



Impact

A Response From....



Jake Porritt
NOCBOR President

You've Already Lost, so do it Gracefully!

So says the leadership of the National Association of REALTORS®.

Congrats, fellow REALTORS®! Our trade Association has determined that the responsibility to find a new value proposition and to protect the fruit of your labor is **YOURS!** Don't you feel empowered? You have lost control of your data and your technology work product largely due to the promise of Realtor.com... oops someone "Moved your Cheese." But don't worry, NAR is giving you the chance to tackle the new environmental problems yourself. I feel so inspired.

Now I know you may feel like you should have some ownership of the MLS or even Realtor.com, but it really was the vision of NAR that brought those concepts together, right? You may feel, since it was your labor and money spent creating the basis upon which all online real estate services are built today, entitles you to some say in the industry. However, don't waste your time and concern yourself with those matters. You cannot compete with the likes of corporate interests or even with your own Association. Advances in technology are inevitable and you just need to let NAR reap the benefits of that prior work... YOU, on the other hand, are better off shifting your career expectations and focus. Sound like a raw deal?

Don't despair, NAR hasn't completely abandoned you. For through the darkness comes some brilliant guidance. NAR, you see, has provided an online set of directives, a primer as

to how to protect yourself in the new world. Live by this text and keep working for free as your livelihood erodes, so long as you follow these rules NAR says you'll be better off:

- Demand the brokers and the listing agents identity be prominently displayed.
- Demand timely, 'fresh' listing display.
- Do not allow your listings to be modified.
- Do not allow co-mingling of your listings with FSBO's.
- Demand preservation of copyright notices on your listings.
- Understand the terms of use you agree to for your listings.
- Demand that your provider highlight and promote the term REALTOR®.
- AND – NEVER, EVER let any provider threaten your commission!

-Steve Brown NAR President

Here's hoping I am not the only broker offended by the position of our NAR brethren.

We are a labor force that is being disrespected by our own Association. Our trade Association fears our competition and fears the reduction of internet hits more than they fear the loss of membership income. Each year more distance grows between when our Association fought for our interests as practitioners and instead took on the banner of political and consumer interests.

Does the Association remember who its clients are? Who they work for?

REALTORS® have been cheated of our legacy and our leadership is betraying our confidence. We do not have to go quietly into the night. We can FIGHT!

Steve Brown says, "Do not fall in the trap of thinking if we just regain control of the data that everything will go back to the way it was. It won't." The suggestion is that you are diluting yourself to think that you can regain control. It's a simple mind that believes that REALTOR® have any authority or power over the industry. Nonsense!

Fighting doesn't mean sitting idly by or being ignorant to the changing environment in which we are working. However, it does mean we use the tools that we have at our disposal. It means we regain control over our own work product. It means we adapt at the same time as we take back what is being plundered. **It is not a foregone conclusion that what we developed can or will be taken without just compensation.**

For those of you who are sitting and thinking what can we do? We can't stop the tide of information. I don't have a perfect answer. There isn't one. However, I know the right place to start. Our Association and across the nation should concentrate on doing right by its membership.

I find it telling that the NAR Strategic Plan says – "**We need to be totally consumer centric** – not what we want but what they want – and be able to adapt quickly."

This is a conclusive loss of focus. It explicitly violates the promises made by NAR at the onset of Realtor.com. They promised us that the consumer efforts of NAR would remain REALTOR®-friendly and "guaranteed" not to threaten commissions or disintermediate practitioners.

So, Steve Brown, I am going to listen to your message and take it to heart. One of the biggest threats to my real estate sales commissions is my own Association. I won't stand for it. I promise NOCBOR won't stand for it either.

I wonder how the Association will adapt to the membership regaining control. The Association and our competition better start connecting the dots.

Jake Porritt
Porritt Group, PLLC

(This article is the opinion of the author. The views and opinions of the author do not necessarily reflect the views and opinions of NOCBOR)



Board of Directors June, 2014

Elect Botsford & Daniels!

MOTION CARRIED to approve four (4) Primary Designated REALTORS®; forty-nine (49) Primary REALTORS® and one (1) Secondary REALTOR®.

