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COVER STORY

Features

- 07 **These Are the Top 10 Real Estate Management Skills You Need**
All about learning how to lead
- 10 **A Marketer's Guide to Generation Z**
Some inside information on the next trendsetters
by Alec Gress
- 13 **A Very Long Battle**
Going to court over the personal residence exemption
by Gail A. Anderson, Esq.
- 16 **Take Time to Review Your Assessments in 2018**
Be sure to check them from every angle
by Micheal R. Lohmeier

MICHIGANREALTOR®

Departments

- 02 **President's Report**
Some last minute house cleaning
by Sara Lipnitz
- 04 **Capitol Report**
Onward to November!
by Brad Ward

09.18

{ SEPTEMBER | TWO THOUSAND & EIGHTEEN | VOLUME SEVENTEEN | NUMBER FIVE }



Some Last Minute House Cleaning

While the summer may have flown by in a heartbeat, there is plenty to look forward to as we move into Michigan's stunningly beautiful autumn season. And, that means there is still plenty of time left in 2018 for us all to achieve those personal and professional goals we set out when we turned the calendar page on January 1st. We have all made great strides in our efforts to Go the Distance, and there is nothing stopping us now!

One way to really push forward in this upcoming last quarter of the year is to attend The Convention on September 26-28, 2018. This event is an absolute must for those of you with a dedication to your industry, your career, yourself, and your business. And I know that is ALL of you!

The Convention

Grand Traverse Resort & Spa, Acme, MI

September 26-28, 2018

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Need to grow your pipeline? We'll address that. Need guidance on maximizing the use of social media? We've got that. Looking to hone your sales techniques? Yes, that's here, too. Plus so very much more at an impressively grand venue showcasing all of the finest that northern Michigan has to offer: Grand Traverse Resort & Spa in Acme.

Michigan Realtors® members enjoy full registration at an attractive price which includes informative and entertaining presentations by dynamic presenters, a rich sponsor Expo and quality networking opportunities, as well as these great events (among others):

- *A seemingly endless list of knowledge sessions, including specialists in technology, consumer experiences, social media, taxes, marketing, productivity, and more*
- *The inauguration of your 2019 President, Matt Davis*
- *A stunning, world-class venue in one of Michigan's most treasured communities*
- *Tremendous networking opportunities with colleagues in your industry, from your state.*

Be sure not to miss the Grand Assembly keynote speaker, Tami Evans. A motivational speaker by trade, Tami has passion and energy with a flair for mixing laughter with learning. Tami shares 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!

Then, enjoy and learn from our impressive Rise & Refocus keynote speaker, 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 will teach you The Game Winning Three and show you how to ignite the passion in your life by implementing these strategies. Get ready to become your best self!

Last, I want to encourage you to VOTE! Voting for the 2019 Michigan Realtors® District Director Elections is now open for districts 1, 4, 6, 9, 11, and 14. Make your voice heard and help to move us forward as an organization. You can read more about voting rules, our candidates and other important dates at <http://www.mirealtors.com/District-Director-Elections>.

We may be facing the end of the calendar year, but that gives us nothing more than extra drive and the motivation to wrap up this year with greater strength than we ever thought possible. Look back on the resolutions you made for this year and see just how close you are to reaching them. YOU CAN DO THIS! Make this the year you became the Realtor® you always wanted to be - whether that means you made personal or professional adjustments (or both!). Look ahead and Go the Distance! ●

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COMING EVENTS

August 28, 2018

2019 Michigan Realtors® District Director Elections
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September 26-28, 2018

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Onward to November!

If your mailbox, television and radio are any indication, election season hit a fever pitch before entering the home stretch to November 6th. Not surprisingly, Michigan Realtors®, Realtors® Political Action Committee (RPAC) became extremely active in the primary elections, making nearly 150 endorsements for local and state elected office, and further engaged in highly competitive races through television, radio and digital advocacy. Many local associations also utilized the Issues Mobilization Funds to weigh in on important local ballot measures (more on that later). With an extremely competitive and hard-fought primary election now in the rear-view mirror, RPAC will re-examine the races where our endorsed candidates did not make it through to November's general election. More specifically, let us reference the Michigan Realtors® voter card on how many Realtor®-endorsed candidates made it through to the general and discuss the importance of maintaining a strong and clear Realtor® voice at the ballot this November.

