

A publication of Michigan Realtors®

# MICHIGANREALTOR®

HYPERLOCAL MARKETING



*zeroing*

*in on*

*neighborhoods*

PLUS

Realtors Property Resource

Capitol Report

Value Mindset

Legal Lines



The Convention Recap





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{ NOVEMBER | TWO THOUSAND & EIGHTEEN | VOLUME SEVENTEEN | NUMBER SIX }



## Farewell to an Inspiring Year

Another quarter has come and gone and here we are staring down the home stretch toward the end of another year. Have you made the progress in your personal life and that you committed to last January? Well, it's crunch time, so let's kick it into high gear and end the year with a bang!

This has been an incredible year for Michigan Realtors®, with increases in both new members and event attendees. For the first time, we hosted the NAR Tech Edge and our own program, the Professional Development Series, to help Realtors® in Michigan meet their continuing education requirements on a timely basis. We're helping you every step of the way to be the very best Realtor® you can be!

We are thrilled to welcome the Leadership Academy Class of 2018. These individuals have demonstrated leadership potential and come together to form a network of industry experts across the state and are actively involved in improving our association and our profession. Congratulations to the Class of 2018:



**Jack Brown**  
AABOR



**Chase Gonion**  
ETAR



**Larry Henney**  
GMAR



**Tracey Hernly**  
GLAR



**Toni Jennings**  
GMAR



**Judy Jordan**  
BCAAR



**Roger Kopernik**  
Water Wonderland



**Patty Lauten**  
SWMAR



**Renee Malburg**  
MOMBOR



**Ursel Mayo**  
GPBOR



**Shane McKenzie**  
Livingston County



**Jenifer Rachel**  
NOCBOR

The RPAC events boasted great attendance this year with the RPAC Fundraising and AE Forum. Special events like the online auction and film festival added a fun touch and a great way to get together in new ways.

The Convention, Achieve and Broker Summit all had increases in both attendance and sponsorship! These participation upticks demonstrate that the industry and Realtors® of Michigan are finding value in this association as we continue to adapt and provide more tools and resources for professional success, networking and engagement.

Of course, each summer brings about the District Director Elections, and this year's elections were another resounding success! A whopping six candidates threw in their hats to vie for the District 14 seat. We are delighted to welcome our newly elected officers and wish them great success as they carry out their duties.

To Matt Davis, our 2019 President, I wish all the success in the world. Here's to a year of great experiences and many achievements!

To all of the 2018 officers, thank you. Your dedication, hard work, and enthusiasm for our profession helped to

make this a very successful year for me as President, as well as a very enjoyable one. Thank you for all of your marvelous talent and innumerable efforts, your good humor and your perseverance.

And, to all of you, I thank you from the bottom of my heart for allowing me to serve you in 2018 as the President of Michigan Realtors®. Your faith in me was humbling and your dedication

to your profession and your state were both inspiring. May you all end 2018 in some way better than you were when it began, and may you all continue to reach for your goals as you go the distance in 2019. ●



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# COMING EVENTS

**January 31 - February 1, 2019**

Achieve

JW Marriott, Grand Rapids

**April 24, 2019**

Broker Summit

The Westin, Detroit Metropolitan Airport

**October 2-4, 2019**

The Convention

Detroit Marriott at the Renaissance Center, Detroit

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# ANNOUNCEMENTS

MICHIGAN NETWORK

# YPN

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Supporting Sponsor - First American Title

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## Contemplating the Actions of a Lame Duck

It seems like just yesterday that I wrote in this Capitol Report about the legislature's "lame duck" session — but it wasn't yesterday, it was two years ago. As a quick refresher to those just reading, or those who possibly forgot, lame duck is the time between an election and the beginning of the next legislative session. In Michigan, this period of time is made even more interesting because of our legislative term limits, which means that there is a possibility that votes being cast that would not otherwise be cast because there are no political repercussions.

Without trying to predict the outcome of the November election, there is also the potential that the control of one of the chambers of the legislature, or the executive branch changes hands in the November election. This means last call to get agenda items accomplished before new leadership takes the helm in January. This is a long way around the horn to say, "strange things can be afoot in lame duck." (Yes, that is a subtle nod to Bill and Ted's Excellent Adventure.)

This year Michigan's general election is scheduled for November 6th. Unlike the last time I wrote this article where only the 110 seats of the Michigan House of Representatives were up for election, this year will see those same 110 House seats, 38 State Senate seats, Governor, Secretary of State, and Attorney General all up for election. With so many ways the November election could play out, the pace and volume of legislation moving in lame duck will vary with each scenario.

Michigan Realtors® have our eyes on a few key pieces of legislation in lame duck to try and round out this already successful legislative session.