MOTION CARRIED to approve up to Five Thousand Five Hundred (\$5,500) Dollars to purchase clerical furniture for the office reception area.

MOTION CARRIED to approve the endorsement of Senator David Robertson for re-election and request MR RPAC funding in the amount of One Thousand (\$1,000) Dollars.

MOTION CARRIED to approve the endorsement of Representative Joe Graves for re-election and request MR RPAC funding in the amount of Five Hundred (\$500) Dollars.

The Michigan REALTORS® is conducting online voting for the position of MR District Directors, Wednesday, September 3, 2014 through Thursday, October 2, 2014.

NOCBOR REALTORS® may cast their vote, no more than once, for a candidate for District Director representing the MR District in which that REALTOR® member resides.

NOCBOR is fortunate to have two REALTOR® members as District Director candidates representing Congressional Districts 9 and 14.

Allan Daniels, (Dr. Daniels & Son Realty), is one of the candidates residing in District 9 (Berkley, Beverly Hills, Bingham Farms, Bloomfield Twp., Ferndale, Franklin, Hazel Park, Huntington Woods, Madison Heights, Pleasant Ridge and Royal Oak). Allan is currently a MR District Director and would appreciate your vote.

David Botsford, (Keller Williams), is currently a MR District Director, and is a candidate in District 14 (City of Southfield, Farmington Hills, Keego Harbor, Lathrup Village, Oak Park, Orchard Lake, Pontiac, Royal Oak Twp., Southfield Twp., Sylvan Lake and West Bloomfield).

It's important for you to support NOCBOR candidates for MR District Directors. Voting is as simple as turning on your computer.

REALTOR® Emeritus Candidates

The National Association of REALTORS® recognizes REALTORS® with 40 years of continuous membership as October 2, 2014. Approval by the NAR Board of Directors will take place in November 2014 in New Orleans at the REALTOR® Conference & Expo.

NOCBOR members who qualify for the Emeritus status should contact Millie at 248-674-4080.

MISSION STATEMENT

The purpose of the North Oakland County Board of REALTORS® is to enhance the ability and opportunity of its members to conduct their business successfully and ethically, and to promote the preservation of the right to own, transfer and use real property.

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President-Elect R.W. Watson	644-7000
Treasurer Cheryl Gates-Beers	620-8777
Secretary David Botsford	626-2100

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Matt Diskin
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NAR DIRECTORS
Jake Porritt

MAR DIRECTORS
David Botsford
Allan Daniels

MAR DELEGATES
Jake Porritt
R.W. Watson

Board of Directors July, 2014

MOTION CARRIED to approve four (4) Primary Designated REALTORS®; fifty-two (52) Primary REALTORS® and one (1) Affiliate.

Free Virtual Tours

Members can take advantage of a membership offering exclusively at NOCBOR. An agreement between NOCBOR and Property Panorama, and approved by leadership, entitles all REALTORS® to automatically receive the fully enhanced *InstaView* Portfolio.

NOCBOR is the first Board in Michigan to provide *InstaView Virtual Tours* to its members, free of charge. To receive the hands-free *InstaView Portfolio*, the principal broker must provide Realcomp the "Broker Data Extract Authorization Form for NOCBOR Extract."

Property Panorama has generated over 2.7 million *InstaView Virtual Tours* nationwide. NOCBOR statistics indicated that 460 NOCBOR members are currently registered and receiving tours for over 1,600 properties.

For additional information or to register for the free membership benefit, contact NOCBOR at 248-674-4080.

NORTH OAKLAND COUNTY BOARD OF REALTORS®
4400 West Walton | Waterford | MI | 48329
Phone (248) 674-4080 | Fax (248) 674-8112
E-mail: info@nocbor.com
www.nocbor.com

Randy Patterson Pillar-To-Post



Randy Patterson has owned his Pillar-To-Post franchise in West Oakland and Livingston County for 11 years. He has built a team of five Certified Inspectors, who provide professional home inspections and reports for their clients. He ensures that his clients have an informed understanding for the conditions found in their new home.