TRUSTING THE PROCESS

For those of you unfamiliar with the Michigan Realtors® RPAC endorsement process, it starts exactly where politics begins - locally. Your local associations engage in a vigorous candidate interview process to determine the best candidates to represent Realtor® issues in their respective offices. It's important to note that Realtor® issues are not partisan issues. Democrats and Republicans alike are asked their respective positions on our issues. An appreciation of free markets, private property rights, low taxes and sensible approaches to governance that attract businesses and homebuyers are the takeaways we look for when interviewing and selecting Realtor®-Party Candidates. And, these values are the same, whether in Lansing or in the various local governments because they shape your business and the communities that you call home. To that end, the process and the ultimate recommendations made to the Michigan Realtors® RPAC Trustees are invaluable to the final endorsement process.

Understandably, the volunteers that take part in the candidate interviews take great pride in the process. They understand that a candidate for county commissioner might someday be a candidate for Michigan House of Representatives, Michigan Senate or statewide office. And, it's not just identifying those candidates to endorse. It's also the first step in sitting down with these hopefuls and educating them on the issues that matter

most to our association. From my experience, that first contact at the local association interview is essential to building a lasting relationship that can endure for many years at many different levels of government.

The value of this process is not lost on the candidates, either. Your endorsement is highly sought after because it carries significant weight. On behalf of the Michigan Realtors® RPAC Trustees, I want to thank those volunteers for all the time and energy engaged in the candidate interview process.

STATEWIDE AND NATIONAL PRIMARY ENDORSEMENTS

Michigan Realtors® RPAC Trustees made two major primary endorsements for statewide office. Leading the top of the ticket, the RPAC Trustees voted to endorse Senator Debbie Stabenow for U.S. Senate, and Attorney General Bill Schuette for Governor. Both candidates will carry their respective endorsement into November with Republican Bill Schuette facing Democrat Gretchen Whitmer for Governor, and Senator Debbie Stabenow facing Republican John James for U.S. Senate.

The RPAC Trustees, in coordination with the National Association of Realtors® PAC, also weighed in on the U.S. House Congressional Races, offering endorsements in 13 Congressional Districts. These endorsements were largely incumbent-friendly with all returning Congresspersons receiving Michigan Realtors® endorsements. However, three open Congressional Districts (the 9th, 11th, and 13th) will see new faces with the respective retirements of Congressmen Sander Levin, David Trott and John Conyers. While the Trustees successfully endorsed Andy Levin through his primary to succeed his father, Congressman Sander Levin, the trustees will need to make a fresh assessment of the general election candidates in the 11th and 13th in the coming weeks.

LOCAL ENDORSEMENTS

With both the Michigan House of Representatives and Michigan Senate up for election, this year's primary was particularly important. It was also extremely difficult, particularly for those candidates looking to make the leap from the Michigan House of Representatives to the Michigan Senate. In many of those contests, the local associations and RPAC Trustees were asked to choose among a familiar field of candidates, many of whom have been supportive of our issues in the past. Choosing among friends is never easy

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and, unsurprisingly, the results of the RPAC endorsement process sometimes requires a proactive communication to a previously unendorsed candidate that has prevailed in the primary. Michigan Realtors® RPAC had an 83% success rate with Realtor®-endorsed candidates winning their respective Primary races. This good (but not great!) success rate is indicative of how hard-fought many of the primaries were, along with the number of quality candidates vying for your endorsement. However, now that the dust has settled, the Michigan Realtors® RPAC Trustees, with local association input, will review those candidates who made it through the Primary without the Realtor® endorsement and look at next steps for the general election in November.

PRIMARY SEASON IS NOT JUST ABOUT CANDIDATES!

In many local communities, the August ballot is a prime time to address often controversial local issues. Whether considering a new millage, an income tax or the fate of a recently passed ordinance, these votes have sweeping impacts on their respective communities. To that end, it's extremely important to remain engaged and on the lookout for Realtor® issues on the local front.

One such issue emerged in Casco Township over two years ago when an Allegan County Circuit Court Judge ruled, by reference, that short-term vacation rentals are a commercial use and not permitted in residential zones. This ruling threw many vacation rental property owners for a loop. They had been renting their residential vacation properties for decades and this ruling undercut generations of tradition and practice. The property rights concern became more pressing when the Michigan Court of Appeals upheld that decision ruling that short-term vacation rentals violated the township's zoning ordinance. In the aftermath of the court proceedings, one thing became clear and immediate to Realtors®, property owners, and township officials, alike. In order for the tradition of vacation rentals to continue in Casco Township, there would need to be some change to the zoning ordinance.

Significant credit goes to the Southwestern Michigan Association of Realtors®, under the leadership of Executive Officer Alan Jeffries, for getting out in front of this issue and getting a seat at the table while new ordinance discussions began. These discussions also afforded Michigan Realtors®, partnering with the Southwestern Michigan Association, an opportunity to utilize the Issues Mobilization Fund to offer input on a reasonable and well-developed model ordinance. After nearly two years of Casco Township

hearings, with hours of input from property owners, Realtors®, and interested businesses, the Casco elected officials adopted a zoning ordinance intended to balance the property rights of full-time residents and those seeking to maximize the value of their private property through vacation rental. Unfortunately, all that hard work was nearly moot when an anti-rental group gathered enough signatures to challenge the ordinance on the August 7th ballot.

