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COVID-19

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An Optimistic Look at the Road Ahead

Just a few months ago, I wrote to you with great expectations and enthusiasm for an incredible year ahead - one that had us start the year on the right foot with a solid path toward success in 2020. Never could we have imagined the challenges we are facing today, both personally and professionally. Yet I am still optimistic about what lies ahead, and incredibly proud of what we've achieved together when faced with what has often felt like overwhelming adversity.

The COVID-19 pandemic has impacted our entire nation, with Michigan being one of the hardest hit states. As heartbreaking and challenging as these last few months have been, I have never been prouder to call myself a Realtor®. Our role as an industry leader has shined brightly during this pandemic. Our members embraced innovative remote strategies to serve clients during the shutdown, often working collaboratively with sellers to prepare virtual listings. Our association staff and volunteer leadership worked tirelessly to advocate on your behalf with the Governor and the legislature, promoting the message that Realtors® were ready to serve as an industry guidepost to safely conduct real estate activity. And those many weeks of effort and patience paid off on May 7th when the Governor included Realtors® in the first wave of businesses set to resume activity. And on May 13th, I was fortunate to join Governor Whitmer at one of

her press conferences to explain what Realtors® are doing to keep our clients safe and support our economy. Realtors® continue to show great resolve, making important business decisions to serve our clients with an emphasis on safety and compassion.

As I write this, we are still working safely within the requirements of the Governor's Executive Order. We are doing showings by appointment only and we are exercising 6-feet of social distance at all times.

When we learned that we would be one of the first business sectors to reopen, Michigan Realtors® felt a responsibility to promote additional best practices and

to serve as a resource for our members and the public. This effort led to many of the following best practices:

1. Realtors® and clients are doing as much work virtually as possible. We are using tools like photographs, videos, 3D tours, virtual showings and floor plans to help buyer-clients narrow down their needs and wants prior to any in-person showings;
2. Realtors® are working together to avoid consecutive overlapping appointments;
3. We are providing marketing materials and other information relevant to the property electronically in advance of the showing;
4. We are asking sellers to turn on all of the lights and leave interior doors, drapes and blinds open to ensure that anyone entering the property will not need to touch the light switches and doorknobs.
5. We are placing a premium on cleaning and disinfecting all frequently touched surfaces prior to and after the showing.
6. We are asking clients to meet us at the property rather than drive together to showings, asking them to wait in the car for our arrival.
7. Realtors® are encouraging the use of masks and gloves by all individuals on the property.
8. We are asking buyers to refrain from touching any surface (including light switches and interior doorknobs) – and to not share phones, pens or tablets.
9. Finally, we are working to limit the time physically present at the property. After a showing, rather than engaging in a discussion with our clients while still on site, we suggest waiting to discuss it via email or phone.

As we reengage with clients, it requires significant planning and forethought. We are stronger together, even when we are apart. Now more than ever, is a time for our industry to impress Michigan buyers and sellers with our professionalism and innovation, while doing our part to preserve the health and safety of the people of our great state. I thank each of you for the profound personal sacrifices that come with doing the right thing. May you and your families stay safe and be well. ●



Real Estate Update - Governor Whitmer's Press Briefing - May 13, 2020

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The Road to Re-opening

Let me start by saying that I hope you are all healthy and safe. The past couple of months have been trying for us all, to say the least. Things are certainly “uncertain” in the time of COVID-19. Prohibitions and challenges are constantly testing each of us and in many cases bringing out our resilience and ingenuity. We are truly adapting on-the-fly to all things in our life.

Realtors® were one of the first industries back to work under the Governor’s Executive Order, and our ability to work with clients while prioritizing public health paved the way for other industries and businesses to resume work. Realtors® resumed in-person work back on May 7th, and while there are still limitations on how we can assist our clients, it feels good to be back to work in a safe and responsible manner.

This Capitol Report focuses on the work put in by Michigan Realtors® with the Governor and the legislature to get real estate back to work as quickly as possible in the face of the significant impact of COVID-19 in Michigan and a Governor who, by her own admission, was determined to take the hardest line in the United States to shelter in place.

Michigan Realtors® began communication with the Governor and the legislature early on before the first *Stay at Home* Executive Order. In the weeks leading up to our State shutdown, Michigan Realtors® laid out our case for being declared an “essential service” should Michigan take the route of asking everyone to stay in their homes and restrict activities. After all, real estate is a fundamental driver of the state’s economy and the finances of homeowners and business all depend on these transactions being able to occur.