His team is also certified in Environmental Testing Services that include: Radon Testing, Mold Inspections, Air Quality Testing, Water Quality Testing, Well and Septic Inspections, Infra-Red Thermography, and Home Energy Evaluations. Patterson has served as an Affiliate Director and on various committees for local Associations of REALTORS®. Randy is also a very active member of NOCBOR, offering free programs accredited with con-ed credits.

Prior to owning his own business, Randy spent over 20 years as a technical consultant for Fortune 500 Companies in the telecommunications industry. A few of his client's were McDonald Douglas, GTE, Hughes Aircraft, Ford Motor Company and Dow Chemical. He served in the US Navy for 10 years as an electrician, a workshop leader, trainer and teacher in many of his positions.

Patterson is married to his wife Ilene and has 4 children, with 7 grandchildren, and a new grandchild due in August. He is active in his Church as a Director and Life Group Leader and music ministry. He enjoys golf, music, and travel.

CONVENTION & EXPO
MICHIGAN REALTORS®
2014 GRAND CONFERENCE
OCTOBER 1-3

BE A SUPERHERO!

WITH GREAT REAL ESTATE COMES GREAT RESPONSIBILITY!

Amway Grand Plaza Hotel & Devos Place

Support NOCBOR Affiliate Members

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Bankston, Justin (First American Title Insurance)	248-789-6371
Barnett, Larry (Attorney at Law)	248-625-2200
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Daigle, Tom (National Home Lending)	248-623-1234
Diaz, Julie (Commission Express of Michigan)	248-737-4400
Fitzpatrick, James (Fifth Third Bank)	248-625-3142
Falconer, Scott (Talmer Bank & Trust)	248-608-5134
Germilhac, Joseph (Pillar To Post)	248-817-7067
Gourand, Jill (Transnation Title Agency of Clarkston)	248-605-0600
Hawley, Rosie (Somerset Lending Corp)	248-841-4057
Hill, Cheri (Bank of America)	248-408-6805
Howell, Jason (Bank of America)	248-863-3740
Hurd, Jessica (GreenStone Farm Credit Services)	810-664-5951
Jacobs, James (Air Serv Heating & Air Conditioner)	248-627-7000
Jarvis, Beth (Title Connect)	586-226-3506
Katsiroubas, Mary (Title Connect)	586-226-3506
LaPorte, Jeff (The Home Team Inspection)	248-366-6215
Linnane, Jim (Wells Fargo Home Mortgage)	515-213-4291
Mitchell, Mark (Ross Mortgage Corporation)	248-730-6275
North, Jim (Fidelity National Title)	810-695-1401
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Patterson, Randall (Pillar To Post)	248-755-3422
Pieron, Angela (Partners Title Agency)	248-625-1799
Porritt, James Jr. (Attorney At Law)	248-693-6245
Prichard, Geoffrey (Title Express)	248-855-1445
Proctor, Michael (Ross Mortgage)	248-931-1018
Seaver, Jason (Seaver Title)	248-338-7135
Seaver, Phil (Seaver Title)	248-338-7135
Seibert, Brian (Michigan First Mortgage)	248-666-2700
St. Amant, Ron (Changing Places Moving)	248-674-3937
Stonehouse, Keith (Franklin Title Agency)	248-564-4022
Sullivan, David (Credit Technologies, Inc.)	248-313-1027
Taylor, Cindy (Huron Valley Financial)	248-623-2280
Taylor, Nikki (Seaver Title)	248-338-7135
Vigillius, Pete (Troy Abstract & Title Agency)	248-989-1100
Webberly, Mark (U.S. Bank Home Mortgage)	248-866-9460
White, Kaitlyn (White Star Movers)	586-977-0400

THIS PERSON IS ATTENDING THE

2014 REALTORS® CONFERENCE & EXPO

NOVEMBER 7-10 | NEW ORLEANS, LA

HIT "SHARE" IF YOU ARE, TOO!