### FIRST-TIME HOMEBUYER SAVINGS ACCOUNTS

I'm sure you're sick of reading about it as much as I'm sick of writing about it. However, there is good reason that this overwhelmingly popular piece of legislation has been in a holding pattern — enforcement. The Department of Treasury and the Governor's Office have expressed concern with enforcement and the cost of the program. It is a program that provides a tax benefit to those individuals saving for a first-time home purchase in Michigan, so there is a need to make sure that the benefit is conferred only to those deserving individuals. It is our goal to prevent abuse by those looking to cheat the system. The more abuse, the more honest taxpayers pay.

The legislation is currently on the floor of the Michigan House awaiting a final vote. There will most likely be a few tweaks to the bill before what will hopefully be final passage. These language changes will make sure that the Department of Treasury can properly enforce the program, and that the program is successful in its aim to retain Michigan talent and promote Michigan homeownership.

### STATEWIDE SEPTIC CODE

A bill introduced was met with mixed reviews in the legislature due to its requirement that all septic systems be inspected every 10 years. While there is general agreement on the goal of protecting the water of our state through a statewide code, there remain a few points of difference on how to best implement such a program. Michigan Realtors® is consistent in our pursuit of uniform evaluations across jurisdictions, getting local government out of septic regulation, moving to statewide approval of alternative technology, and keeping government out of the real estate closing.

The political hurdles of implementing a mandatory 10-year inspection loom large at this point, so taking a victory on some of these other points is a real possibility. Through a series of workgroups, it is anticipated that the legislature will amend the bill to eliminate the current 10-year mandatory inspection and replace it with new wording to make clear that neither local health departments, nor townships or cities, can have ordinances or regulations that in any way restrict or condition the sale or transfer of property because of issues related to the septic system. There is also clear language to get local governments out of regulation completely, leaving septic systems (both conventional and alternative) entirely to the state and local health departments.

The fate of this bill in lame duck is not entirely clear, but the bill sponsor is keen on rallying support in the House for the changes.

### ASSESSMENT REFORM

These bills first made an appearance in the legislature back in June to create baseline requirements for local assessing districts. The plan pushed by the Department of Treasury would set out standards that local governments need to meet in order to retain their assessing function, or be faced with turning those duties over to the



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**PARTY MOBILE ALERTS,**  
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county. Those requirements would include things like: employing a master assessing officer, utilizing an approved mass appraisal software, providing for on-line access to information regarding assessments and allowing for public inspection of records.

Just getting some of these jurisdictions to utilize on-line accessibility for assessing records would be a victory for Realtor® members. Michigan Realtors® is pursuing additional language that clearly spells out that information which should be provided on-line in order to provide for greater access and transparency in assessment records. While there is very little agreement on these bills between the counties and townships that are the focus of this program, the legislation is still on the short list of possible items to move in lame duck.

A recent listening tour by the bill sponsors brought some of these local issues to light, and changes to the current bill drafts are likely.

### COMMERCIAL REAL ESTATE TRANSFER FEE

As much as I wish the above line were a typo, it's not. While no bill has been introduced to implement such a fee yet, recent discussion around the Capitol began looking at the feasibility of a flat fee on the transfer of commercial real estate. The fee would be one of a handful of potential funding mechanisms for a statewide insurance pool to pay for the cleanup of orphaned environmentally contaminated sites. Orphaned sites are not new, in fact estimates peg the number in the state to around 3,000, but environmental contamination has become a hot topic since the alarming discovery of elevated levels of PFAs (Per- and polyfluoroalkyl substances) were discovered in 15 Michigan communities.

Cleanup of orphaned sites benefits all citizens in Michigan, but tying a transfer fee to the sale of all commercial property lacks any sufficient nexus to the pollution that is in the ground. Not to mention that for years this association has stood steadfast against any such fee or expansion of the current state real estate transfer tax. You can believe that it will not be just commercial Realtors® that will be up in arms over a new fee, but the entirety of the membership.

There is always the potential that other issues will arise in lame duck, but you can rest easy knowing that Michigan Realtors® is there every step of the way working on legislation on your behalf. It is also times like these that Realtor® legislative champions shine in their roles as elected representatives. The legislature serves an important function in charting a course for our state and our industry.

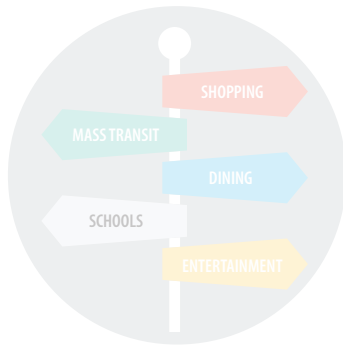
Please be sure to stay up to date on all the latest goings on with Michigan Realtors® Public Policy by visiting <http://www.mirealtors.com/Advocacy-Initiatives>, or subscribing to and liking our YouTube channel <https://www.youtube.com/MICHREALTORS>. ●



With so many ways the November election could play out, **THE PACE AND VOLUME** of legislation **MOVING IN LAME DUCK** **WILL VARY** with each scenario.