On March 23, 2020, Governor Whitmer issued her first *Stay at Home* order, ordering Michigan citizens to stay in their homes with very few exceptions for allowable travel. As a continued theme throughout this pandemic, the Governor’s order took a different route than our neighboring states in the Midwest. Rather than listing specific industries like the Executive Orders in Ohio and Illinois, the Executive Order used a list of critical infrastructure based on a March 19th memo by the Cybersecurity and Infrastructure Security Agency (CISA), part of the Department of Homeland Security. Rather than listing specific industries, the CISA memo was a lot vaguer using sectors of the U.S.

economy that very clearly did not include real estate.

The moment the *Stay at Home* order was issued, Michigan Realtors® began pushing for clarification that real estate brokerage services could be included under the Financial Services portion of the CISA memo. Importantly, there were a great number of deals in the pipeline scheduled to close, or on their way to closing, that could not just be put on hold without putting buyers and sellers in financial jeopardy. A clarification from the Governor’s office came that evening, but not in the sense we were hoping.

Instead of clarification that real estate brokerage services could continue to operate on an in-person basis, we were subject of an FAQ follow-up to the Executive Order that very specifically stated that Realtors® were not critical infrastructure and could only operate remotely, outside of narrow circumstances where a client had an emergent need for housing. Less of a loophole and more an eye of a needle.

The very next day, Michigan Realtors® began working with the Department of Insurance and Financial Services (DIFS) to seek certainty in the ability of buyers and sellers to close a transaction. DIFS is the state regulator of mortgage lenders, financial institutions, and title companies. Working with DIFS, Michigan Realtors® laid out the case for allowing certain services, including Realtors®, to be able to operate as critical, again, under Financial Services in the CISA memo.

Within a few days, the Administration gave DIFS the thumbs up to issue their guidance document defining those financial services required for a real estate closing. Unfortunately, the memo reiterated at that point that real estate brokerage services were not critical infrastructure and could not operate on an in-person basis. The good news is that Michigan Realtors® scored a victory in clearing a path to closing by allowing appraisers, home inspectors, and title companies to operate under the conditions of a signed purchase agreement. A small victory, but it still did not include the ability to resume work.

Shortly after, CISA updated their guidance memo to include residential and commercial real estate services as “critical.” A significant change for those states that had yet to issue any *Stay at Home* orders, and states like California that cited the living CISA memo, there by updating their critical services along with the agency. Unfortunately for

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Michigan, our *Stay at Home* order specifically cited the March 19th memo that did not include the updates to real estate and other services. Updating to the latest guidance became the new focus of our discussions, as well as the legislature's negotiations, with the Governor's office.

By the time the first Executive Order was running out, the writing was on the wall that an extension was inevitable. With the issuance of the second Executive Order, instead of updating to the latest CISA memo and expanding the list of critical infrastructure, the Governor doubled down on her restrictions.

Communications with the Governor's office were daily and continuous. In that time, many other states had begun relaxing restrictions on real estate, either by updating the CISA memo or providing specific guidance from their licens-

ing boards or Governor's office. Guidelines and best practices from other states served as examples with the Governor's office that resumed work for real estate professionals was not out of the ordinary. Many neighboring states and states similarly impacted by the virus allowed for at least some form of in-person real estate.

The doubling down in the second Executive Order also set the stage for a standoff between the legislature and the Governor. The legislature wanted to be part of the decision-making process and as such, introduced reopening plans of their own. Michigan Realtors® was well positioned with both legislative proposals on the table. The Senate took an approach that utilized statistics with regard to hospitalizations, cases, and deaths, which put real estate back to work immediately. Similarly, the Michigan House of Representatives laid out a plan that took a regionally based approach to reopening Michigan business. Again, under the House plan real estate went back to work immediately. Inevitably, the

standoff between the legislature and the governor ended up in a lawsuit. As of publication, the results of the suit are still pending before the Michigan court of claims.

With continued conversations with the Governor's staff and a decline in COVID-19 cases, the week of April 27 held promise that real estate would be in the first wave of businesses reopening. The week before recreational activities like boating and golf were allowed to resume. In her press conference on May 1, the governor announced

the return of business for both construction and real estate on May 7 under certain restrictions. It was a long road to get there and understandably frustrating at times but in the end persistence and patience paid off.

