

A publication of the Michigan Association of REALTORS®

# MICHIGAN REALTOR®



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Forget game-changer, let's talk about life-changer!

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# MICHIGANREALTOR®

# 08.13

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## There's More to it than Just Hockey

Last year Anna Vozza needed a referral for a client who wanted to buy a couple of properties in Detroit. Anna, a Windsor, Ontario broker, didn't know who to refer the business to, so she had to call her brother-in-law, a Detroit contractor, to get a reputable broker's name.

That is the conundrum that brokers in both Michigan and Ontario have faced when pressed for introductions and referrals to do real estate transactions across the international border. On June 27, however, 136 people registered for the first-ever Young Professional Network's YPN: *Reaching Across the Border* event, anxious to learn how to make the right REALTOR® connections. Participants traveled from as far away as Ottawa and Sault Ste. Marie, Ontario to be on hand.

Six panelists fielded questions at the Motor City Casino venue from moderator James Cristbrook; three of them were Canadian and three were American. Furhad Waquad, Chair of NAR's Global Business Alliance Committee, was joined on the panel by representatives drawn from real estate brokerages, title companies, lenders and attorneys. The emphasis was on both content and affording those in attendance the chance to meet, exchange business cards and strike friendships with their foreign counterparts.

Ontario's population (13,506,000) is 36% greater than Michigan's, and its land area is over four times the size of ours. The potential for business with Ontario -- with the Canadian and American dollars on par with one another -- is enormous. The Ontario Real Estate Association (OREA) is made up of 56,500 people who are members of one of OREA's 41 real estate boards.

Provincial real estate practices vary from those that we know in Michigan. At the time of a sale in Ontario, each of the buyer and seller will have a lawyer on hand to represent them in closing the transaction. The lawyer's job is to ensure there is clear title to the property and to calculate the amount of land transfer tax, which is paid by the buyer, is due. Title companies, as we know them,

really do not exist in Canada. Flood insurance is not offered or available. Mortgage interest is deductible for investment property, but not on a principal residence. Non-resident sellers should be aware of certain tax obligations. For example, there is a capital gains tax in Canada and, upon sale, funds can be withheld until the seller's capital gains tax is paid.

Compensation for brokerage is subject to State and Provincial law. Brokers or salespersons that are affiliated with a real estate franchise with offices in each of Michigan and Ontario may have in-house guidelines for conducting a cross-border sale or investment. Real estate designations like Certified International Property Specialist (CIPS), Certified Commercial Investment Member (CCIM) and the Society of Industrial and Office REALTORS® (SIOR) are fortunate to have an international network (including Ontario) for which to turn for their referrals.

The Global Business Council at NAR (<http://www.realtor.org/global>) supports Councils in the Grand Rapids area and southeast Michigan. Independent brokers will find that they offer globally-themed education, networking and programming, and can serve as a clearing-house for REALTORS® pursuing Canadian or other international brokerage opportunities.

And, don't forget the International Consortium of Real Estate Associations (ICREA), which offers a Transnational Referral Certification (TRC) course. This is a 3-hour class that, upon completion, accords the student a personalized TRC Certificate. Armed with this certificate, a REALTOR® will have access to an international referral network and guidance on how to structure binding compensation agreements with licensed REALTORS® in other countries.

TRC instructor, Furhad Waquad ([furhadwaquad@furhad.com](mailto:furhadwaquad@furhad.com)), who also served as 2007 MAR President, is hosting a TRC certification class in the Detroit area September 11, 2013. **MAR**

02

REALTOR | 2013



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# COMING EVENTS

2014 MAR Director Elections

**August 27, 2013**

Online Voting Polls Open

**September 26, 2013**

Online Voting Polls Close

**August 28-29, 2013**

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## Timeline of the Foreclosure Redemption Period Debate

We've always said grassroots is at the core of this association, and again, this was evident in our efforts to find common ground between the financial community and consumer groups. By the time this article hits your mailbox, the 6-month redemption period will remain in place, short sales and other transactions in the redemption period will continue, and additional tools will be implemented to prevent blight in our neighborhoods and local communities. These new reforms refocus a push by financial institutions to shorten the redemption period by crafting an approach dealing specifically with the issue of the devaluation and destruction of foreclosed properties. I will do my best to walk you through the process from the beginning, to where we are today.

In May, Senator Darwin Booher (R-Evart), Chairman of the Senate Banking and Finance Committee, introduced a proposal in the Senate aimed at changing Michigan's foreclosure process to incorporate recent federal foreclosure requirements imposed by the Consumer Financial Protection Bureau (CFPB). Beginning January 2014, federal law will mandate a 120-day pre-foreclosure period beginning from the day of the first missed payment. Sen. Booher framed his proposal to take those 120 days off of the redemption period, shortening the current 6 months, down to 2 months. Complicating the transition to the federal law was the looming sunset of Michigan's 90-Day stay of foreclosure law on June 30th, 2013. In the interest of smoothing the transition to the federal law, Sen. Booher's proposal extended the current 90-Day law for the remaining 6 months. This extension created a time crunch for the legislature to get the new bills to the Governor's desk before the end of June.

The shortening of the redemption period alarmed the MAR Public Policy Committee who believe that homeowner-to-homeowner transactions are vital to the preservation of the home and its value. Looking at the fragile recovery of Michigan's real estate market, the committee did not see the benefit of shortening the redemption period when 20-30% of the market (give or take depending on your area of the state) are still distressed sales. In particular, short sales still take a very long time to complete, even if the listing begins before the sheriff's sale. It is in the interest of everyone involved in the process to allow homeowner-to-homeowner transactions to occur and avoid the vacancy that costs our neighborhoods so dearly. Add

these challenges to an untested new federal foreclosure process, and Michigan's real estate market could be poised to take one large step backwards.

It will come as no surprise that the Michigan Credit Union League and the Michigan Bankers Association got behind Senator Booher's proposal to shorten the redemption period. The financial institutions have long maligned Michigan's redemption process, labeling it the culprit of destroyed homes. Their position is that if they could just get the homes back faster, its condition and value would be preserved. Overall, we shared the same goal - to avoid vacant/abandoned homes and to preserve their condition no matter what leads to the destruction of the property. You see, not every servicer has clean hands in this process, just as not every homeowner in foreclosure is an angel. As we moved forward in the legislative process, developing a test to distinguish the good and bad actors, on both sides, would become the main goal.