# RPR: 3 Creative Ways to Generate Listings







*Thank you!*  
**SARA LIPNITZ**

**2018 OUTGOING PRESIDENT**  
MICHIGAN REALTORS®



*Welcome!*  
**MATT DAVIS**

**2019 INCOMING PRESIDENT**  
MICHIGAN REALTORS®



# LEADERSHIP RUNS IN OUR FAMILY.

**REAL ESTATE ONE FAMILY OF COMPANIES**

REAL ESTATE ONE MAX BROOCK REINHART ADVANTAGE JOHNSTONE & JOHNSTONE

JOHN ADAMS MORTGAGE COMPANY INSURANCE ONE AGENCY CAPITAL TITLE INSURANCE AGENCY RENTAL MANAGEMENT ONE

## FARMING NEIGHBORHOODS

Real estate farming is possibly the most proactive position an agent can take to build inventory. Overall, you'll want to choose an area with attributes you find personally appealing as well as professionally rewarding. Create personas for your perfect clients using data such as income, education, leisure activities and more. For example, an agent who is athletic and enjoys leisure time at coffee houses might find it easier to relate to homeowners with similar interests. The goal is to choose a farm area that you feel comfortable representing and one that will produce revenue.

### Step 1: Research

Begin by assessing local demographics and psychographics: who they are, what they do and how they behave. You can do so easily by using RPR commercial data to find a neighborhood whose attributes most resemble your ideal client.

RPR's commercial data reveals an area's average age and income, net worth, marital status, education, and age, in addition to where they work, where and how they spend their money, and even how much time they spend exercising each week. The platform's neighborhood data includes home values, list/sales price vs. list/sales volume, price per sq. foot, own vs. rent, local amenities and commuter times—all worth knowing.

Here's how to find your ideal client using RPR Commercial data.

Visit [narrpr.com/commercial](http://narrpr.com/commercial)

Select *Go to Analysis* or create your own area by choosing *Go to Maps*. For our purposes, we will use the analysis section.

Enter the geographic area, and then select the attributes you would like to search your area by. Each attribute you choose will reveal a new set of drop downs to glean your data. Add additional attributes by selecting the *Add more criteria*, or you can search by clicking *Run Analysis*.

From the Map, use the *Analysis Panel* to adjust the size of geographies and parameters. Once you've found a few neighborhoods that are a good fit, research recent sales to determine whether one agent has a dominant presence in the area. You can also use recent sales to predict your average commission.

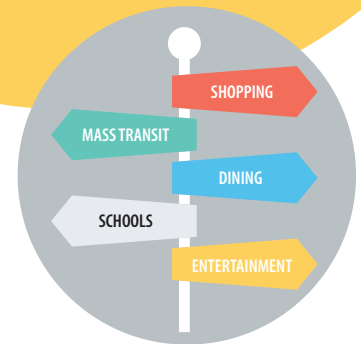
### Step 2: Calculate the area's turnover rate

Now that you've landed on a potential farm area based on demographics, psychographics and average commission, it's time to use RPR Residential to determine the turnover rate, a calculation that helps to identify whether the area has enough sales activity to make it worthwhile.

RPR has developed a simple, surefire way to use its data in your calculations. Download the quick start guide (<http://blog.narrpr.com/ebook/geographic-farming-quick-start/>) to walk you through the steps.

To configure turnover rate, divide the number of homes in your farm area by the number of homes sold in the last 12 months and then multiply by 100. See the graphic below.

$$\frac{\text{\# sales last 12 months}}{\text{\# of homes in area}} \times 100 = \text{Turnover Rate}$$







OPEN  
HOUSE

### BUILD YOUR PIPELINE FROM OPEN HOUSE TRAFFIC

Open houses can be another fantastic way to meet new buyers and generate listings. As the agent showcasing a home, you have an advantage. You get to showcase your skills to potential buyers and sellers through how you market the home. So create opportunities by casting a wide net.

#### *Offer a special neighbor preview.*

Consider marketing an exclusive showing for neighbors with a special evening tour. This would not only be ideal for a postcard, but provides great content for a neighborhood door knocking strategy.

When questions from neighbors come up about their own value, answer them with the RPR app. When you can't, set the pre-listing appointment. Is there another thought here regarding "set the pre-listing appointment?"