The COVID-19 situation is not over. We will still feel the long-term effects of this pandemic for months to come.

Businesses and families

are still struggling financially, and the State of Michigan is facing a \$3.2 billion budget deficit. Michigan Realtors® continues to tackle issues arising out of the *Stay at Home* orders such as tax filing deadlines for both the principal residence exemption and commercial tax appeals, property tax payments and smoothly transitioning to normal course of business at the end of the eviction moratorium.

The Executive Orders still divide many in the state. The virus and the way we deal with it weighs on every individual and family. As we move forward and deal with the outcomes, rest assured that the volunteer leadership, the Public Policy committee, RPAC Trustees, and staff are working hard every day on your behalf. ●

“ Things are **CERTAINLY**
“**UNCERTAIN**” in the
time of COVID-19. ”

Accept or Counteroffer – You Can't Have It Both Ways

BY GAIL A. ANDERSON, ESQ.

Sellers who receive an offer that is for the most part acceptable to them, are often tempted to try to accept the offer but at the same time, “tweak” one or more of what they view as the less significant terms of the contract. This strategy was the focus of a recent Michigan case where the buyers had submitted an offer that gave them immediate occupancy after closing. The seller signed the offer beneath a sentence that said: “By affixing Seller’s signature hereto, the Seller accepts this offer and acknowledges receipt of a copy hereto.” However, at the same time, the seller crossed out language in the offer providing for immediate occupancy and wrote in language that gave the seller free occupancy for a period of 10 days after closing. The seller then initialed that change.

When the signed offer was returned to the buyers, they signed beneath a sentence that said: “The Buyers hereby acknowledge receipt of the Seller’s signed acceptance of the foregoing Contract to Purchase.” However, at the same time, the buyers crossed out the language the seller had written in regarding free occupancy and wrote in language stating that there would be a charge for post-closing occupancy in the amount of “\$30 per day.” The buyers also initialed their change. The seller went on to sell the property to someone else. The buyers sued, and the issue before the trial court and the Michigan Court of Appeals was whether there had ever been a binding enforceable contract.

To summarize the facts before the court, the seller had tried to

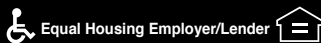
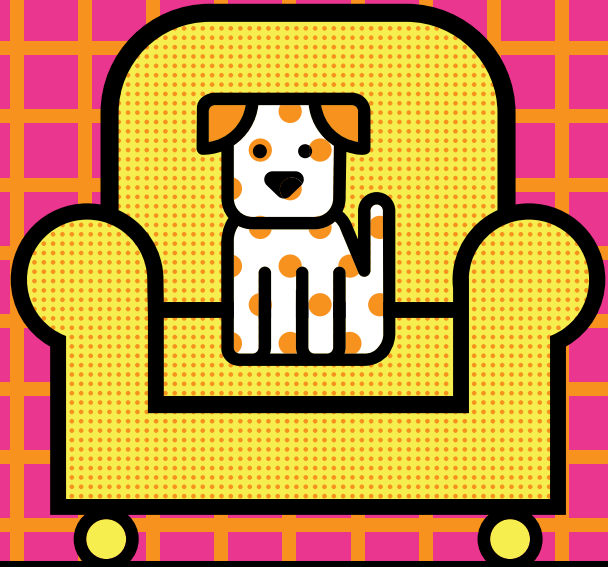
accept the buyers’ offer while at the same time making a material change to the terms the buyers had offered. The buyers had then tried to treat the seller’s response as an acceptance, rather than a counteroffer, while at the same time making their own material change.

The answer to the question of whether there had been a binding contract, of course, was “no.” You cannot simultaneously accept and change an offer or a counteroffer. If you make a change, even if it is a relatively minor change such as to the occupancy provision, you have made a counteroffer. In this case, the seller had countered the buyers’ offer, and the buyers had countered the seller’s counteroffer. Clearly, there was no contract.



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Nor could the buyers resurrect the seller's counteroffer once they discovered that the seller was not willing to pay a daily occupancy charge. A party who has made changes to an offer which are not accepted cannot recharacterize those changes as "mere suggestions" and then withdraw those "suggestions" and accept the original offer. This simply does not work. Conditioning acceptance on any new term acts as both a counteroffer and a rejection of the initial offer. Once the counteroffer is made, the initial offer is no longer on the table.

