intended to be exhaustive, but rather a place to start. An operating manual should be a living document such that it is regularly revised whenever new issues arise and/or new and better solutions are discovered for old problems. Again, brokers who do not yet have such a manual are encouraged to start small and expand. ●

## POSSIBLE TOPICS FOR INCLUSION IN BROKER'S OPERATING POLICIES AND PROCEDURES MANUAL

- >>> How documents and other records are to be maintained and delivered for the company file.
- >>> Policies regarding attendance at training programs/sales meetings
- >>> Requirements for hiring both licensed and unlicensed assistants.
- >>> Commission/referral fee policies, including procedures for reporting/handling interoffice and intra-office commission disputes.
- >>> Identification of authorized forms and policies for obtaining approval for use of forms other than those listed. Does the firm have standard language to be used for back-up offers and/or other common addendums?
- >>> Authority for cancellations and amendments to listing contracts.
- >>> Procedures for handling earnest money deposits, including a process for situations where an earnest money deposit is not delivered when promised or when a check bounces.
- >>> Policies regarding the handling of the sale/purchase of property by a salesperson/salesperson's family members.
- >>> Advertising policies, including any approval requirements for advertising content.
- >>> Sign policies including rules regulating content, placement of "sold" and "offer pending" signs and removal of signs on expired/terminated listings.
- >>> Requirements for promotional incentive programs, including any approval requirements.
- >>> Procedures for guarding against wire fraud.
- >>> List of events where notification of supervisory broker is required. For example, salespersons may be required to notify the supervisory broker whenever a client is involved in a dispute over whether there is a binding purchase contract.
- >> Lock box requirements.
- >> Open house procedures.

# Let's Close the Deal on a Brighter Energy Future



Looking to build your brand and become a trusted energy efficiency resource for your clients? The **Consumers Energy Real Estate Specialist program** provides real estate professionals like you with **free promotional support** and energy efficiency educational resources to help homebuyers better understand how their new home uses energy.

When you sign up, you'll enjoy free customizable marketing materials, expanded reach and the opportunity to create a brighter energy future for Michigan.

Visit [ConsumersEnergyTradeAlly.com/resn](https://ConsumersEnergyTradeAlly.com/resn) to learn more and enroll in the program.

**Consumers Energy**  
Count on Us®

# **pro-fi-cient**

**1. skilled**

**2. well advanced in occupation**

**3. thorough competence**

In times like these, you demand even more from yourself and your collaborators in serving your customers to the best of your abilities. Anything less is not enough.

As Michigan's largest MLS, Realcomp is proud to provide REALTORS® across the state with the experience, resources, technology and data you demand. As we have for more than two decades.

Thank you for allowing us to partner with you on this continued wild and rewarding ride.



Phone: 866.553.3003

[Realcomp.MoveInMichigan.com](http://Realcomp.MoveInMichigan.com) | [www.MoveInMichigan.com](http://www.MoveInMichigan.com)

[www.facebook.com/realcompimls](https://www.facebook.com/realcompimls) | [twitter.com/realcompmls](https://twitter.com/realcompmls)