While negotiations were fluid, the MAR sent out a membership-wide email alert, asking REALTORS® to contact their legislators to let them know why retaining the 6-month redemption period is vital. We asked that our members share success stories to explain the good policy behind keeping the current redemption period. One of my personal favorites came from an agent who was able to complete a sale with 3 days remaining in the redemption period. The deal entailed selling the home to a new family, paying off a second mortgage, and allowing the seller to walk away with \$15,000 at closing. Within hours, our members were contacting their legislators, and legislators were contacting the MAR to let us know that they were not interested in voting until our concerns were addressed. I continue to see how fortunate we are to have a membership that is engaged and invested in the industry. As staff we do our best to educate each member of the legislature, but when our members start contacting them directly, it really turns up the volume on issues important to REALTORS®.

With support for shortening the redemption period quickly eroding as a result of our efforts, negotiations began to take a turn to address the real problem; preserving the condition of the homes in foreclosure. Michigan law already provides for criminal penalties for destruction of the property in the redemption period and lenders already have the ability to step up the redemption period to a mere 30 days should the property



become abandoned, but by their own admittance, servicers don't often utilize these provisions because of a lack of proof. Our argument against shortening the redemption period became that moving the timeframe from 6 months down to 2 months wouldn't solve this problem either; it would simply become another half-enforceable tool in the toolbox. The goal of the ultimate compromise is to better define these problems and give servicers the ability to enforce the state's current provisions. Under the deal we struck, the 6-month redemption period remains unchanged for homeowners that keep a vested interest in the property.

The bills that ultimately made it into law represent a compromise that goes back to that test for good and bad actors that I wrote about earlier. If a homeowner wants the benefit of their full redemption period, they need to take care of the property, and if a servicer is interested in protecting the home, they need to be vigilant with re-

spect to the home. The new attempts are designed to define damage and allow for servicers to monitor the home throughout the redemption period. Similar to the current abandonment provisions, if the home has been damaged or stripped of its possessions the lender can take the homeowner to court to take possession of the home.

Given the constrained time frame in which these bills passed the language isn't perfect. The bill defining damage was given an effective date of January 10, 2014, the same day the new federal rules take effect. This will also allow the legislature to go back over these next several months and look more specifically at the law dealing with abandonment, and tighten up the current language to make sure the homeowners rights are protected and that the financial institutions have clear guidelines to follow when enforcing the new law. In the end, the compromise seems to benefit everyone in the transaction as well as our neighborhoods and communities. **MAR**

**“The shortening of the redemption period alarmed the MAR Public Policy Committee who believe that homeowner-to-homeowner transactions are vital to the preservation of the home and its value.”**

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*Graduates list as of June 17, 2013*

# WHAT YOU DON'T KNOW ABOUT HEALTHCARE REFORM

BY KAREN RYAN, EA, CTC

**I**t's hard to open a newspaper these days without reading something about the new HealthCare Reform legislation. HealthCare Reform represents the biggest change in how Americans pay for health care since 1965, as well as some of the most significant changes in tax law since 1986.

Last year, as you all know, the U.S. Supreme Court ruled that the Act's controversial "individual mandate" was a constitutional exercise of the government's power to tax. The Court's decision dashed the hopes of those who wanted to see it eliminated the "easy" way.

Healthcare reform has been an intensely political process. Polls show that Americans are overwhelmingly confused and concerned. They still don't know just what the new law does, and they don't know how much it's going to cost.

I'm not here to debate the merits of the bill – it's going to take a long time before historians can make that call. But I *can* help by pointing out a couple of surprising aspects of the bill, and maybe give you reason to look forward to some of the opportunities it creates. I'll focus here on two issues; the controversial "individual mandate," and the new Michigan Insurance Exchange.

First, let's talk about the most controversial part of the law; that "individual mandate." The law says that by 2014, all Americans have to maintain "minimum essential coverage." If not, they face a penalty. That penalty starts at \$95 per adult or \$47.50 per child, up to a maximum of \$285 per family or 1% of income in 2014. It rises to \$695 per adult or \$347.50 per child, up to a maximum of \$2,085 per family or 2.5% of income in 2016. After 2016, those dollar amounts are indexed for inflation.

Every year, your insurance company will send you and the IRS a form confirming you have coverage. You'll have

to attach that form to your return.

Requiring us to buy health insurance is a pretty big step. The government has never required us to buy commercial products or services before. If you drive a car, most states mandate you buy car insurance – but nobody says you *have* to buy a car. If you're a real estate agent, the Michigan Department of Licensing and Regulatory Affairs requires you to carry malpractice insurance – but nobody says you *have* to be an agent in the first place.

Of course, there are plenty of exceptions to the new individual mandate:



- If your taxable income is under the federal poverty line, or the cost of coverage is more than 8% of your household income, you don't have to pay the penalty.
- If your taxable income is less than four times the federal poverty limit, you may qualify for subsidies to help pay for your coverage.
- The penalty is pro-rated by the number of months you go without coverage – so if you're without coverage for just half a year, you pay just half the penalty.
- There's no penalty for a gap in coverage that lasts less than three months.
- Finally, the penalty can't be greater than the national average premium for "Bronze" coverage in an "insurance exchange," which we'll discuss in a bit.

Right now, it looks like the worst the IRS can do is withhold your future tax refunds. Other than that, there's nothing they can do. No interest. No liens. No levies. No jail time. It will be interesting to see how hard the IRS works to enforce a penalty Congress says it's not allowed to enforce! Who knows how many Americans actually pay if there's no real consequence for not doing it?

Now let's talk about another surprising aspect of the law; the new insurance exchanges. Health insurance exchanges are designed to establish a more organized and competitive market where you can learn about your options and compare standardized plans. Exchanges

commanded the market with 69% of the state's coverage.