Another lesson to be learned from this recent Michigan case is that marking out and initialing changes to existing contract language is not the cleanest way to make a counteroffer. Consider the following relatively straightforward rules of contract interpretation:

In the event of a conflict between the preprinted form and specifically added language, the specifically added language controls.

In the event of a conflict between two specifically added provisions, the

provision that is later in time controls.

In order to apply these rules of contract interpretation, we need to be able to tell when each provision was added to the contract. The easiest record to follow is created when each party prepares its own dated addendum. With this process, each party is stating that they accept the terms currently on the table "with the following changes ..." If, instead of using addendums, the parties make a number of offers and counteroffers by initialing changes to existing contract language, it may become increasingly difficult to determine which terms are acceptable to both parties.

Consider the following hypothetical: A seller receives an offer that is acceptable to him, other than the price and occupancy period. Instead of preparing an addendum, the listing agent has the seller make handwritten changes to the language in the initial offer and initial those changes. The buyers then bottom line the contract indicating that they accept the seller's counteroffer. Suppose, however, that the buyers do not initial either of

the seller's handwritten changes to the original offer. Is there a binding contract? What if the buyers only initial the change as to occupancy but not as to price? Is the buyer making a counteroffer at the original price?

Particularly where there is only one relatively insignificant change that your client wants to make to an offer, it may be tempting to simply mark through the existing language and initial the change. Of course, one initialed change can lead to a number of initialed changes. If initialed changes are not dated, or if the contract exchange happens within the same day so the date information is not meaningful, it can be difficult to sort out the agreed-upon terms of the contract. If the parties use a combination of addendums and handwritten changes to existing contractual language, the task may become nearly impossible. For these reasons, the better approach in each instance is to take the time to prepare an addendum. ●

Another Principal Residence Exemption Challenge

BY GAIL A. ANDERSON, ESQ.

Tax law, perhaps more than any other law, involves the strict application of technical rules. This is certainly true of the Principal Residence Exemption (“PRE”) statute. Realtors® may recall the lengthy battle some years ago where the Department of Treasury attempted to deprive a widow of her PRE because she had chosen to receive her mail at her stepson’s office rather than at the home she had lived in for decades. Treasury’s focus in that case was not on whether the home was, in fact, the widow’s principal residence, but whether someone who did not use her home as her legal address qualified for a PRE. The taxpayer in that case prevailed, but it took many years and a trip to the Court of Appeals.

Another dispute over the technical requirements of the PRE reached the Court of Appeals early this year. In this latest case, Andrew Campbell’s principal residence had been in Cheboygan, Michigan for a number of years. In 2016, he purchased a second home in Arizona; however, he continued to use his Cheboygan home as his primary residence. Unbeknownst to him, in 2017, Arizona gave him a \$600 credit on his tax bill because the State of Arizona believed that his home in Arizona was his primary residence. When Campbell discovered that the State of Arizona was treating his Arizona home as his primary residence, he filed a rescission within 24 hours. Nonetheless, the Michigan Department of Treasury rescinded his principal residence exemption. It was the position of Treasury that Campbell was not entitled

to a PRE in Michigan for 2017, even if the Arizona exemption was provided in error and had been immediately corrected upon discovery.

Campbell appealed Treasury’s decision to the Michigan Tax Tribunal (“MTT”). At the hearing there appeared to be no dispute that Campbell had continued to use his Cheboygan home as his principal residence. Campbell produced a number of documents showing that his Cheboygan home was his principal residence, including his driver’s license, voter registration card, library card and Michigan vehicle registration.

Treasury’s position was a technical one. The PRE statute states that a homeowner is not entitled to a PRE if he or she makes a claim for a similar exemption in another state. Moreover, the statute makes clear that if a PRE is denied because of a claim in another state, the property owner cannot fix the problem in Michigan by rescinding the filing in the other state.