#### *Be the resource.*

At the open house, be sure to engage with prospects as they enter and leave the property. Not every person entering the home will be a match. Ask questions. Are they interested in the property? If so, use the RPR app to text or email a branded Mini-Property Report. If not, ask a few questions that get to where they are in the buying process. Questions like, "How long have you been looking?" and "Is your house for sale right now?" or "What characteristics are you looking for in a home?" Now, share an RPR Market Activity Report, which is configured to showcase new local listings and open homes for the weekend.

### FACEBOOK LEAD ADS

In 2018, we can't have a list about creative ways to generate listings without including Facebook. Statistics don't lie: Facebook remains the primary platform for most Americans according to a survey conducted by Pew Research Center (January 2018). Roughly two-thirds of U.S. adults (68%) are Facebook users, with approximately three-quarters of those people accessing the social site on a daily basis.

Facebook also happens to have a sophisticated advertising platform with powerful audience selection tools, allowing you to target people likely to match your ideal client. The ads deliver true leads information when using the Facebook Lead Ad. These are unique in that they can be customized to place your offer — such as RPR's local Market Activity or Property Report — in front of potential prospects. It's all possible because lead ads come with simple forms that capture a prospect's information within Facebook. The forms will even pre-populate a prospect's information such as name, email or phone number, allowing the person to quickly complete the form.

Now that we've talked about the vehicle for your

ad, let's discuss a few possible offers for your prospects that involve an RPR report. The offer could be:

1. *A detailed report on local market activity, customized for target market area.*
2. *A home valuation and detailed property report using the Realtor Valuation Model® (RVM®).*

Once the offer is set for your Facebook Lead Ad, it's time to move on to audience selection. Facebook ads can be targeted by location, demographics, interests and behaviors or even your own contacts such as sphere of influence, past clients or prospects.

It's worth noting here that Facebook recently announced that it will soon be phasing out the use of all third-party targeting capabilities, both private and public.

View this article and infographics here: <http://blog.narrpr.com/tips/creative-ways-generate-listings/>



# IT'S TIME TO GET ONBOARD

*Is your brokerage  
ready to join the  
hyperlocal revolution?  
Here are some strategies.*

BY BRENT DRIGGERS, WEB STRATEGIST



Hyperlocal real estate marketing is finally catching on with the big portal websites. Whether or not your brokerage is ready is no longer the question. The question now becomes, what can you do differently to provide a hyperlocal real estate marketing experience that is different from everyone else? Big portals such as Trulia and Zillow are enhancing the home search experience to better inform home shoppers about local information that matters. Trulia recently introduced Trulia Neighborhoods to give users a strong sense of what it's like to live in individual communities.

**Trulia Neighborhoods** is a first-of-its-kind experience that provides content from local sources. Insights and data are sourced directly from locals to ensure accuracy and legitimacy within each neighborhood. Trulia has tapped into their online community to rate neighborhood features by answering specific questions about that neighborhood, which then creates the data that is displayed on the neighborhood pages. Once the data has been collected and compiled by Trulia, they report whether or not that neighborhood has those individual features.

Trulia is taking a strategic approach to hyperlocal real estate marketing by providing a resource for consumers that has never been available at this granular level. Consumers are always seeking new and engaging information that will give them laser-targeted insight into specific attributes of a neighborhood. Trulia realizes this.

## HYPERLOCAL REAL ESTATE MARKETING — WHERE DO I START?

What can you do to differentiate your brokerage from the competition, but also provide hyperlocal real estate marketing? The answer to this is simple and straightforward. You must leverage your expertise and produce content/neighborhood pages that are extremely specific to a particular area of a neighborhood, thereby providing data and content that is invaluable to the user and cannot be found elsewhere.

A great starting point for obtaining hyperlocal data and content is with your real estate professionals. Have them gather specific information about the neighborhoods and communities they are servicing. For example, real estate professionals who are particular to a specific community can review a local restaurant and post that review on the blog or use that content on a neighborhood page.

Another example would be hiring a photographer to take pictures or videos of local hot spots in or around a particular neighborhood. Repurpose those images and videos on your website, blog and social

“...what can you do differently to provide a hyperlocal real estate **MARKETING EXPERIENCE THAT IS DIFFERENT** from everyone else?”

media. Write content about the different spots featured in the images. This becomes one-of-a-kind content that is unlikely to be found elsewhere and creates long-lasting value for your consumers.

There is also the paid approach of obtaining hyperlocal real estate marketing data in a streamlined manner. A few companies are doing this well. Here they are:

- **LIVEBY**

This technology gives brokerage owners the ability to embed code on their existing website and display hyperlocal content in a meaningful manner. LiveBy has unique features that allow potential clients to dive deep into a neighborhood and data behind that particular neighborhood. The platform comes equipped with dynamic data feeds that populate and auto update on your website.