But here's what you don't know about Health Care Reform. The law actually appears to be encouraging new competition in Michigan. Fourteen companies have filed plans with the Michigan Department of Insurance and Financial Services to offer coverage under the new Michigan exchange.

So, next time you read a newspaper editorializing about Health Care Reform, or hear a small employer complaining about the "burden" it imposes, consider waiting and seeing exactly what the new law brings. You might just be surprised at what there is to like about it! **MAR**

## Healthcare reform has been an intensely political process. Polls show that Americans are overwhelmingly confused and concerned.

So, the individual mandate has been by far the most controversial part of Health Care Reform. But here's what you *don't* know about Health Care Reform. *There's no way for the government to enforce those penalties.* In fact, here's what the congressional Joint Committee on Taxation had to say in their explanation of the bill:

*"The penalty is assessed through the Code and accounted for as an additional amount of Federal tax owed. However, it is not subject to the enforcement provisions of subtitle F of the Code. The use of liens and seizures otherwise authorized for collection of taxes does not apply to the collection of this penalty. Non-compliance with the personal responsibility requirement to have health coverage is not subject to criminal or civil penalties under the Code and interest does not accrue for failure to pay such assessments in a timely manner."*

are intended primarily for individuals who don't have employer-based coverage, individuals whose income is too high to qualify for Medicaid and small employers looking to buy coverage for their employees. In other words, they're tailor-made for real estate agents and brokers!

States can establish their own exchanges, partner with the federal government to run their exchange, merge their exchange with other states, or default into a federal "mega-exchange." Michigan chose to establish its own exchange, and it opens for business on October 1.

What's that likely to mean for agents' insurance options? Well, back in 2010, the American Medical Association ranked Michigan the third-least competitive state for health insurance. Blue Cross Blue Shield of Michigan

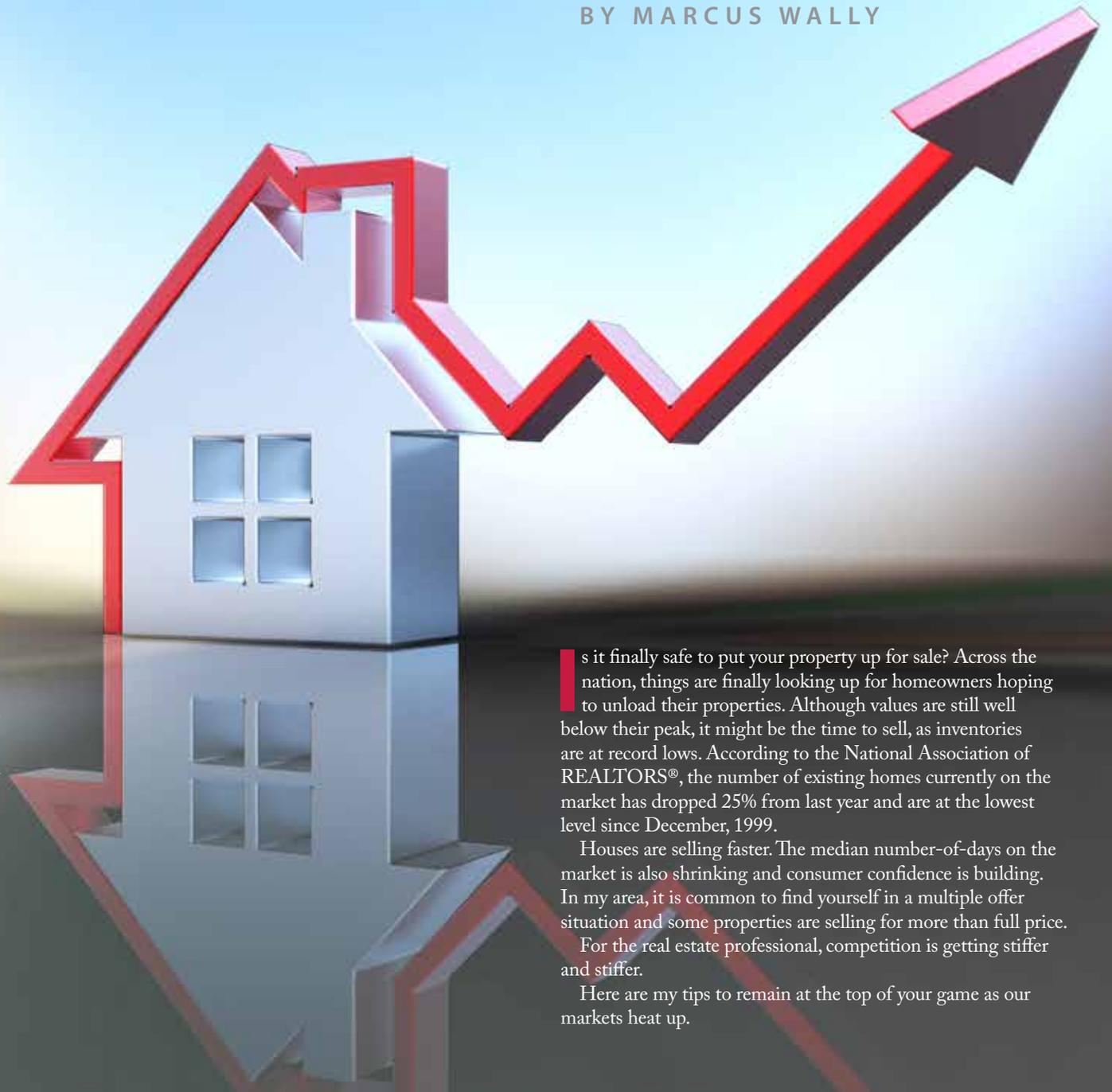


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See Karen's session:  
**How to Beat the High Cost of Health Care Reform, at GO GRAND WITH KNOWLEDGE**  
 August 28-29, Grand Hotel, Mackinac Island.  
 Visit [Mirealtors.com](http://Mirealtors.com) for more event information.