Campbell then argued that even if his 2017 Arizona “claim” disqualified him for the Michigan PRE, he should nonetheless qualify for the exemption through December 31, 2017. The PRE statute is clear that if Campbell had sold his Cheboygan home in 2017, it would nonetheless continue to qualify for PRE status through December 31, 2017. Campbell’s argument was that the same rule should apply where, as here, the taxpayer kept his home but lost his PRE status because of a (mistaken) claim in another state. Treasury’s position was that while December

31st is the operative date in the case of property transfers, it is not the case when a property loses PRE status for some other reason. Under Treasury’s analysis, if, for example, a homeowner does not sell his home but simply stops using that home as his primary residence, he would lose the PRE immediately.

Fortunately for Mr. Campbell, neither the MTT or the Michigan Court of Appeals agreed with Treasury’s interpretation. The Michigan Court of Appeals held that December 31st is the operative date regardless of how the PRE status is lost. The Court’s opinion was that the legislature intended to create a uniform date as to both



the commencement and expiration of PRE status. The Court correctly pointed out that the PRE statute has no mechanism for apportioning a PRE over a partial year. The Court concluded that given the comprehensiveness of the PRE statute, the omission of such a mechanism must mean that the legislative intent was that all exemptions which are lost nonetheless continue through December 31st of that same year. Such a rule, the Court reasoned, helps “maintain uniformity and ease in administration.”

The practical lesson to be learned from this case is to be careful when buying a second home in another state. If you do not intend for that home to be considered your primary residence, make certain that the closing agent is aware of that fact and that the paperwork is handled correctly. An inadvertent homestead claim in another state can result in a loss of your Michigan PRE regardless of whether your Michigan home is, in fact, your primary residence. ●



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what's next for real estate?

BY BRIAN WESTRIN, ESQ.
MICHIGAN REALTORS®
GENERAL COUNSEL

“Stay Safe. Stay at home.”

“Shelter in place.”

“Wash your hands.”

“This is the new normal.”

“We will navigate these uncertain times.”

“Maintain a social distance.”

“We’re in this together. . .”

What do these phrases have in common? Well, for starters they have worked their respective and ubiquitous ways into nearly every facet of our lives. These urgent and direct messages have, for the last three months, engulfed us. Our social media feeds, in the 24-hour news cycle, advertisements from buy local to Fortune 500, in state and national press conferences – all fueling our conversations at home. And there’s that word again. Home. It is a weighty word – one that has always had a powerful place in society’s lexicon. It has, after all, long been synonymous with the “American dream.” However, the meaning has seemingly deepened in 2020. More than ever, home equates to sanctuary, protecting us from the unknown and preparing us for what’s next.

With significant human loss and more questions than answers, the Covid-19 Pandemic has forced everyone to change direction and think of their daily routine in a completely different manner. Realtors® and others in the real estate industry have not been spared from this self-analysis. In fact, the Realtor® (and every other participant in the housing industry) serves a dual purpose. They are no

doubt impacted on a personal level, making ends meet. Yet, as Michigan citizens begin to more readily open their doors and venture out into the world, the value of “home” in the real estate context, both in the present and future, has already presented Realtors® with an unquestioned value proposition for clients.

INNOVATION IN THE TIME OF “STAY AT HOME”

During the months of March, April, and early May, while Realtors® and the vast majority of Michigan businesses were still working remotely, there was no shortage of consumer interest in real estate. In fact, one of the common questions submitted to the Michigan Realtors® legal team was advice on how to work effectively with buyers and sellers during the Governor’s “Stay at Home” Executive Orders. For Realtors®, explaining the limitations imposed by the first couple of Executive Orders to clients and customers seemed to be the status quo for the first month and a half. It also represented with crystal clarity that, by and large, clients do not wish to go it alone during the real estate transaction and that there

is no substitute for personal professional service – even if it’s provided from a voice on the phone, a face on Zoom, or a prepared how-to video.

Out of necessity, many Realtors® worked cooperatively with their sellers to develop listings. Buyers became increasingly accustomed to viewing property remotely, often making offers contingent on physically viewing the property. In many ways, this process brought the client deeper into the marketing process and showcased the value of how much work truly

goes into marketing and pursuing a home or commercial property.

John North, CEO of Coldwell Banker Weir Manuel & Family of Companies, and also member of the Michigan Realtors® Board of Directors, took a very pragmatic approach to the remote work requirements of the Executive Orders. According to North, “We are, first and foremost, concerned with beating this health crisis. We can rebuild our businesses; we can’t replace those lost – so I think the focus has to be

on safety.” North explained further that his company has been fully embracing technology to serve buyers and sellers, “providing [sellers] with opportunities to utilize technology to continue to market their home, and also providing a venue for buyers to continue to shop virtually for the home of their dreams.” This safety-first approach has become a standard among brokerages during 2020.

