

1. Within the Law is Now Available on CEMIWAY



The October 31st deadline for Legal CE is fast approaching! Earn your required two hours of legal continuing education for this year's licensing cycle remotely. Within the Law 2020 features topics presented at this year's virtual Convention and is available for streaming to individuals and groups. See the price model below:

Individuals: \$10
Broadcast to Groups up to 25: \$250
Broadcast to Groups 25-50: \$450
Broadcast to Groups 50+: \$500

For more information please contact Brian Westrin at bwestrin@mirealtors.com or visit www.cemiway.com for more education opportunities.

2. Important Information for Brokerages and Associations

Before the Michigan Supreme Court struck down the Governor's Executive Orders, the Michigan Occupational Safety and Health Administration ("MIOSHA") was one of the State agencies charged with enforcing those orders. After the Executive Orders were struck down, MIOSHA announced that even in the absence of specific rules, it would continue to enforce COVID-19 precautions under the agency's "general duty" to make certain employers provide a workplace unlikely to cause death or serious harm to their employees.

On October 14, 2020, citing emergency powers, MIOSHA issued a 9-page, single-spaced order containing detailed rules that must be followed by all employers within the State. A copy of that order is available [here](#).

Under the new MIOSHA order, employers must have a written COVID-19 preparedness and response plan consistent with CDC guidelines. There are specific requirements that must be included in such a plan which are not exactly the same as the requirements in Governor Whitmer's earlier Executive Orders. COVID-19 preparedness and response plans must be available to all employees. In addition to requiring a plan, the MIOSHA order has a number of additional requirements, including:

1. Employers must conduct daily entry self-screening protocols for all employees, including, at a minimum, a questionnaire covering symptoms. Employers must require employees who are sick not to report to work.
2. Employers must make masks available to all employees at no cost. Employers must require masks whenever employees are not 6 feet apart AND where they are in shared spaces such as restrooms and hallways.
3. Employers must place instructional poster in common spaces and must provide COVID-19 training to employees. Instructional poster is available [here](#).
4. Employers are required to provide a poster to wash hands and promote frequent, thorough handwashing. Employers must implement procedures to regularly clean and disinfect surfaces, especially for frequently-touched surfaces.
5. Employers must limit shared use of equipment and other work tools to the extent possible.
6. Employers must have a policy prohibiting in-person work to the extent that work can be performed remotely.
7. If an employer learns of an employee, visitor or customer with a known case of COVID-19, employer must: (1) immediately notify local public health department; and (2) within 24 hours, notify any co-workers, contractors or suppliers who may have come into contact with the employee.
8. Employers must maintain COVID-19 compliance records for a minimum of one year.

[COVID-19 Office Preparedness Toolkit](#)

3. RPAC Supports Ballot Proposal 1



Michigan Realtors® RPAC has endorsed Proposal 1 of 2020 to expand the work of the Natural Resources Trust Fund (NRTF) and the State Park Endowment Fund (SPEF) which assist in funding the protection of our lakes, streams, lands and wildlife. On November 3rd, Michigan voters have a historic opportunity to support the places that make our state unique.

Currently, the Michigan NRTF works off of the money received from oil and gas royalties in order to complete land acquisitions and conduct public recreation projects across Michigan. MNRTF reached its cap in 2011 and has not been able to receive new royalties since then. The Michigan Constitution dictates that all new royalties must go to the SPEF, until the SPEF reaches its \$800 million cap. Once that cap is reached, all new royalties will be distributed as the law is written and ultimately lands in the State's general fund. It would no longer be held by a constitutionally protected fund reserved for conservation and recreational purposes. Proposal 1 maintains that these royalties are attached to the State Park Endowment Fund, but will be transferred to the Natural Resources Trust Fund once the SPEF hits the cap. This is the only change to the law. The change merely protects the Michigan Natural Resources Trust Fund so that it can continue its work throughout Michigan.

Every Michigan resident is within an hour drive of a state park or recreation area; and are home to a \$22.8 billion tourism industry that supports 214,000 Michigan jobs. This ballot proposal is a proactive solution to an inevitable problem.

Please visit <https://miwaterwildlifeparks.com> for more information on Proposal 1.

For a complete list of RPAC General Election endorsements, please click [here](#).

4. Legal Lines Question of The Week

With the help of McClelland & Anderson, we are taking the most recently asked questions from our Legal Hotline and putting them in E-News. We will be featuring a different question each issue.

QUESTION: My buyer put in an offer on a home. The listing agent texted me and told me that the price offered was so low that the seller was not going to counter. The listing agent and I exchanged text messages back and forth while consulting verbally with our respective clients. Eventually, we agreed on a price. The listing agent's last text to me was "Looks like we have a deal." Now I am told that the sellers have accepted another offer. Can they do that?

ANSWER: Yes. In order to have a binding agreement for the sale of real estate, there must be a written agreement signed by the parties – in this case, the buyer and seller. Conversations between the agents via phone/text/email can move the negotiations forward quickly but you must always keep in mind that these are preliminary discussions that are not binding.