Michigan Realtors® and the Southwestern Michigan Association had already engaged Issues Mobilization advocacy to help craft a model ordinance. However, with the new ordinance set for referendum on the August ballot, the Michigan Realtor's Ballot Question Committee (RPAC 2) represented a great advocacy tool for the moment. Michigan Realtors® fired up a concentrated media campaign to drive a "Vote Yes" campaign in support of the model ordinance. In a truly grassroots advocacy effort, the Michigan Realtors® RPAC trustees joined the Southwestern Michigan Association of Realtors®, along with property owners in Casco Township, to support vacation rental rights and uphold the model ordinance with a vote of 514-407.

As you know Michigan Realtors® is supportive of a statewide approach to protecting vacation rental rights. Until that legislation is on the books, we will continue to be engaged in local communities like Casco Township to protect private property rights. As a state with a robust tourism industry, it is important to recognize the experiences in Casco Township are a harbinger of a much larger debate.

While many want to see vacation rentals remain a big part of

Michigan's rich tradition as a vacation destination, there are also short-sighted opinions on vacation rentals, favoring banning the practice altogether as a commercial activity.

MORE WORK TO BE DONE!

You'll get a short breather from the deluge of political mail and advertising over the next month, but please don't hesitate to embrace your advocacy role this election season. Through your local associations, there are great opportunities to raise awareness for our issues and help get out the vote. As we look to the General Election in November, this is a great opportunity for local associations to meet this requirement. For those of you that were so instrumental in the candidate interview process, I thank you. For those of you that are interested in the political process but are currently not involved, contact your local association and get engaged. You'll find no shortage of ways to make a difference. ●

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These Are
The



Real Estate Management Skills You Need

—

The authors of *Mind Tools for Managers* reveal the ten most important skills a manager should master, based on their recent research study. As real estate leaders, you're juggling a bunch of balls in the air. You have to recruit, manage, plan and implement strategy—all while working with sales associates who are independent contractors. In fact, according to James Manktelow and Julian Birkinshaw, authors of *Mind Tools for Managers: 100 Ways to Be a Better Boss* (Wiley, April 2018), managers should know between 90 and 120 individual skills. That's a lot. But, thankfully you don't have to tackle them all at once, just zero in on the most critical ones and master them first.

Stumped on where to begin? Work on the most crucial skills first—the skills managers worldwide value and recommend. To get you started, here are the highest ranked skills in the survey, presented in descending order.



SKILL 01

BUILDING GOOD WORKING RELATIONSHIPS WITH PEOPLE AT ALL LEVELS.

Recommended by 79.9% of managers surveyed.

The most critical management skill, as ranked by our 15,242 managers worldwide, is the ability to build good relationships with people at all levels. Thankfully, in real estate, a relationship-focused industry, building relationships naturally for many managers. Regardless, everyone work on this skill. One approach is to focus on creating high-quality connections, made up of respectful engagement, task enablement and trust-building.

SKILL 02

PRIORITIZING TASKS EFFECTIVELY FOR YOURSELF AND YOUR TEAM.

Recommended by 79.5% of managers surveyed.

"All of us have a huge number of things that we want to do or have to do," says Birkinshaw. "The demands can often seem to the members of our team and us. This is prioritization is the second most important managesskill, as ranked by the participants in our survey. There's particularly useful approach to this called the Action Matrix, and every manager needs to know about it!"

SKILL 03

CONSIDERING MANY FACTORS, SUCH AS OPPORTUNITIES, RISKS, REACTIONS AND ETHICS, IN DECISION-MAKING.

Recommended by 77.8% of managers surveyed.

We've all seen how bad decisions can be when they're rushed, or when financial criteria are the only ones that are used. This is why it pays to use a formal, structured process to think a problem through thoroughly, including analyzing risk and exploring ethical considerations. The ORAPAPA framework-which stands for Opportunities, Risks, Alternatives and Improvements, Past Experience, Analysis, People, and Alignment and Ethics-is a good example.

SKILL 04

UNDERSTANDING THE FUNDAMENTAL PRINCIPLES OF EXCELLENT COMMUNICATION.

Recommended by 77.7% of managers surveyed.

"Management is about getting things done by working with people," says Manktelow. "You can do this only if you communicate effectively. This is where the 7 Cs of Communication-clear, concise, concrete, correct, coherent, complete, courteous-can help you get your message through more clearly."