While there is no true substitute for a physical visit or inspection of a home or commercial property, the





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Order's requirement that nearly all real estate be done "remotely to the greatest extent possible" supercharged brokerages into embracing technology in new ways that will likely continue on into the future. According to Jim Fase, Associate Broker with Berkshire Hathaway Home Services of Michigan and Northern Indiana, as well as a member of the Michigan Realtors® Board of Directors, this is a good thing. Their company has long pushed for agents to embrace technological innovation, and the remote work requirements spurred a huge jump forward in online services and an openness to new processes. With daily company Zoom calls serving as a proving ground for agents to share ideas and successes, clients can be guided through a new kind of process. It is a rare silver lining during a year that continues to present unique challenges. Realtors® and their buyer-clients have developed a meaningful improvement in the home search process – narrow the

search online, thoughtfully deliberate and present a competitive offer.

When Michigan Realtors® presented the Governor with a plan to safely reopen real estate in early April, it built off of the many virtual innovations that Realtors® and their clients, out of necessity, had developed. Our case to the Governor was clear – while much can and should be done remotely, Realtors® have the professional acumen to work innovatively and safely to schedule private showings and educate clients on expectations, while inspiring confidence in the process through the implementation of best practices.

NOT BUSINESS AS USUAL

After the Governor resumed in-person real estate on May 7th, Michigan homeowners and buyers were able to access the real estate market in a more direct manner. While this change was resoundingly welcome, it once again placed the Realtor® front and center as the resource to

conduct private showings in a safe and thoughtful manner. This role is important, not just for compliance purposes, but because asking buyers and sellers to literally step outside the security of their own home and reengage socially (albeit 6-feet distant) also requires a different kind of client/consumer confidence.

Realtors® are prepared to manage the fear and uncertainty with well-articulated best practices. With the release of the "Safely Reopening Real Estate Toolkit," members have a tangible resource to share with clients, providing guidance on how to prepare the parties for a private showing, cleaning protocols, and FAQs that invariably arise during the process.

This discussion of client safety and inspiring confidence brings us back "home." As we read this article, it's difficult to project exactly what the real estate industry will look like in the next year. From an economic perspective, NAR's Chief Economist Lawrence Yun has said that the housing market will improve as various states reopen their economies. He has expressed optimism that the worst is over and housing values remain strong. This is a promising forecast. As buyers and sellers consider the housing landscape over the next few months, I believe more so than ever it will involve a Realtor®. While the stakes have always been extremely high when considering a sale or purchase of real estate, the role of the Realtor® as a professional housing expert is evolving over the course of 2020 to extend to care, comfort, and confidence. It's a testament to our membership's will to adapt, innovate and provide the kind of services a client requires.

As we discussed at the beginning, we know that "home" has never been more important. When clients think of home and the value and security that it provides, I believe they will also think of the Realtor® that helped get them there. ●

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Appraisers' Scrutiny Throughout the Data Collection Process Part 2

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There are three categories of market information the appraiser needs to collect and examine when preparing appraisal reports: (1) subject property data, (2) market area data and (3) comparable property data. This article continues from Part 1 in the last edition of the Michigan Realtor® Magazine.

MARKET AREA DATA

The purpose of collecting market area data is to study the demand for, and supply of, the subject property's type and that of the market area in which it competes. The information collected also helps the appraiser in studying the subject property's highest and best use.

Market area information collected can be categorized as environmental influencing, social influencing, economic influencing and legal influencing. The information collected and analyzed is not just a snapshot in time study, but a study of related trends. Appraisers examine market information using respective past, current (as of date of value) and forecastable future estimates.

Environmental, or physical data may include studying trends relating to terrain and vegetation (including soil conditions), open space, adequacy of public utilities (e.g., water, sewer, electricity), effective age of properties, property and land use as well as public transportation.

Social data may include studying trends relating to population density, educational characteristics, age levels, household formation and size, costs of living, employment and extent of crime in area.

Economic data may include

studying trends relating to household income, per capita income, extent of owner occupancy, property rent levels, property value levels, vacancy rates versus occupancy rates and the amount of (or lack thereof) new construction.