# IS NOW THE TIME T

BY MARCUS WALLY



Is it finally safe to put your property up for sale? Across the nation, things are finally looking up for homeowners hoping to unload their properties. Although values are still well below their peak, it might be the time to sell, as inventories are at record lows. According to the National Association of REALTORS®, the number of existing homes currently on the market has dropped 25% from last year and are at the lowest level since December, 1999.

Houses are selling faster. The median number-of-days on the market is also shrinking and consumer confidence is building. In my area, it is common to find yourself in a multiple offer situation and some properties are selling for more than full price.

For the real estate professional, competition is getting stiffer and stiffer.

Here are my tips to remain at the top of your game as our markets heat up.

### 1. ADJUST YOUR SIGHTS TO TODAY'S MARKET.

Our business is heavily dependent on statistics, and to be top notch, we must know our local numbers. We must guide our customers/clients to success, and this begins by making sure that

of the living room, kitchen, backyard, master bedroom and bathroom follow a photo of the curb appeal. Price is also a huge factor for an Internet search. I recommend that you price a property at a round number. Since most buyers

the carpet, and weeding out unnecessary furniture to make the home look larger, are all good ideas. Remove outdated window treatments and spruce up the homes drive-by curb appeal in order to encourage visitors.

# DO SELL?

they set aside what they might have received for a home sale back in 2006. We must get them to focus on what homes are selling for today in 2013. I call this "facing the mirror" and or "taking the medicine." This is best done when we pay close attention to how long competing homes have been on the market. Today, well-priced homes are selling, while homes that languish for months are typically priced at unrealistic levels and never end up selling for top dollar.

**2. DON'T REACH FOR THE STARS.** Getting greedy does not work today! Given the tightness of many markets, it may be tempting to reach for the moon, but this will back fire and find the seller getting far less than if the property was priced correctly from the start. As we know, the largest viewing audience is always at the start of a new listing. It is most critical to be priced correctly out the gate. Waking up 30-45 days after the listing start date, only to realize that the property was over-priced will only bring you despair. Once a property has been overpriced, both buyers and other real estate agents are likely to relegate the listing to the sidelines. Missing the market is perhaps the worse mistake you can make and it is rarely, if ever, financially correctable.

**3. IRRESISTIBLE INTERNET.** Make the Internet work for you. Most homebuyers and agents are now starting their search process online. So, Internet marketing is key to a solid marketing strategy. Carefully selecting photos is the secret. For many years, I have always taken my own pictures with my personal digital camera. It wasn't until recently, that I make the decision to always hire a professional to handle this aspect of my marketing. For max impact, start with the picture that is going to tell the best story of the property for sale. Too many shots of a single room could bore buyers. Make sure that pictures

tend to search in \$25,000.00 or \$50,000.00 increments, you can maximize your exposure by pricing this way, thus ensuring the property shows up on most searches.

**4. WEIGH MULTIPLE OFFERS CAREFULLY.** It is too easy to get excited and over confident (both seller and agent) when multiple offers are received on a property. Price tends to become the only focus, and this is not a good thing.

I recently lost two sales because the listing agents were not well versed in handling multiple offers. In fact, one listing broker even called me asking how to handle the situation, when I was one of the brokers who had submitted an offer on behalf of my customer. After giving this listing broker my advise, they proceed forward doing the exact thing I encouraged them not to do...and that is, to reject all the offers and ask for highest and best from each. Three weeks later, the home is still not sold and they had alienated most of the buyers who had submitted solid offers (full price cash).

So, perhaps a buyer putting down substantially more cash and or waiving all inspections, should be given as much weight as the offering price. And, since we are in a recovery mode, appraisals are something to which we should all be paying close attention. If a buyer is willing to guarantee the purchase price, perhaps it is a smart idea to entrain taking a lower sales price. Remember too to always let the seller make these decisions.

**5. CLEAN UP YOUR ACT.** Even in a recovering market where homes are selling briskly, properties must still be well kept and attractive. In order to be positioned correctly, a property should be eye-catching and inviting if it is to get a bite. Make sure the listing does not look shabby or crowded. Touching up paint, cleaning

Smells are also a critical factor. Too much of any one thing is not good. Be aware of pet odors that can be a turnoff to many buyers.

I always ask sellers to go and take a look at other homes that are currently for sale so that they can try and visualize their home through a buyers eyes.

And as far as a low appraisal goes, always be willing to share your updated homework with the contracted appraiser. Commit to always returning the appraisers phone calls and be willing to share your knowledge and expertise in order to overcome a low appraisal. It's all about **TEAM WORK!**

We need them as much as they need us.

Top of mind awareness in five areas is our main focus: price changes, the inventory of homes for sale, competition from foreclosure, the average time it takes a home to sell, and the gap between selling prices and list prices.

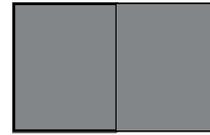
Become a strong lister, as listings are like have a CD in the bank waiting to mature... or said another way, listings are the life blood of real estate! **MAR**



*Marcus A. Wally, MBA is an active Florida REALTOR® in St. Augustine, Florida - "Our Nations Oldest City." Marcus is the founder and broker of New World Realty, which also manages coaching and facilitation of education classes around the world. Marcus earned his MBA from the University of North Florida in Jacksonville. Marcus can be reached at +1-904-669-1081 or by email at marcus@newworldrealty.com. For more information, visit www.newworldrealty.com.*