SKILL 05

UNDERSTANDING THE NEEDS OF DIFFERENT STAKEHOLDERS AND COMMUNICATING WITH THEM APPROPRIATELY.

Recommended by 75.8% of managers surveyed.

As you run more significant projects, it becomes increasingly important to manage the many different groups of people who can support or undermine the work you do. This is where it's essential to develop good stakeholder analysis and management skills.

SKILL 06

BRINGING PEOPLE TOGETHER TO SOLVE PROBLEMS.

Recommended by 75.0% of managers surveyed.

"It's often tempting to try to solve problems on your own," says Birkinshaw. "But it pays to bring together a team of experienced people. Brainstorming is popular for this, but also understand structured problem-solving processes, know how to facilitate meetings well, and manage the sometimes weird group dynamics that can undermine a good team process."



SKILL 07

DEVELOPING NEW IDEAS THROUGH AN EMPATHETIC UNDERSTANDING OF CUSTOMERS' PROBLEMS.

Recommended by 74.4% of managers surveyed.

Your sales associates are being reviewed and rated now more than ever. To get good reviews, it's not enough to provide adequate customer service; you need to deliver something that meets the needs of customers exceptionally well. Approaches like design thinking and ethnographic research can help you develop highly satisfying customer experiences and help you develop a great customer journey.

SKILL 08

UNDERSTANDING AND DEVELOPING YOUR RELATIONSHIP WITH YOUR CUSTOMER.

Recommended by 73.6% of managers surveyed.

In real estate, this means understanding both your sales associates and your local market. Designing a website that gives the homebuyer or seller information they need, being active in the community, segmenting your social media and customer database—those are just a few things you can do to learn about your customer.

SKILL 09

BUILDING TRUST WITHIN YOUR TEAM.

Recommended by 73.3% of managers surveyed.

When people don't trust one another in a team, they waste a considerable amount of time politicking and covering their backs. By contrast, people in trusting teams work efficiently and well, and they can deliver beautiful results. To build trust, you need to lead by example, communicate honestly and openly, get to know individuals as people, avoid blame and discourage behaviors that breach trust.

SKILL 10

DEVELOPING EMOTIONAL INTELLIGENCE.

Recommended by 72.1% of managers surveyed.

"All managers need emotional intelligence to be effective," says Birkinshaw. "This means having the self-awareness, self-control, motivation, empathy and social skills needed to behave in a mature, wise, empathetic way with the people around you. Emotionally intelligent managers are a joy to work with, which is why they attract and retain the best people."

"Even if you already feel like you have some of these skills, know that there is always more to learn, and the results will show in your improved leadership," concludes Manktelow. "Practice them until they become effortless, and, in time, not only will you perform better, you'll get better results from your team and stand out as a talented leader within your organization." ●



*James Manktelow and Julian Birkinshaw are coauthors of *Mind Tools for Managers: 100 Ways to Be a Better Boss*. James Manktelow is founder and CEO of *MindTools.com*. He has written, edited, and contributed to more than 1,000 articles, more than sixty workbooks, and seven books and e-books on management and leadership, including *Manage Your Time* and *Manage Stress*. Julian Birkinshaw is a professor of strategy and entrepreneurship, deputy dean for programs, and academic director of the Institute of Innovation and Entrepreneurship at the London Business School. He is the author of fourteen books, including *Fast/Forward*, *Becoming a Better Boss*, and *Reinventing Management*.*

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A Marketer's Guide to

Generation Z

BY ALEC GRESS

As a Millennial, I can firmly state that I am ready for the next generation to enter into the public spotlight. I'm sure this is true of each young age, but I am tired of being treated as a walking, talking buzzword. This brings up the question of who is next? As Gen Z starts to acquire purchasing power, they are not drawing the type of attention that has long been bestowed on Millennials.

What do real estate professionals need to know about Generation Z and their behavior? Let's focus on the trends we're noticing, specifically with social media usage. Keep this information in mind when planning marketing strategies.

Who is Gen Z?

Generation Z or Gen Z are considered people born from 1995 to 2012. This generation has a smaller range of ages compared to the Millennial generation, which spans from 1980 to 1994. According to Nielsen's new Total Audience Report, Gen Z is now considered the most significant demographic in the United States, making up 26 percent of the population. Technology has shaped this Generation; it shapes their daily lives as well as their worldview. Due to constant connectivity, they have limitless interests and avenues for learning. They tend to take in information instantaneously and lose it just as fast. Gen Z is shaped by social media, smartphones, a post 9/11 world and a massive recession. Despite being so close in age to the Millennial generation, there are some critical differences in their characters.