REALTOR.org/Conference
[facebook.com/NARannual](https://www.facebook.com/NARannual)

NATIONAL ASSOCIATION of REALTORS®
 REALTORS® Conference & Expo
Global Reach, Local Focus

Trademark/Logo Use on the Internet

When surfing the Web for real estate home pages, it's quite common to come across sites belonging to REALTORS®. If you are looking to add your own electronic presence on the Internet, it is easy to get caught up in designing your own web page and choosing a domain name which will capture the attention of surfers and make you easily identifiable. Whether it is the domain name of your home page or other domain names you use to point to your home page. REALTORS® often want to use the REALTOR® marks as part of a domain name or address to distinguish themselves, but they must keep in mind that there are rules governing proper use of the REALTOR® marks that must be adhered to at all times regardless of the media used. These rules are found in the National Association's *Membership Marks Manual*, a reference manual available on-line at REATOR.org, explaining proper use of the REALTOR® marks, including examples of correct and incorrect uses. Here is a brief list of the principal rules affecting use of the REALTOR® marks in domain names:

1. The term REALTOR®, whether used as part of a domain name or in some other fashion must refer to a member or a member's firm.

2. The term REALTOR® may not be used with descriptive words or phrases. For example, Number1realtor.com, numberone-realtor.com, michiganmetropolitanrealtors.org or realtorproperties.com are all incorrect.

3 The term REALTOR® should never be used to denote an occupation or business. Do not combine words like "your," "my," "our" or any descriptive words or phrases between your name and the membership mark. JaneDoeMyRealtor.com and YourNorthOaklandRealtorJohnDoe.com are all examples of improper use.

4. For use as a domain name or e-mail address on the Internet, the term REALTOR® does not need to be separated from the member's name or firm name with punctuation. For example, both johndoe-realtor.com and johndoerealtor.com would be correct uses of the term as a part of domain names and jdoe*realtors@webnetservices.com and jdoerealtors@webnetservices.com are both correct uses of the term as part of an e-mail address.

5. The REALTOR® block R logo should not be used as hypertext links at a web site as such uses can suggest an endorsement or recommendation of the linked site by your Association. The only exception would be to establish a link to the National Association's web site, REALTOR.org, or its official property listing site, REALTOR.com.

The public has adopted the use of all lower case letters when writing domain names, even those containing trademarks. Therefore, for purposes of domain names and internet addresses only, there is an exception to the rule on capitalization of the term REALTOR® and it may appear in lower case letters.

Whether you use traditional print media or the Internet, it is essential to use the REALTOR® marks in accordance with the rules and guidelines of the National Association. The REALTOR® marks should only be used to denote membership in NAR.

Don't Get Hacked At The Hot Spots

If you've traveled and tried to get on the Internet, you've probably seen some pretty suspicious looking Wi-Fi networks with names like "Free Wi-Fi" and "Totally Free Internet." Those are likely access points you'd best avoid. But there's a much bigger threat to your security than somebody randomly fishing for you to connect to the networks you've already connected to and trusted, like AT&T and Xfinity. Mobile broadband providers are eager to get you to connect to their Wi-Fi based networks while you're away from home. AT&T has built a network of free hotspots for customers at thousands of places, including train stations as well as Starbucks and McDonald's locations across the country. Comcast has spread its Xfinity wireless network far and wide as well, turning customers' cable modems into public Wi-Fi hotspots accessible with an Xfinity account login.

These sites offer an easy way for someone to surreptitiously tap into your Internet traffic and capture your account information for less-than-friendly purposes, and millions of AT&T and Xfinity customers could be leaving themselves exposed to surreptitious hacking of their Internet traffic. Details at <http://arstechnica.com/security/2014/06/free-wi-fi-from-xfinity-and-att-also-frees-you-to-be-hacked/>.

Tips for a Safe Open House

Open houses can be a great sales tool, but hosting one also exposes you to numerous unfamiliar people for the first time. Take these steps to stay safe:

1. If possible, always try to have at least one other person working with you at the open house.

2. Check your cell phone's strength and signal prior to the open house. Have emergency numbers programmed on speed dial.

3. Upon entering a house for the first time, check all rooms and determine several "escape" routes. Make sure all deadbolt locks are unlocked to facilitate a faster escape.