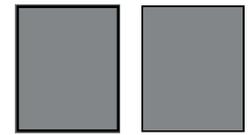


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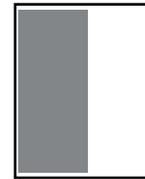
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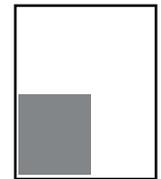
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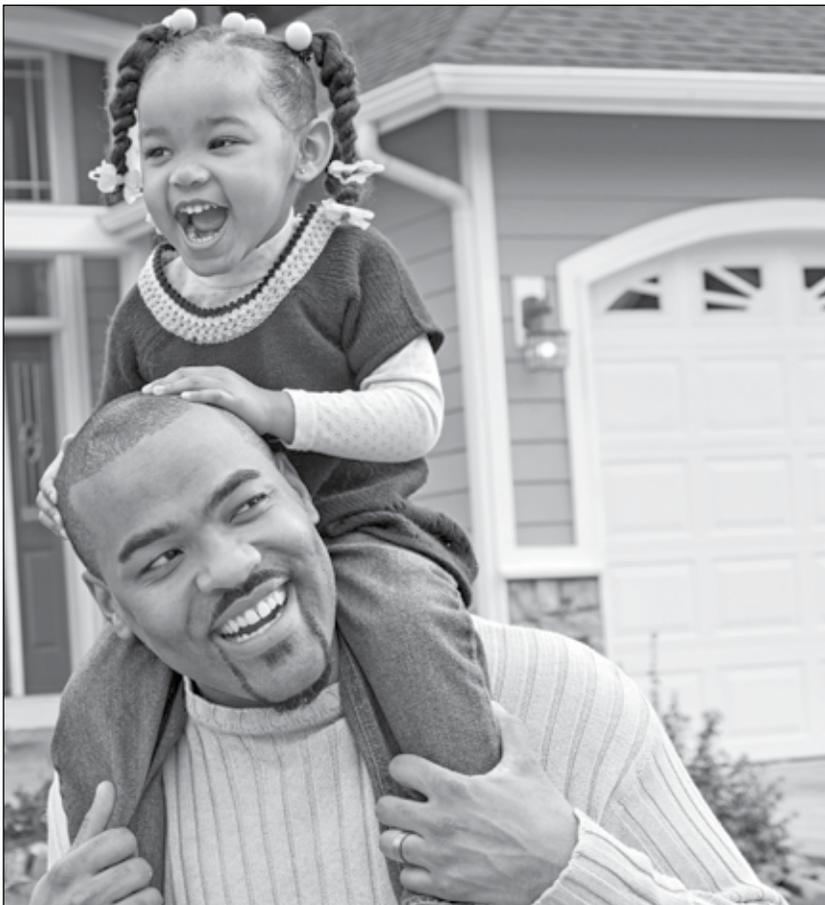
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# Publicity in the Age of Social Media:

## Why the Old Rules of the Road Still Apply

BY EDWARD SEGAL, E-PRO, RCE, CAE



Social media platforms make it easier than ever for REALTORS® to become visible to and known by a variety of audiences, including potential clients. As of June 2013, there were more than 1 billion Facebook and YouTube users, 500 million Twitter users, and 225 million LinkedIn subscribers.

But using social media to generate awareness about your real estate services, opinions and expertise has not changed some basic truths about generating publicity, whether it's print, broadcast or online.

Think of it this way: Driving a new, powerful and gadget-laden car doesn't exempt you from state and local driving laws. By the same token, using the Internet (Web sites, Facebook, Twitter, LinkedIn, YouTube, etc.) to promote yourself is no excuse for ignoring the time-tested public relations advice below.

The reality is that the old rules of the road still apply. By pretending they don't, you risk damaging your image, reputation and the effectiveness of your marketing efforts.

Use the following checklist to ensure that your PR efforts do not run into any speed bumps, potholes or traffic jams.

## HAVE A STRATEGY

Do not engage in any social media or Internet activities unless and until you have a strategy for doing so. Otherwise, you'll just be spinning your wheels and may quickly become frustrated or discouraged. Your social media road map should cover the following key points:

- What do you want to accomplish?
- How will your social media activities fit into your business or market plan?
- What are the topics in which you have expertise?
- What do you have to say, and why?
- Who is your target audience?
- What are your credentials or real estate-related expertise?
- How much time and effort are you willing to commit?
- Are you tech-savvy enough to do the work yourself, or will you hire someone to do it for you?
- How will you define and measure success?

## HAVE SOMETHING TO SAY

Take time to study what others are saying or showing on different social media platforms. Resist the temptation to add a post just for the sake of seeing your name on the screen.

Always have a reason for placing a post on social media sites. Make a list of everything you could say about real estate-related topics. Be sure to link it in an appropriate matter with your knowledge, expertise, experience or reputation.

The best messages are those that create or enhance the reputation you have or want, place you in the best possible light, accurately capture the essence of what you want to say on the topic, feel right or comfortable, offend no one and are credible and believable.

Tailor your messages to meet the needs and concerns of your audiences and the social media sites they follow.

## FOCUS ON WHAT YOU KNOW

To help bolster your reputation, your posts should be based on your credentials and know-how. Make a

list of all the real estate-related topics and issues in which you have knowledge, expertise or information. For inspiration or guidance, check out what other agents or brokers are writing about and do a keyword search on your favorite search engine. To ensure your posts stay fresh, set-up Google alerts for the topics that you want to follow and write about.

## KNOW WHAT TO PUT WHERE

All social media platforms and outlets are not created equal. The one you use should depend on what you want to accomplish, what you have to say or show, and how much time you have to devote to your social media activities.

For example:

- Take advantage of YouTube to post video tour of your listing(s).
- Use Facebook to engage others in conversations about real estate trends and developments.
- LinkedIn makes sense if you promote your expertise and credentials and ask others to endorse or write recommendations about you.
- Twitter may be a good fit if you know how to tag real estate-related content and can commit to posting comments and observations several times a day.

For practical advice on using different social media platforms, check out the social media for REALTORS® series published by the National Association of REALTORS® and available via their Web site.

## WRITE IT RIGHT

Carefully prepare the content you want to post. Think like a journalist, keeping in mind the who, what, when, where, why and how of what you want to say or express. Do not ramble or ignore the rules of grammar and punctuation. Spell-check everything before you become part of the conversation. Finally, read what you want to say out loud to ensure that you catch all typos, grammatical errors, etc.



SMS

The reality is that the old rules of the road still apply. By pretending they don't, you risk damaging your image, reputation and the effectiveness of your marketing efforts.

### SIZE MATTERS

How much you have to say will depend on where you want to say it. Brevity is mandatory on Twitter, which has a 140-character limit. But size also matters when it comes to how people will see what you have to say or show. Watching a YouTube video tour of a new listing on a desktop computer is one thing; watching it on an iPhone is quite another.