Differences Compared to Millennials

REALISM VS. OPTIMISM

Due to encouraging Baby Boomer parents, as well as prosperous economic times, many Millennials are considered an optimistic generation. Those in Gen Z are considered more pragmatic thanks to their skeptical Generation X parents and growing up in a recession. Most in Gen Z are concerned with long-term value as well as smart investments.

ONLINE VS. IN-PERSON

Seventy-four percent of those in Gen Z prefer communicating face-to-face vs. online. The Millennial generation, in many ways, were the ones who popularized digital communication tools making work more efficient, yet not as personable. Perhaps having smartphones in your hand for your whole life has taught Gen Z the value of a human connection and having a real conversation

INDEPENDENT VS. COLLABORATIVE

Seventy-one percent of Generation Z said that they believe in the slogan "if you want it done right, then

do it yourself." Gen Z has mostly experienced childhood on a schedule, from soccer meets, to piano practice to a grueling college admissions process. All of this results in a generation that craves independence. Many see entrepreneurship as attractive because it allows self-management as well as autonomy from a higher authority. For this generation, the thought of being the boss of themselves is very empowering.

Generation Z and Social Media: What Marketers Should Know

Now that we understand some of the fundamental differences between these two generations, let's take a look at how they use social media and interact with brands:

- Typically, Millennials have used social media to update their statuses and to keep in contact with friends. Teens of Gen Z tend to use social media as more of a time-filler, consuming social media regularly. It's more used for entertainment than communication.
- Brand interruptions are not well tolerated with those of this generation. It's vital that brands keep this generation entertained rather than create ads. Create compelling content that entertains and cuts through. A great example of this today is Red Bull.
- They are much more likely to click on sponsored posts than click on online ads. They also like transparency in advertising.
- Video is king with Gen Z, according to a study by Adweek, 95 percent of teens today watch YouTube, they also watch an average of 68 videos in a day.
- Generation Z uses fewer social media platforms but spends longer on them, their favorites being Instagram and Snapchat.
- Their social media preferences have a lot to do with privacy. As digital pioneers, the Millennial

generation quickly grew many of these new social media platforms by hyper-sharing. Now today's teens realize just how important protecting your online reputations is. Once again this goes back to their long-term thinking approach.

- Gen Z-ers also tend to prefer social media platforms that run off of expiring content, such as Snapchat and Instagram (stories). They can share what they want, but the content does not live forever as it does on Facebook. Another reason they prefer Snapchat and Instagram is that it's much less time consuming than posting on Facebook.
- They expect brands to treat them like a valuable customer. They expect a two-way, personalized conversation on social channels, similar to how they interact with friends.

Real Estate and Generation Z

How can real estate professionals reach out to this soon-to-be influential group of potential customers? One thing that comes to mind is entertainment. Brokerages and sales associates who want to reach this demographic should use Snapchat and Instagram stories to entertain and communicate. Add your Snapcode to your business card, create a fun Snapchat geo filter for an open house, take pictures of a listing and post them on Instagram stories. Brokers and agents need to become content marketers and let their authenticity shine through to reach this hyper-connected generation of the future.

What have you been doing to reach the next generation? ●



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INDUSTRY EXPERTS



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A Very Long Battle

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

This summer, the Michigan Court of Appeals restored a personal residence exemption (“PRE”) that had been taken from a widow who had lived in her home for over 40 years. By way of background, recall that the PRE exempts homes from the 18-mill school operating tax. Recall further that in order to qualify for the PRE, a person must own and occupy the home as his or her “principal residence.”



Michigan law defines “principal residence” as *the one place* where a person has his or her true, fixed and permanent home to which, whenever absent, he or she intends to return and which shall continue as principal residence until another is established. Although it is typically the case that the person claiming PRE status “owns” fee title to the home, the statute makes clear that this is not a requirement for

PRE status. A resident of the home may still qualify for the PRE if, for example, he or she is purchasing the home on land contract or only holds a life estate. The statute also provides that a resident may qualify for PRE status even if he or she is only a partial owner of the home or “owns” the property as a result of being a beneficiary of a trust.

The Michigan Department of Treasury has issued guidelines for the PRE program in question and answer format which are available online. In its Guidelines, Treasury has provided a list of documents it may consider in evaluating whether a person is actually using a home as his or her residence: driver’s license, voter registration record and other documents which contain the person’s mailing address such as utility bills, cable bills and medical bills.

With the aid of a private contractor, Treasury conducts audits of PREs and, in connection with these audits, may issue a notice of a PRE denial. A notice of a PRE denial comes in the form of a letter stating that the property does not qualify for the PRE, typically for the current tax year and three preceding years, for which Treasury can require repayment by law. The notice generally recites no factual basis for the denial and includes a questionnaire asking basic information as to ownership and occupancy. A homeowner who receives this notice is left to guess as to why Treasury believes that they do not qualify for a PRE.