For more legal resources, visit law.mirealtors.com.

5. Stay ahead on your Con-Ed!



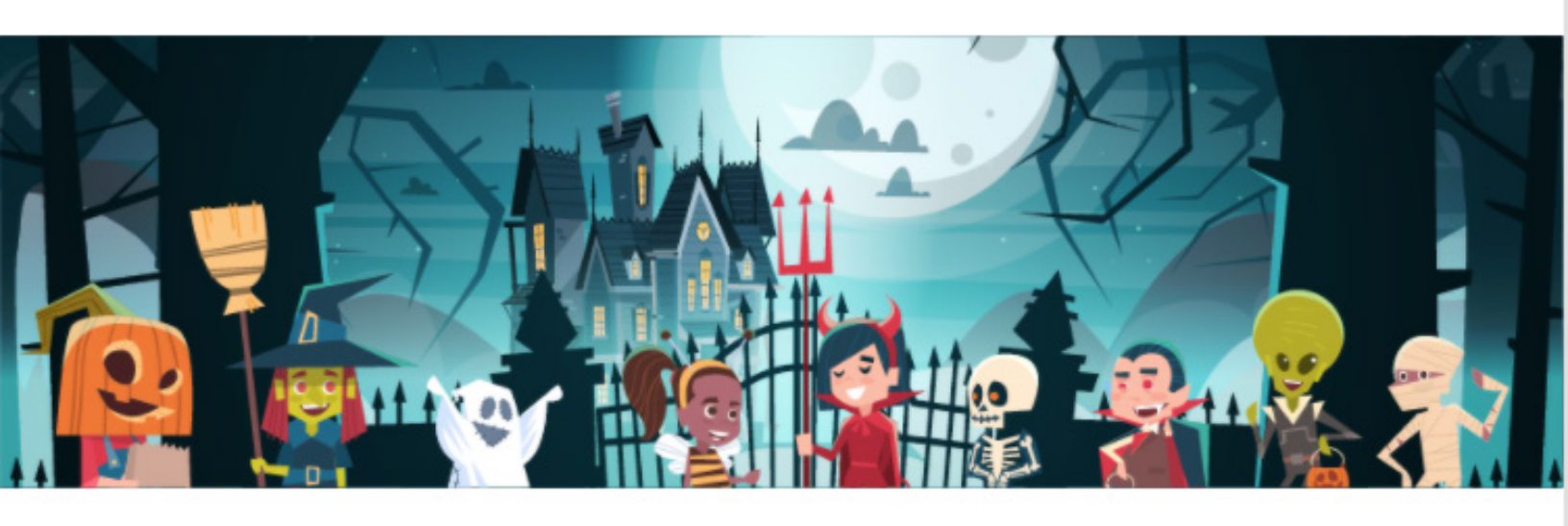
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Questions? Please contact us at tracking@cemarketplace.net or 844-642-6633.

6. "I AIN'T 'FRAID OF NO GHOSTS"



This seems like a good time of year to remember a 1990s New York case involving a buyer who, after learning that the house he had purchased in rural New York was widely reputed to be possessed by ghosts, sued the seller for failing to disclose that fact. The seller didn't deny it – in fact, for years, the seller had promoted the home as "riverfront Victorian (with ghost)." The home had been included in a walking tour, been advertised as having a ghost and had been the subject matter of Reader's Digest article as well as multiple newspaper articles.

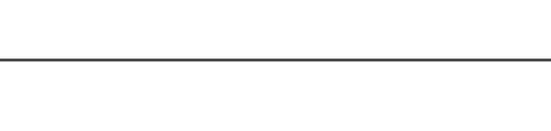
So, with all that publicity, how did the buyer not know about the "phantasmal reputation of the premises?" According to the court, the buyer was not "local" (being from New York City) and, therefore, had no familiarity with the folklore of the small village of Nyack, New York.

The court found that because there was no way for the buyer to discover the home's reputation, the seller had a duty to disclose it. (Remember that this case was decided in the early 1990s. Presumably, today's buyer would have a much harder time convincing a court that he had no way of discovering the home's reputation.) The court held that while the buyer did not have a "ghost of a chance" of recovering damages, it did allow the buyer to back out of the sale. The court stated:

It should be apparent, however, that the most meticulous inspection and the search would not reveal the presence of poltergeists at the premises or unearth the property's ghoulish reputation in the community. Therefore, there is no sound policy reason to deny plaintiff relief for failing to discover a state of affairs which the most prudent purchaser would not be expected to even contemplate.

It is important to keep in mind that it was not the alleged presence of a ghost but the home's reputation that the Court found the seller had a duty to disclose.

This case would likely be decided differently if heard by a Michigan court today. Here, sellers do not owe a general duty to the buyer to volunteer information about a home. Instead, Michigan home sellers have a duty to honestly answer the questions on the seller's disclosure statement. The presence, or suspected presence, of ghosts is not a question on the seller disclosure statement. Happy Halloweeeee!



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