### THINK AHEAD

To get a jump on real estate-related topics that may become news tomorrow, check out the editorial calendars on web sites of various news organizations. This can be a good way to stay ahead of the news curve and be ready to post comments when the stories are published. Keep in mind when the latest MLS or other real estate data

will be announced, and ensure you're ready to pounce on and comment about the news. Tomorrow could be too late!

### BE QUOTABLE

Take a hint from journalists who use quotes from the people they interview to help enliven their stories. These sound bites, usually 10-30 words, help audiences understand the story and make it easier to remember the news or announcement.

Here are some proven sound bite techniques you can incorporate in your social media blog and commentaries to ensure that people remember what you have to say:

- Clichés: "Today's buyers are like sharks circling in the water."
- Absolutes: "This is the best time for first-time home buyers."
- Analogies: "Finding a home in today's market is like a game of musical chairs."
- Personal experience: "I've never been so busy."
- Predictions: "The market will continue to make a slow recovery through the end of the year."
- Anecdotes: "A funny thing happened to me at a recent open house..."

### THE WORLD IS WATCHING

The good news is that, thanks to social media, it's easier than ever before for you to generate public awareness about your real estate services, opinions and expertise.

But that means you must be on your best behavior, because anyone with a computer, tablet or smart phone can see what you are saying, doing or showing on the Internet. Among those who may be following your blog and Twitter postings are local real estate editors, reporters, and columnists who often troll social media sites looking for news, tips, and story ideas.

And that's another rule of the road that remains the same. No matter how or where you try to generate publicity about your services, opinions or expertise: be careful out there. After all, it's only your reputation that's at stake! **MAR**



*Edward Segal is a public relations expert and author of two public relations reference guides, including *Getting Your 15 Minutes of Fame and Profit by Publicity*. He is the CEO and communications director of the Marin Association of REALTORS® in San Rafael, California. Contact him at [edwards@marinaor.com](mailto:edwards@marinaor.com) and 415-507-1011.*





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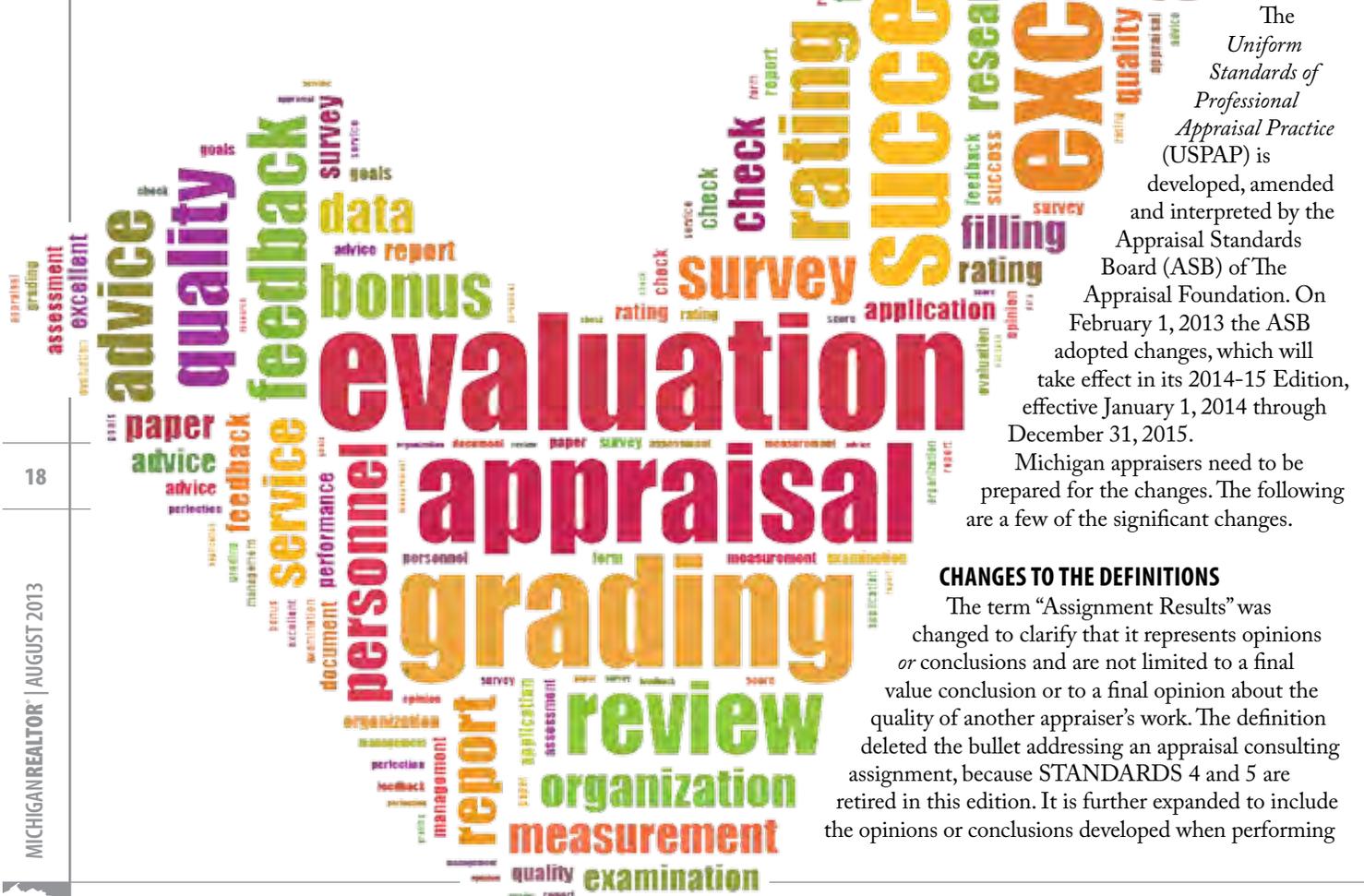
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# Michigan Appraisers Get Prepared for USPAP's 2014-15 Edition

BY MICHEAL R. LOHMEIER, FASA, MAI, MMAO(4)



The  
*Uniform  
Standards of  
Professional  
Appraisal Practice*  
(USPAP) is

developed, amended  
and interpreted by the  
Appraisal Standards  
Board (ASB) of The  
Appraisal Foundation. On  
February 1, 2013 the ASB  
adopted changes, which will  
take effect in its 2014-15 Edition,  
effective January 1, 2014 through  
December 31, 2015.