The difficulties created by not knowing the reason for the denial, as well as the problems caused by using a mailing address that is different from a home address,



are illustrated by a recent Court of Appeals decision overturning a PRE denial. In *Breakey v Dep't of Treasury*, Ann Breakey and her husband, Bill Breakey, had lived in their home near Lansing for over 40 years. Bill Breakey died in 2012, and Ann Breakey continued to live in the home.

In October of 2015, Treasury notified Mrs. Breakey that she did not qualify for the PRE for that year or 2012, 2013, and 2014. The notice did not provide any basis for the denial of the PRE that Mrs. Breakey and her husband had enjoyed for decades. Mrs. Breakey guessed it was triggered by her use of her stepson's office as her mailing address. In her written response and later at the informal hearing conference, Mrs. Breakey explained she had decided to have all of her mail sent to her stepson's business after difficulty with her rural mail service. She produced her voter registration card showing her home address, along with documents showing that the address her mail was sent to was an office building.

At the informal hearing conference, Mrs. Breakey became aware that Treasury's denial of Mrs. Breakey's PRE was also due to the fact that, years earlier, Mrs. Breakey and her husband had conveyed the home to themselves as trustees. When her husband died in 2012, her stepson became successor trustee, and she continued to live in the home as the sole beneficiary of the trust.

Treasury's position that ownership of the property by a trust disqualified it for PRE eligibility was surprising given the fact that the PRE statute itself expressly addresses trusts and provides that "a person who owns property as a result of being a beneficiary of a will or trust" qualifies for the PRE exemption. Moreover, Treasury's own published Guidelines directly address such trusts:

QUESTION: The owner of the principal residence died. Before his/her death, the owner placed the property in a revocable trust that specified that the surviving spouse was a life beneficiary.

The surviving spouse occupies the home as a principal residence. Can he/she claim the exemption?

ANSWER: Yes. Upon the death of the grantor of the trust, the life beneficiary is considered the owner of the home and may claim a principal residence exemption on the property.

Under the terms of Bill Breakey's trust, Mrs. Breakey had the right to live in her home rent-free for her lifetime and had the power to remove and replace the trustee. Under the plain language of the statute (and the Guidelines), upon Mr. Breakey's death, Mrs. Breakey continued to be eligible for the PRE so long as she continued to occupy the home as her principal residence. Treasury nonetheless denied Mrs. Breakey's PRE, first because the trustee, not Mrs. Breakey, was the legal owner of the home, and second because the address on all Treasury "signal" documents (driver's license, income

tax return, vehicle registration) was her mailing address, in other words, her stepson's address.

Mrs. Breakey appealed Treasury's decision to the Michigan Tax Tribunal. The Tax Tribunal first looked at the issue of whether Mrs. Breakey qualified for a PRE if her home was held in trust. Relying on one of its prior decisions, the Tax Tribunal sided with Treasury on this issue and threw out Mrs. Breakey's case. In a rather circular argument, Treasury's position, adopted by the Tribunal, was that while it is not necessary that a person be the "record owner" in fee title in order to qualify for a PRE, she must have "possession" of the home, "possession," in turn, requires "control," and "control," in turn, requires that she have the right to mortgage or sell the home. Since the trust instrument in question only stated that Mrs. Breakey had the right to "use" the home, the

Tribunal held that Mrs. Breakey was not entitled to the PRE.

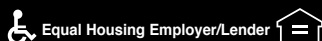
The Michigan Court of Appeals overturned the Tax Tribunal's decision. In its decision, the Court of Appeals found that although the trustee held legal title to the home, as a matter of law, Mrs. Breakey held equitable title. The Court held that Mrs. Breakey had "control" of the home in the sense that she had the right to exclude others for the entirety of her life. The Court found that this interest in the home gave Mrs. Breakey the right to "possess, control and enjoy" the home, and that this qualified her as an "owner" for purposes of the PRE statute. The Michigan Court of Appeals sent the case back to the Tax Tribunal for a hearing as to whether Ann Breakey, in fact, occupies her home as her principal residence, even though her mail goes to her stepson's office. Hopefully, Mrs. Breakey will be able to persuade the Tax Tribunal

that the address she uses on the Treasury's "signal" documents (driver's license, bank statements, tax records) is not in and of itself the relevant focus of the inquiry. These are simply indicators, which in this case, are not relevant because Mrs. Breakey does not use her home address as her mailing address. Instead, the Tribunal should focus solely on whether the property is, in fact, Mrs. Breakey's "one true, fixed and permanent home."