The most exciting part of LiveBy is the type of information that is displayed and how often the system updates. LiveBy integrates and feeds some of the best hyperlocal data from their system that includes interactive maps, market trends, properties, demographics, school data and much more. The platform is customizable based on what data you would like to be displayed, and it is straightforward to add to your website.

- **ZAVVIE**

This is a robust system that gives your business all the hyperlocal tools it needs. zavvie comes fully equipped as a neighborhood website that is updated daily with the market and hyperlocal information. It also comes with a native mobile app that allows you to publish hyperlocal content straight from your mobile device. Lastly, the daily content feed will curate content automatically when it is posted. This will keep your website looking fresh and new on a consistent basis. ●



*Reprinted with permission by Real Trends.*

MICHIGAN REALTORS®

# THE CONVENTION

Grand Traverse Resort & Spa • Sept 26-28, 2018

## The Convention a huge success!



The Convention, the prestigious networking and learning event presented by Michigan Realtors® for the Realtors® of Michigan, was held at the Grand Traverse Resort & Spa in Acme in September. Over 1,290 real estate professionals and affiliates attended this highly-praised, 3-day event filled with learning, networking and personal growth.

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

- **Top of Mind Techniques to Boost Your Brand**
- **Beat Burnout Before It Beats You**
- **Get with the Program, Throw in the Towel or Find a Job**
- **Real Estate Uncensored**
- **2018 Tax Reform and How Does It Impact My Real Estate Business & Clients?**
- **Your Virtual Staff: Building a Team with AI**
- **The Top Micro Strategies for Real Estate Marketing**
- **Digital Mortgage for Today's Buyers**

The Grand Assembly keynote speaker, Tami Evans, had this year's crowd in the palm of her hand. A motivational speaker by trade, Tami has passion and energy with a flair for mixing laughter with learning. Tami shared important communication and leadership tools along with fresh ideas like Personality Upstages Perfection, you can Fail with Flair and how to Embrace our Inner Dork.

Other important highlights of the Grand Assembly included:

- **A graduation ceremony of the Michigan Realtors® Leadership Academy Class of 2018.**
- **The swearing in of incoming President Matt Davis of Battle Creek Area Association of Realtors® by Florida Realtors® CEO and former CEO of Michigan Realtors®, Bill Martin.**
- **The recognition of outgoing President, Sara Lipnitz, for her leadership and hard work in 2018.**
- **The announcement of Realtor® of the Year, Karen Greenwood of the Greater Metropolitan Association of Realtors®.**



The highlight of the day on Wednesday was the 2018 RPAC Appreciation Luncheon and debut of the RPAC Film Festival. Members invested in RPAC, listened to guest speaker Tim Skubick, and voted for their favorite commercial, starring the 2018 Leadership Academy. At the luncheon, the Realtor® Active in Politics was announced. This is a Realtor® who serves the profession, association and community through political involvement. Congratulations to this year's winner, Jamie Iodice of the Greater Metropolitan Association of Realtors®!

Thursday's special event was the Rise and Refocus Keynote address by Dave Davlin. Dave has a colorful and accomplished track record in entertainment which he uses as a basis for presenting a powerful message to professionals across the country. He taught The Game Winning Three and demonstrated how to ignite the passion in your life by implementing these strategies. The expo boasted all the latest tools and resources for the industry and was SOLD OUT!

Finally, the RPAC Live and Silent auctions were once again a big hit. Local Realtor® associations and affiliates from across Michigan generously contributed unique items and gift baskets in all price points to raise money that will be used to safeguard the real estate industry. Lively auctioneers worked the room to help raise a total of over \$34,000!

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

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

#### THE CONVENTION 2019

Detroit Marriott at the Renaissance Center, Detroit, MI  
October 2-4, 2019

Michigan Realtors® is grateful to all of the exhibitors, sponsors, and attendees. Your support and participation in The Convention help to make it the exceptional event that it is, year after year. Thank you for your support in 2018, and see you next year! ●



**Matt Davis, 2019 President,  
Michigan Realtors®**



**Karen Greenwood, GMAR,  
2018 Realtor® of the Year**



**Jamie Iodice, GMAR,  
2018 Realtor® Active in Politics**

# Negotiation After An Inspection

BY GAIL A. ANDERSON, ESQ.  
MCCLELLAND & ANDERSON, LLP

## Just Doing My Job?

A buyer's broker's efforts to negotiate a better deal for his buyer-client backfired and led to protracted litigation that ended up in the Michigan Court of Appeals this past summer. The case involved the sale of an office building in Detroit. Ford Bldg, Inc. ("Seller") had entered into an agreement to sell the office building to the Sterling Organization ("Buyer"). The purchase contract required the Seller to pay a commission at closing to Charles Mady at Exclusive Realty ("Broker").