Michigan appraisers need to be  
prepared for the changes. The following  
are a few of the significant changes.

### CHANGES TO THE DEFINITIONS

The term “Assignment Results” was  
changed to clarify that it represents opinions  
*or* conclusions and are not limited to a final  
value conclusion or to a final opinion about the  
quality of another appraiser’s work. The definition  
deleted the bullet addressing an appraisal consulting  
assignment, because STANDARDS 4 and 5 are  
retired in this edition. It is further expanded to include  
the opinions or conclusions developed when performing





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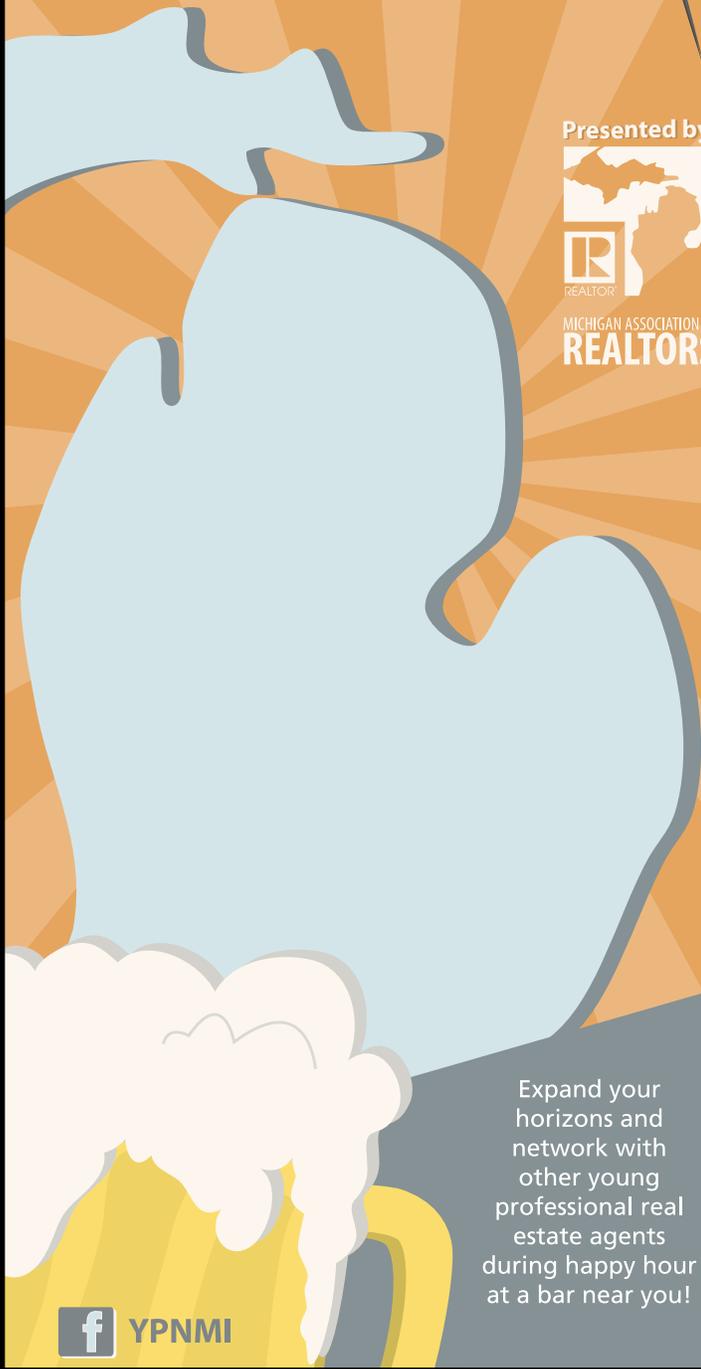
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## Procuring Cause vs Commission Split Disputes

We have become aware of a number of unhappy REALTORS® who have unintentionally given up part of their commission by putting the interests of their client ahead their own financial interests. Unfortunately, this situation can occur when REALTORS® fail to distinguish between a procuring cause dispute and a dispute over the amount of compensation to be paid a cooperating REALTOR®.

In a typical procuring cause dispute (if there is such a thing), REALTOR® Black has the listing for 123 Elm Street. REALTOR® Brown has been working with the Smiths to find them a suitable home to purchase. REALTOR® Brown shows 123 Elm Street to the Smiths. Unbeknown to REALTOR® Brown, the Smiths, for various reasons, have become unhappy with REALTOR® Brown's services. The Smiths contact REALTOR® Green and advise her that they are interested in purchasing a home but do not tell her that they were previously working with REALTOR® Brown.

The Smiths advise REALTOR® Green that they are specifically interested in 123 Elm Street. They do not tell REALTOR® Green that they have previously been shown 123 Elm Street but, instead, indicate that their interest in the property is based upon a viewing of the excellent video home tour which is part of REALTOR® Black's listing. REALTOR® Green shows the Smiths 123 Elm Street and ultimately prepares an offer for submission to REALTOR® Black. REALTOR® Black becomes concerned about a possible procuring cause dispute, as he is aware that REALTOR® Brown previously showed the Smiths 123 Elm Street.

REALTOR® Black does not want any problems with this transaction. The owners of 123 Elm Street accept the Smiths' offer submitted through REALTOR® Green. REALTOR® Black advises REALTORS® Brown and Green of the situation, i.e., that the Smiths were first shown the 123 Elm Street by REALTOR® Brown, but submitted their offer for the property through REALTOR® Green. Upon learning that the Smiths submitted an offer through REALTOR® Green, REALTOR® Brown is understandably upset. She knows of no reason why the Smiths would have been unsatisfied with her services and submitted an offer through REALTOR® Green. She sends emails to both REALTOR® Black and REALTOR® Green making her

claim that she is the procuring cause for the Smiths' purchase of 123 Elm Street. She claims that the Smiths were and still are her clients.