Even if Mrs. Breakey prevails in her case before the Tax Tribunal, as she should, this "victory" will come after a three-year long, presumably stressful and very expensive battle. Only then will Mrs. Breakey recover a refund of the tax payments, interest and penalties wrongfully assessed. Unfortunately, many taxpayers – perhaps most – do not have the time and/or financial wherewithal to withstand such a battle. ●

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Take Time to Review Your Assessments in 2018

BY MICHEAL R. LOHMEIER,
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Michigan assessors routinely review their assessment records throughout the year and make changes, where needed, to ensure accuracy with what physically exists as of tax day, December 31. The assessment process is one of continual quality improvement. One way this is done is by having their staff go out and inspect properties to ensure accuracies in their records. Reassessment programs are required of assessors by the state of Michigan, and even if it was not required they are sound *best practice* procedures employed by other mass appraisal professionals across the country, so they would still be performed.

Michigan assessors spend great amounts of time inspecting and reviewing property records for a variety of other reasons including, ascertaining physical additions to taxable values for new construction, losses to taxable values due to fires and demolitions and reviewing properties due to purchases, leases and other market related activities (i.e., exchanges, foreclosures, etc.)

Technology has helped increase quality improvements in the assessor's office for collecting, verifying and qualifying information, such as the use of GIS technology, however first-hand field inspections are still one of the best ways for an assessor to ensure accuracy of the information it relies on.

In addition to their own collection of information, assessors value greatly taxpayer involvement into the assessment process. Owners are able to share their unique insight into the property's characteristics and market-related information. This is a good reason why assessors are making information more available on-line to owners for review. Another reason taxpayer involvement is valued is because humans make mistakes. Taxpayer involvement is a wonderful inherent double-check within the assessment process. Transparency encourages review and quality improvement.

Whether property values are increasing, decreasing or even stable, it is always important to understand, at least generally, how your property is assessed and taxed. This includes:

- *Reviewing your assessment record with respect to physical features.*
- *Reviewing your valuation records for fairness in assessment and correctness in taxable value calculation (review capped value calculations).*
- *Ensuring you are receiving your proper exemption(s).*

BACKGROUND INFORMATION

The following terminology is important to keep in mind when talking with your local assessor:

TRUE CASH VALUE (TCV): The usual selling price of a parcel of property, as of tax day. It's also referred to as fair market value. Value reflects whatever physically exists on December 31 for the following tax year, as tax day is December 31.

ASSESSED VALUE (AV): Is 50% of a property's true cash value, becomes state equalized value after county equalization is done in April, and state equalization is done in May. All assessments are tentative until state equalization is completed.

CONSUMER PRICE INDEX (CPI): This is determined by the US Department of Labor, Bureau of Labor Statistics, and is used as the basis for the Inflation Rate Multiplier (IRM) in the Capped Value Formula calculation.

TAXABLE VALUE (TV): The lesser of the SEV and the CV.

CAPPED VALUE (CV): Or commonly referred to as the Capped Value Formula and is calculated by the following: Last year's taxable value, less losses, increased by the amount attributed by the Consumer Price Index or 5%, whichever is lower, plus the value of any additions. Or put another way

(Last year's TV - Losses) x (5% or IRM, whichever is less) + Additions

BOARD OF REVIEW (BOR): BOR is a local committee, whose members are appointed by Mayor or Supervisor to meet in March, July and December to hear protests of local taxpayers as well as to make necessary corrections to assessment roll. The jurisdiction of the BOR is statute driven, with valuation protests heard only at its March meetings.

For 2018 assessments, tax day is December 31, 2017. So your 2018 assessment records reflect what physically existed as of December 31, 2017. Any partial construction would also be represented on that date.

REVIEW ASSESSMENT RECORD

Review your assessment record to ensure your property's main features are correctly being used for valuation purposes. Much of this information may be available on the local assessor's website. This would include information such as:

- *Site size used for land valuation.*
- *Building size. Pick up a copy of the building sketch and check the measurements.*
- *Foundation type and, if residential, to what degree might they have finished the basement areas.*
- *Garage or any other outbuildings outbuilding(s), again check the measurements.*

In the case of non-residential properties, double-check that personal property is not being picked up as real and personal property (i.e., avoid double-taxation).

Find out specifically what features are being valued and then make sure they are measured and/or identified properly.