4. Make sure that if you were to escape by the back door, you could escape from the backyard. Frequently, high fences surround yards that contain swimming pools or hot tubs.

5. Have all open house visitors sign in. Ask for full name, address, phone number and e-mail.

6. When showing the house, always walk behind the prospect. Direct them; don't lead them. Say, for example, "The kitchen is on your left," and gesture for them to go ahead of you.

7. Avoid attics, basement and getting trapped in small rooms.

8. Notify someone in your office, your answering service, a friend or a relative that you will be calling in every hour on the hour. And if you don't call, they are to call you.

9. Inform a neighbor that you will be showing the house and ask if he or she would keep an eye and ear open for anything out of the ordinary.

10. Don't assume that everyone has left the premises at the end of an open house. Check all of the rooms and the backyard prior to locking the doors. Be prepared to defend yourself, if necessary.

Foreclosure Redemption Periods

Public Act 104 of 2013 was problematic in that it did not clearly define the rights of the purchaser at Sheriff's sale and the home owner in regards to interior and exterior inspections, or specify the factors that the court must consider in granting a judgment of possession in favor of the purchaser. **Public Act 125 of 2014**, effective June 19, 2014, clarified the previous legislation and further amended Michigan's foreclosure law to do the following:

- Require a purchaser of foreclosed property to issue notice before conducting an interior inspection of the property during the redemption period.
- Specify that a purchaser can conduct any number of exterior inspections of the property during the redemption period.
- Allow a purchaser to request information on the condition of the interior of any structures on the property; and allow the purchaser to schedule an interior inspection of structures if the home owner refuses to provide information.
- Require a home owner to inform the purchaser of the home owner's intent to vacate the foreclosed property after the foreclosure sale.
- Require the purchaser to notify the home owner that the purchaser intends to commence summary proceedings if damage to, or a condition on, the property is not repaired or corrected in seven days.
- Prohibit a purchaser from commencing summary proceedings if the damage or condition is repaired, or the home owner and purchaser agree on a procedure and timeline to repair the damage or condition.
- Specify factors that the court must consider in granting a judgment of possession in favor of a purchaser.
- Create a rebuttable presumption that a home owner is liable to the purchaser for damage to the property if the home owner fails to submit requested information or consent to requested inspections.
- Create a rebuttable presumption that a home owner is not liable to the purchaser for damage to the property if the home owner consents to requested inspections and submits the information requested.

"We Need to do What?"

Like most appraising issues the answer to whether you should verify the license of an unfamiliar appraisal management company (AMC) involves the review of two considerations: what do the regulations require and what's good for business? Often these two concerns are at odds. In this case, the regulatory and practical considerations dovetail.

Just like an AMC has responsibility to ensure that an appraiser is licensed or certified, in certain states, appraisers also have a responsibility to ensure that the AMC is appropriate registered/licensed to do business in that state. Under AMC licensing laws in states like Virginia and Washington, if an appraiser does business with an unregistered/unlicensed AMC, they could face sanctions from their Appraisal Board.

According to Richard Hagar, SRA, many states have laws that pertain. Here is the law from Hagar's home state of Washington: *RCW 18.235.130-The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter: (9) Aiding or abetting an unlicensed person to practice or operate a business or professional when a license is required.* Hagar says the Federal Trade Commission Act has similar wording. *"If someone from an AMC says that a license is not required in State X, when in fact it is, that would be a violation of the Federal Trade Commission Act and (Washington) State law RCW 18.235," Hagar says. "Not having the license would be a second violation under RCW 18.235."*

Bad Business

Laurie Richards, SRA, an appraiser in Montana, explains the downside of not checking upfront from a business standpoint. *"I typically take orders over the phone. If the AMC is a new client and there is no number included in the report, I won't do anything until I verify that they are registered. The hardest part is when they claim they aren't required to be licensed because we have no way to verify whether they are or aren't. I ended up eating an appraisal and then checked the AMC license. No license. After they couldn't produce it, they said they didn't need one. I got cold feet and didn't submit the report. It gummed up the loan. The lender who hired the bad AMC got mad at me. The borrower turned me into the state for not turning in the report."* While the complaint against her was eventually dismissed, that day, Richard says the experience made her want to quit appraising.