The purchase contract contained an inspection contingency. After the inspection, the Broker called the Seller and said that the Buyer was dissatisfied with the condition of the office building and would close on the sale only if the Seller would reduce the price by \$500,000. The Seller responded by taking the position that the Buyer had voided the purchase contract and refused to close. Unfortunately, it turned out that the Buyer had never expressed a desire to terminate the purchase contract.

The Buyer sued the Seller arguing that the Seller had wrongfully backed out of the deal. The Seller, in turn, sued the Broker arguing that the Broker's statements about the Buyer's intention to back out of the deal had been fraudulent. There must have been some question as to the agency status of the Broker because the Seller argued that, in the alternative, if the Broker had actually represented the Seller rather than the Buyer, the Broker had breached his fiduciary duties. In either event, the Seller argued that as a result

of the Broker's actions, even if the Seller was ordered to proceed forward with the sale, the Broker was not entitled to a commission.

The trial court found there to be a valid, binding purchase contract and ordered the Seller to sell the office building to the Buyer and to pay the Broker the commission. The Seller did not appeal the decision ordering it to sell the office building to the Buyer but did appeal the decision obligating it to pay a commission on that sale to the Broker. The Court of Appeals agreed with the trial court and ordered the Seller to pay the Broker.

In deciding in favor of the Broker, the Court noted first that in a fraud case, a plaintiff must show that the defendant knowingly made a false statement that was material to the transaction. The Court of Appeals found that in this case, the Seller had not provided sufficient evidence of such a false statement. The Court stated that it did not believe that a mere attempt to get a price reduction was "misleading or deceitful." The Court of Appeals found further that the Broker was not obligated to disclose to the Seller the limits on his authority to alter the deal.

In its decision, the Court also noted that a plaintiff claiming fraud is required to prove that he or she relied upon the alleged false statements. Here, the Seller had argued that the Broker's misrepresentations caused it to take the position that Buyer had terminated the purchase contract. Both the trial court and the Court of Appeals focused on the language of a notice provision in the purchase contract that stated:





*[a]ll notices to a Party required or permitted hereunder may be given by overnight delivery, certified mail, return receipt requested, or by facsimile, email or hand delivered, . . . and will be deemed effective two days after mailing and/or upon verification that the overnight delivery, facsimile, email or hand delivery was received ("Notice Provision").*

Since the Broker had not followed the procedures outlined in the Notice Provision when he notified the Seller of the Buyer's dissatisfaction, the Court of Appeals held that

Seller was not entitled to rely on the Broker's statement that the Buyer was insisting upon a price reduction.

This recent case demonstrates the need to strictly follow and abide by the notice provisions in the parties' contract. In this case, regardless of whether the Broker's statement that the Buyer was demanding a price reduction was misleading, the Broker was shielded from liability by the Notice Provision which required written notice, via specific methods (email, mail, hand-deliver) to specific addresses in order to terminate the purchase contract. Although the

facts in this case were somewhat unusual, had the Buyer, in fact, wanted to terminate the purchase contract in the event the Seller would not agree to a price reduction, the oral statements of the Broker would have been ineffective to do so. In that instance, the Broker's failure to follow the strict terms of the Notice Provision could have resulted in the Buyer being liable to the Seller for a breach of contract and the Broker, in turn, being liable to the Buyer for negligence and/or breach of fiduciary duty.



“ Realtors® should keep in mind that there is

## NO UNIFORM LAW GOVERNING HOW INSPECTION CLAUSES WORK. ”

### A Refresher on Inspection Clauses

Another lesson to be gleaned from this recent case is that buyers' brokers should review the terms of the inspection clause very carefully before making any requests for seller concessions. Some inspection clauses do, in fact, provide that any request for concessions from the seller triggers the seller's right to unilaterally terminate the purchase agreement. For example:

*The Buyer's offer is contingent upon satisfactory inspection within ten (10) days. This contingency shall be deemed waived unless the Buyers object in writing within the time period permitted for the inspection. In the event the Buyers request a modification to the Agreement based upon the results of an inspection, Sellers may either agree to such modification or declare this Agreement null and void.*

This type of clause is specifically designed to discourage buyers from making requests for seller concessions unless the buyer is really unwilling to buy the property if the seller does not agree to the concessions. By simply making a request, the buyer puts the seller in the position of being able to cancel the contract and sell the property to someone else. As an aside, buyers and their agents sometimes attempt to circumvent this type of clause by having the buyer's broker make an informal “suggestion” rather

than have the buyer make a formal “request.” As illustrated by the recent Court of Appeals' case, this is a risky strategy that can easily backfire.