In this situation, REALTOR® Brown does nothing more to stake out her claim that she is the procuring cause for this transaction. Instead, she believes that it is in the best interest of her clients, the Smiths, to permit the transaction to move forward to closing. She does not appear at the closing or otherwise take any further action.

After the Smiths close on the purchase of 123 Elm Street, REALTOR® Brown submits her request for arbitration to her local association. The grievance committee determines that there is a sufficient basis for her to assert her procuring cause claim. REALTOR® Brown appears before the arbitration hearing panel to assert her claim. REALTOR® Green does not assert that REALTOR® Brown has waived her claim for compensation as the cooperating REALTOR® by failing to assert her claim prior to closing. There is no such defense, as it is an accepted practice that REALTORS® put the interests of their clients first and not disrupt a transaction simply to protect a claim that they are the procuring cause of the transaction.

This "typical" procuring cause situation must be distinguished from the situation where there is a dispute between a listing REALTOR® and a cooperating REALTOR® as to the amount of compensation to be paid to the cooperating REALTOR®. In this typical situation (again, if there is such a thing), REALTOR® Black has listed 123 Elm Street and has offered compensation through the MLS in the amount of 3.5% of the purchase price. REALTOR® Green is acting as the buyers' agent for the Smiths. REALTOR® Green submits an offer on behalf of the Smiths to REALTOR® Black which is accepted by the sellers. The Smiths move forward by seeking financing for 80% of the purchase price for 123 Elm Street. Unfortunately, 123 Elm Street does not appraise at a value that would support financing of 80% of the purchase price. In an effort to salvage the transaction, it is suggested by the seller that the seller will agree to a reduced purchase price if REALTORS® Black and Green agree to reduce their total compensation by 3%, such that REALTOR® Green would receive 2% of the purchase price as the cooperating REALTOR®. This proposal is acceptable to the seller, the Smiths and REALTOR® Black.

REALTOR® Green does not agree with any



reduction in the amount of compensation offered to her by REALTOR® Black through the MLS. However, she wishes to act in the best interest of her clients, the Smiths, and so she orally agrees to a lower commission amount, believing in the back of her mind that she will be able to collect the additional 1.5% after closing. REALTOR® Green proceeds to closing and accepts payment of a commission equal to 2% of the purchase price without any objection or reservation of her rights.

After closing, REALTOR® Green submits a request for arbitration to her local association for 1.5% of the purchase price. It is REALTOR® Green's contention that she was forced to accept the reduced compensation offered by REALTOR® Black through the MLS and is now entitled to collect the remaining 1.5% of the purchase price. If this dispute proceeds to arbitration, there is a very real possibility that REALTOR® Green will lose. REALTOR® Black will argue that REALTOR® Green agreed to the change in compensation. Alternatively, REALTOR® Black will contend that REALTOR® Green waived any claim to compensation beyond the 2% of the purchase price which she accepted at the closing without objection or reservation. Finally, REALTOR® Black will argue that he, the seller and the Smiths would not have proceeded forward with the transaction had they known REALTOR® Green was not in agreement. While every arbitration must turn on its own facts, in this situation REALTOR® Green's likelihood of obtaining the additional 1.5% compensation is not very high.

In order to avoid this situation in a commission dispute, REALTOR® Green should make her disagreement with the reduced compensation known prior to closing and accept compensation at closing with a reservation of her rights to seek additional compensation as offered through the MLS.

As an aside, it is sometimes contended in disputes over compensation between listing and cooperating REALTORS® that any change in the compensation offered by the listing REALTOR® through the MLS must be in writing and signed by the cooperating REALTOR®. This argument is based on the fact that Michigan law requires that any agreement to pay a commission upon the sale of an interest in real estate must be in writing and signed by the seller. As presumably all REALTORS® know, an oral promise by a seller to pay a commission to a REALTOR® upon the sale of

real estate is simply unenforceable. However, this same rule of law does not apply to agreements between REALTORS® with regard to splits in cooperative transactions. The Michigan Supreme Court in *Benzos v Borisoff*, 339 Mich 12 (1954) and the Court of Appeals in *Schultes Real Estate Co Inc v Curis*, 169 Mich App 378 (1988), specifically determined that an agreement to share compensation between brokers need not be in writing. Obviously, any agreement between REALTORS® to modify compensation offered through the MLS should be evidenced by some form of written agreement (e.g., an exchange of emails) to avoid any disagreement in the future as to what was agreed upon.

## FILL OUT ALL OF THE FORM

The current form of agency disclosure is designed to accommodate REALTORS® who practice *traditional* agency as well as those who practice *designated* agency. For whatever reason, it would appear that many REALTORS® are not completing the agency disclosure form as required by law. These REALTORS® check the appropriate box under the heading "Licensee Disclosure (check one)" but for whatever reason, do not complete that portion of the form under the heading "Affiliated Licensee Disclosure (check one)." This failure may be based on a mistaken belief that this portion of the form only applies to REALTORS® practicing designated agency. However, this portion of the form is intended to provide very specific, important information to the seller and buyer. Selecting the first box under this heading tells the buyers or sellers that other than the licensee signing the agency disclosure form and the supervisory broker, no other person in the firm has an agency relationship with them. Selecting the second box under this heading tells the buyers or sellers that everyone in the firm has an agency relationship with them. The failure to check either one of these two boxes could, for example, result in a claim by the sellers or buyers that they thought they had an agency relationship with everyone in the firm, when in fact they were working with a designated agency office. All REALTORS® should make sure that they fully complete the agency disclosure form. **MAR**

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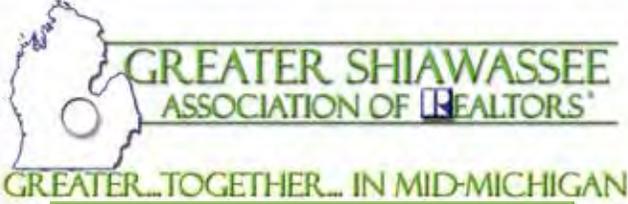
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