These days, Richards will accept an order if an AMC says they are licensed but won't do the inspection until she has a license number. *"If they say they don't need one. I tell them to send me a quick e-mail to that effect. I've spent too many hours trying to determine whether an AMC ordering an appraisal is required to have a license, so now I cover myself with an e-mail from them verifying that they don't need one. When I was in front of the Board about this complaint, I tried to bring to their attention the problem of these companies saying they don't need a license when they do. I asked the Board what to do in such cases. Unfortunately, our Board is almost all Certified General appraisers and they simply do not understand the issues residential appraisers face with AMCs and complaints from borrowers and lenders. (David Brauner, Editor of Organization of Real Estate Professionals)*

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NOCBOR Events

August

September

October

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 Deadline for Directors Applications	2
4	5 PRIMARY ELECTION 	6	7 7:30 a.m. NOCBOR Golf Outing Breakfast/Registration 8:30 a.m. Shotgun Start @ Fountains Golf & Banquet 6060 Maybee Rd. Clarkston 9:30 a.m. "Selling HUD Homes- Advance 2014 Training" (2 hrs con-ed)	8	9
11 9:30 a.m. Education/Tech 11:30 a.m. Government Affairs	12 9 a.m. Membership Services	13 9:30 a.m. Con-ed – Course 1500 S. Bell	14 10 a.m. Nominating Committee	15 10 a.m. Procedural Review Hearing	16
18 NAR Leadership/Chicago	19	20 9 a.m. Backdoor Workshop "Authensign" 12:30 p.m. Executive 1:30 p.m. BODs' Mtg	21 9:30 a.m. New Members J. Waller 9:30 a.m. Grievance Committee	22	23
25	26 11:30 a.m. Appraisers' Appreciation Luncheon	27 9:30 a.m. Con-ed – Course 1500 J. Waller	28 9:30 a.m. Con-ed – Course 1500 B. Haviland	29 10:30 a.m. Real Property Valuation	30
1	2	3 MR District Directors Election	4 9:30 a.m. "Selling HUD Homes- Advance 2014 Training" (2 hrs con-ed)	5	6
8 9:30 a.m. Education/Tech 11:30 a.m. Government Affairs 6-10 p.m. (NEW) Pre-License	9 9 a.m. Membership Services 2 p.m. Backdoor Workshop "Understanding Dual Agency" (2 hrs Con-ed)	10 9:30 a.m. Con-ed – Course 1500 B. Haviland 6-10 p.m. Pre-License Course	11 8:30 a.m. – 5 p.m. CRS-206 "Technologies To Advance Your Business" R. Sands, CRS	12 8:30 a.m. – 5 p.m. CRS-206 "Technologies To Advance Your Business" R. Sands, CRS	13
15 6-10 p.m. PLC	16 9:30 a.m. Con-ed – Course 1500 S. Bell	17 10 a.m. Backdoor Workshop "Create Your CMA Using Excel" (2 hrs con-ed) 6-10 p.m. Pre-License Course	18 9:30 a.m. Grievance Committee	19 10 a.m. Backdoor Workshop "Protecting Your Digital Security" (2 hrs con-ed)	20
22 6-10 p.m. Pre-License Course	23	24 12:30 p.m. Executive 1:30 p.m. BODs' Mtg. 6-10 p.m. Pre-License Course	25 8 a.m. – 5 p.m. GRI I T. Kotzian	26 9:30 a.m. Con-ed – Course 1500 J. Waller 10:30 a.m. Real Property Valuation	27
29 6-10 p.m. Pre-License Course	30 9:30 a.m. Con-ed – Course 1500 S. Bell	1 6-10 p.m. Pre-License Course	2 9:30 a.m. "Selling HUD Homes- Advance 2014 Training" (2 hrs con-ed)	3	4
6 9:30 a.m. Con-ed – Course 1500 B. Haviland 6-10 p.m. Pre-License Course	7 8:30 a.m. Annual Membership Meeting @ T.B.D.	8 6-10 p.m. Pre-License Course	9 8 a.m. – 5 p.m. GRI I T. Kotzian	10 8 a.m. – 5 p.m. GRI I T. Kotzian	11
13 9:30 a.m. Education/Tech 11:30 a.m. Government Affairs	14 9 a.m. Membership Services	15 6-10 p.m. Pre-License Course	16 9:30 a.m. Grievance Committee 9:30 a.m. Con-ed – Course 1500 B. Haviland	17 8 a.m. – 5 p.m. GRI I T. Kotzian	18
20	21	22	23	24	25
27 9:30 a.m. Con-ed – Course 1500 B. Haviland	28	29 12:30 p.m. Executive 1:30 p.m. BODs' Mtg	30 9:30 a.m. Con-ed – Course 1500 J. Waller	31 10:30 a.m. Real Property Valuation	