Alternatively, some inspection clauses are drafted in such a way as to give the buyers the option of requesting that the sellers provide concessions while maintaining control over the termination of the contract. For example:

*The buyers' offer is contingent upon a satisfactory inspection within ten (10) days. Upon receipt of the results of such inspection, the buyers may request in writing at any time within that ten (10) day period that the Sellers make certain repairs or that the sellers reduce the sales price to compensate for such defect(s). Such a request to repair or reduce the price does not terminate the contract and the sellers shall have three (3) days from receipt of such request to agree to make such repairs or reduce the sales price. If the sellers do not agree, the buyers shall have three (3) days to waive the contingency and accept the property “as-is” or to declare the contract null and void. Failure of the buyers to respond in writing within the time periods set forth above shall constitute a waiver of the contingency.*

With this type of clause, buyers can request that the sellers make certain repairs while still maintaining the right to proceed forward with the contract if the sellers decline

to do so. Here, buyers can request that the sellers provide concessions without disclosing the fact that they will close even if the sellers do not agree to provide those concessions.

Realtors® should keep in mind that there is no uniform law governing how inspection clauses work; rather, the “rules” depend on the specific language of the particular inspection clause. All inspection contingency clauses are not the same. For example, sometimes silence on the part of the buyer can result in a waiver of the contingency; other times, a buyer's silence can result in the automatic termination of the purchase agreement. Sometimes a buyer can freely request that the seller make repairs; other times by simply making such a request, the buyer is authorizing the seller to elect to terminate the purchase contract. When faced with an unfamiliar purchase agreement form, Realtors® should never assume that the inspection should be handled in the same way that they are accustomed to handling inspections. Realtors® should always review the specific language carefully before taking any action with regard to the inspection and if there are questions, to seek the assistance of counsel. ●



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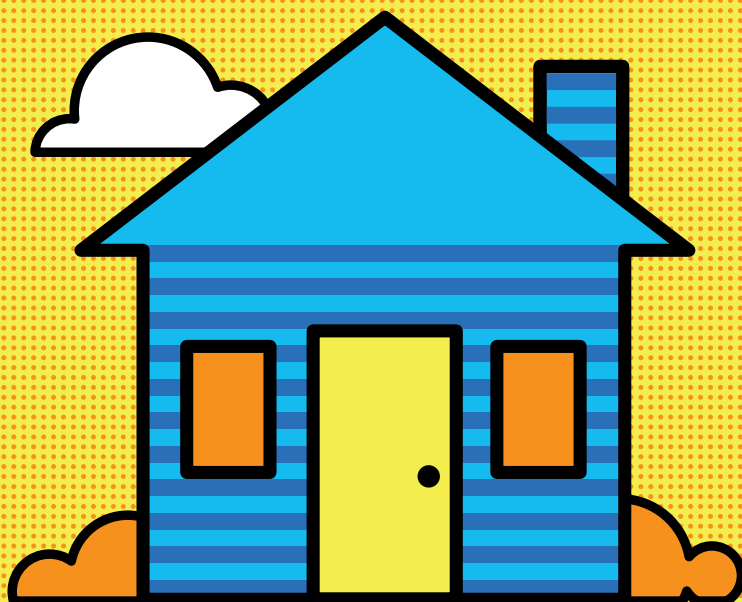


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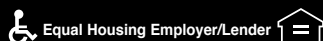


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ARE YOU A **MASTER** AT

# Creating value

CAN YOU **RECOGNIZE** VALUE?  
MORE IMPORTANTLY, ARE YOU **CREATING** IT?

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



The most successful entrepreneurs I know have one thing in common—they can recognize value when they see it. They're always seeking value, and they are masters at creating it. They have a value mindset.

These entrepreneurs are clear on the differences between the five basic economic terms: cost, price, value, expense, and investment. Unfortunately, many in our industry have not yet mastered this skill. They confuse cost and price with value. Or, they see investment as an expense. Let's define these five economic terms:

- **Cost:** The time and money it takes to produce a good or service.
- **Price:** The money a seller asks for the good or service.
- **Value:** What the good or service will do for a buyer relative to the price being asked.
- **Expense:** An outlay of time or money for a good or service that is consumed (used up).
- **Investment:** The outlay of time or money in expectation of future benefits or returns.

Here are two examples where these five terms got confused.

#### 1. A COST-PLUS MINDSET

The president of a large home building company prices his homes based on their cost. His formula is sometimes called cost-plus. He adds up his costs, then adds a margin for profit and overhead, and that becomes his price. How do buyers buy homes? They look at value, not cost.

The five components of value to a buyer are location, size, condition, amenities, and price. They could care less about the builder's costs. Do they perceive the builder created something of value that they want to live in? Or, has he spent \$500,000 in costs to build a house that is only valued at \$450,000 in the marketplace? This builder has a cost-plus mindset rather than a value mindset.