Legal, or governmental data may include studying trends relating to property tax assessments and millage rates, special assessments, policies regarding exemptions and abatements, zoning and building codes, quality of public services (e.g., fire and police protection) and environmental regulations.

COMPARABLE PROPERTY DATA

Comparable property data includes that which can be used for each of the three usual approaches to value (i.e., cost, sales and income).

Cost approach data includes comparable properties that have been recently constructed (for development replacement or reproduction costs) and comparable property sales for estimating depreciation as well as for examining the subject property's underlying land valuation.

Sales approach data includes comparable property sales, listings and offerings to purchase for direct comparison to the subject property as well as for use in extracting adjustments for differences.

Income approach data includes comparable property leases, listings for rent and offerings to lease for direct comparison to the subject to develop market rent and typical operating expenses. Additional comparable properties are collected for developing overall capitalization rates or rent/income multipliers.

METHODS AND SOURCES FOR COLLECTING MARKET INFORMATION

The appraiser identifies the (1) methods for gathering market information and (2) sources consistent with its determined scope of work prior to collecting information.

There are a variety of different methods from which an appraiser can choose for collecting information about the subject property, comparable properties and the market area including: personal collection by the appraiser; relying on other appraiser's assistance; relying on other professionals; and surveys and published reports.

The most reliable method for collecting market data is with the appraiser personally collecting it. That's because the appraiser knows what to look for when inspecting properties, asking questions of related market participants about the properties and their transactions and the data needed to understand the market environment in which the subject property is situated. There are times during the course of collecting data that questions arise, and the appraiser knows how to troubleshoot or follow up with related questions.

It's not uncommon for appraisers to rely on other appraisers, or assistants, to help in collecting market information, including inspecting the subject property and comparable properties. When relying on other appraisers for assistance, the appraiser preparing the appraisal report must believe that the other appraisers are competent to collect the information properly. When other appraisers are relied on for significant appraisal

assistance their names will be specified in the appraisal report along with the extent of their assistance.

Sometimes the appraiser's scope of work involves relying on other professionals for market information. For market information relating to the subject property, an appraiser may rely on a home inspection report, an assessment record for building descriptions and a sketch detailing the square footage of the property or a broker's report. In this instance, the appraiser must believe the information is reliable and when there is uncertainty would disclose such in the report by the use of an extraordinary assumption.

Surveys and published reports can often be used for information about properties and market conditions. When these are relied on, the appraiser still must believe the information provided is reliable, and in times where uncertainty arises it then must be disclosed as an extraordinary assumption in the appraisal report.

INTERVIEWING MARKET PARTICIPANTS

All things being equal, the closer the appraiser can get to someone involved in the decision-making interactions the more reliable the information is. Primary market participants are the actual decision makers. For example, in property sales the market participants include buyers and sellers; for property leases the market participants includes landlords and tenants; for new construction projects the market participants includes developers and space users; and for loan financing the market participants includes lenders and borrowers.

Secondary market participants are those who were a part of the decision-making process and can help relay the reasons behind the transaction activities. Examples of secondary market participants include listing and selling brokers, leasing agents, property managers, building contractors and title company agents.

Tertiary sources include public records, publications, and other sources that were not involved in the transaction activity but where information was available. Market data may be obtained from governmental agencies and may include census data, government publications, courthouse and county register of deeds offices, assessor records and local chambers of commerce. Professional organizations often publish data in their publications and newsletters, professional magazines, multiple listing services, builder associations as well as local accounting, broker and law firms. Other resources include newspapers, lenders and mortgage companies, property managers and leasing agents, moving and storage companies, employment agencies, colleges and universities, builders, contractors and appraiser-peer colleagues.

VERIFICATION PROCESS

An often-overlooked part of the data collection process is verification of the data. Verification is one of the most essential components of the data collection process and should be done to ensure the information is the highest quality. It's imperative that appraisers ensure the market information they are using is reliable and able to produce a credible result.

The data is also verified to ensure it is timely, as markets and the reasons underlying decision-making can change dramatically over time.

CONCLUSION

The data collection process is an integral part of the appraisal process and a deliberate approach to ensuring all information relevant and needing to be examined is completed. Appraisers use diligent care to ensure the data collected and used is reliable and reflective of the appraisal problem. ●



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