TRUE CASH VALUE (TCV) DISCUSSIONS

Once you are confident the physical characteristics of your property are accurate, a conversation may be made between you and your assessor regarding your property's true cash value. Find out what your property's TCV is. Remember TCV is synonymous with *fair market value*. For example, if the 2018 TCV for your property is \$200,000, then that is what the assessor believes its worth as of December 31, 2017. And, its SEV \$100,000. Then you can look around your neighborhood for arm's-length sales to determine whether you believe your property's TCV is reasonable, or over- or under-assessed. Many believe an assessment is reasonable if it's within 5-10% of its independently valued fair market value since assessments are based on mass appraisal methodology, not singular appraisal. However, this does not mean your assessment could not be adjusted additionally by the local March BOR, as you have a right to be fairly assessed and taxed.

Because markets are constantly changing, so does TCV and naturally AV. Every year you will receive an assessment notice of change, which will provide changes in your AV and TV as well as reasoning for the change. You should review that assessment notice very carefully. Because if you believe you are over-assessed then you should make an appointment for your local March BOR.

Technology has helped increase quality improvements in the assessor's office for collecting, verifying and qualifying information . . . however **FIRST-HAND FIELD INSPECTIONS** are still one of the best ways for an assessor **TO ENSURE ACCURACY** of the information it relies on.



TAXABLE VALUE AND CAPPED VALUE

If you haven't done anything physically to alter your property to change its value over the past year, which would have resulted in an addition or losses, then the taxable value would have only required an adjustment by the state mandated IRM.

It's important for you to also understand that your property taxes are determined by multiplying the taxable value of a property by its respective millage rate. So understanding the change that a property's taxable value may move, if there are no physical changes in a property and/or no ownership transfers, is of paramount importance.

Proposal A required a new calculation to be made by Michigan assessors, that being the calculation of capped value (CV) and the subsequent determination of the properties taxable value (TV). The two limits on taxable value include (1) that taxable value must not exceed assessed value and (2) the annual rate of increase in taxable value may not exceed the lesser of 5% or the annual increase in the consumer price index (CPI).

This is what is meant when an assessor states "there is a cap on increases in taxable value on a parcel." But there is an exception, and this is when a property ownership transfers. When a property transfers, the assessed value becomes the taxable value and this occurs in the immediate following year. Then the process of recapping begins until the next transfer of ownership occurs. There is another instance when an assessment can be the taxable value without an ownership transfer, and that occurs when the taxable value is the lesser of the property's SEV or its CV. If the SEV is lower than that lower SEV becomes the property's TV. Let's look at an example of a taxable value determination where no physical change was made to a property.

TAXABLE VALUE EXAMPLE WITH NO PHYSICAL CHANGE IN YEAR

The true cash value of the property was \$200,000. Last year's taxable value was \$84,000. Prior year's SEV was \$100,000. Market value increased 6% and IRM was 1.024

SEV for 2018 is calculated as follows:

TCV of property	\$200,000
Market value increase	\$12,000
True cash value	\$212,000
State equalized value	\$106,000

Calculating the capped value is as follows:

Prior year's taxable value	\$84,000
Minus taxable value of losses	\$0
Times lesser of 1.05 or the IRM	1.024
Plus taxable value of additions	\$0
Equals the capped value	\$86,016

Since capped value is \$86,016 and less than SEV, the taxable value would be \$86,016.

In the previous example if the property had transferred ownership in the prior year, the taxable value and state equalized value would have both been \$106,000. If the property's true cash value had decreased to \$160,000, meaning it had a state equalized value of \$80,000, the taxable value would be the lower state equalized value.

CAVEAT 1: Review your taxable value from one year to another to ensure that you understand whether the change was a result of only the IRM applied, or whether it also was a result of additions or losses being accounted for in the capped value formula.

CAVEAT 2: Because values have been increasing in the past few years throughout Michigan we are seeing appreciation rates outpacing the rate of inflation (i.e., CPI). So it's important, when buying a home, that you pay attention to the property's assessed value and estimate what the taxes will most likely be from assessed value rather than the historic taxes. Remember assessed value in the following year after a sale will become the new taxable value and that prior owner may have been benefiting from quite a spread between the property's existing taxable and assessed value.

PRINCIPAL RESIDENCE EXEMPTION

A principal residence exemption (PRE) provides exemption from the tax levied by a local school district for school operating purposes up to 18 mills, if the owner claims the exemption properly and timely. There are requirements imposed on the owner such as the owner must own and occupy the property and file the proper forms. The main due diligence I would like to stress to you is to be certain that every year when you receive your assessment notice, or your tax bills, double check that you are receiving your PRE. The *law of large numbers* principle dictates that things that can happen may happen. Just double check to make sure an error in someone's computer system doesn't cause you to lose your exemption.

I hope that I've brought to your attention some minimal ideas of things to do to ensure that you are properly assessed. This is a good starting point to getting involved in ensuring you are and will continue to be fairly taxed. ●



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