#### 2. EXPENSES VS. INVESTMENTS

Sales associates are shown a formula and convincing evidence that, if they invest \$24 a year (\$2 a month) staying in touch and building relationships with their customers, this formula will give them a \$1,000 per year return on their investment. In our classes, I ask the question, "If you could earn \$1,000 in gross commission income for every \$24 you invest, how much would you invest?" The correct answer is, "All you got!" It's incredible to me how many associates have confused looks and find excuses not to make this investment. Why? They either see the \$24 as an expense rather than an investment or they have a fundamental belief in scarcity. In either case, they don't have a value mindset.

“Your true worth  
is determined by  
*how much more  
you give in value*  
than you take  
in payment.”

In their remarkable book, “The Go-Giver,” Bob Burg and John David Mann offer The Law of Value: “Your true worth is determined by how much more you give in value than you take in payment.”

Observe the best and brightest in our industry, and you will see the value mindset. Top sales associates are masters of articulating their value to a seller, not just their fee (price). Top companies articulate the value they are bringing to their associates. They present their office fees not as expenses but rather as the investment they are making in their associates' businesses.

Managers and staff are viewed as investments, not as expenses, and a return is expected on these investments. The goal of managers and staff is to bring more value to their sales associates than they receive in compensation (The Law of Value). This mindset creates a value-driven organization.

Top companies and top associates have a mindset that “everything I do and every dollar I invest should create value for someone and generate a return on that investment.” If it doesn't, then it is an expense and should be eliminated if possible.

Become a master at creating and delivering value. Have the value mindset. ●



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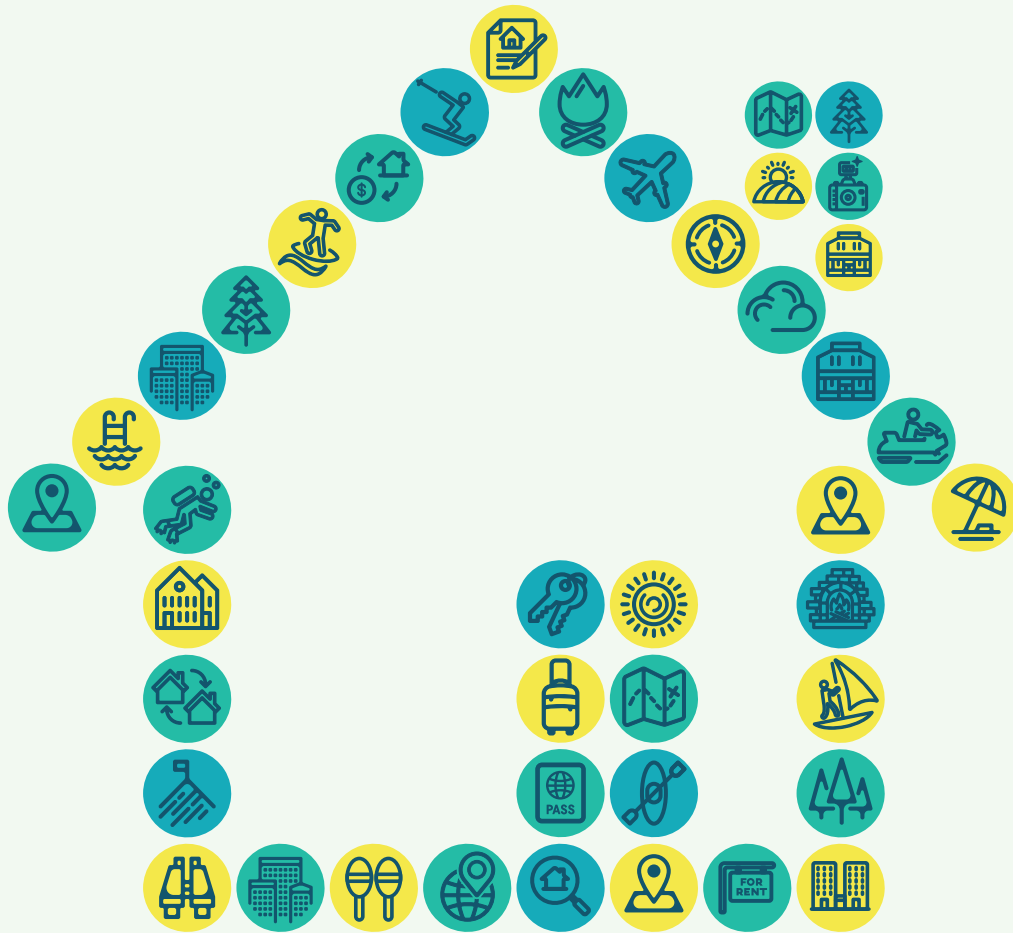
        

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