MR Annual Convention - Grand Rapids

Liability of Dual Agent Upheld

An Ohio court has considered whether a real estate professional acting as a dual agent properly informed her client about certain known conditions on the property. Marie Hoover purchased a property with her then-husband on Lake White in Waverly, Ohio during 1994. They made substantial improvements to the property, and Hoover eventually became the sole owner of the property following her divorce. She transferred the property into an LLC in 2000, which she was the sole member.

In 2007, the LLC listed the property for sale with Angela Shanks of Acceleration Enterprises. The LLC received and accepted an offer, but an inspection conducted by the potential buyers identified a number of problems. The potential buyers gave the Shanks a list of the problems identified during the inspection, and Shanks handwrote an Addendum to the purchase contract setting forth the problems, most of which involved the foundation defects and the fact that parts of the house were settling into the ground. The LLC rejected the offer.

Following the rejection, the LLC began additional repair work on the property to address some of the problems related to the foundation raised in the prior offer. Meanwhile, Joe Hubbard visited the property and eventually made an offer to purchase through a trust. During his visit to the property, Shanks pointed out the repairs that had been done to the property but did not discuss all of the defects that were noted in the Addendum. Hubbard visited the property with an architect. On the property disclosure form, Hoover stated that she had no knowledge of problems with the property's foundation.

The LLC accepted Hubbard's offer and Shanks acted as a dual agent in the transaction. The purchase agreement gave Hubbard the right to inspect the property and receive credit for any repairs that were needed, but he never conducted an inspection. Incidentally, the Addendum was never shown to Hubbard.

Following the purchase, Hubbard began discovering problems on the property. An engineer retained by Hubbard determined that the land was settling and the house was moving down the slope toward the lake. Hubbard believed that many of the repairs undertaken by the LLC were simply to cover up defects on the property.

Hubbard brought a lawsuit against the LLC, Hoover, Shanks and Acceleration Enterprises Real Estate (the brokerage). A jury returned a verdict against Hoover and the LLC for fraudulent misrepresentation, awarding Hubbard damages of \$216,337. The jury also returned a verdict against the brokerage for breach of fiduciary duty, but did not award Hubbard any damages. All parties appealed.

The Court of Appeals of Ohio partially affirmed the trial court and sent the case back to the trial court for further proceedings. First, the court looked at the arguments made by the LLC and Hoover. The court rejected the LLC's argument that the property was sold "as-is" and therefore Hubbard could not complain about the discovered defects because the jury had found that the LLC/Hoover had attempted to actively conceal the defects on the property, allowing Hubbard to recover damages. The court also

rejected the challenges to the award for fraudulent concealment because the LLC had failed to disclose the defects listed in the Addendum which directly contradicted Hoover's statements on the disclosure form. The court also ruled that Hoover was personally liable for the award because she failed to follow corporate formalities and instead executed the transaction documents in her own name, not that of the LLC. Thus, the award against Hoover and the LLC was affirmed.

Next, the court looked at whether the evidence supported the jury's finding against the brokerage and also whether the findings required the jury to award the buyer damages from the brokerage. Because Shanks had written the Addendum which detailed the defects found on the property but then failed to disclose these to Hubbard even though she was acting as a dual agent, the court found that the evidence supported the jury's findings of a breach of fiduciary duty. Shanks was required to disclose all material adverse facts that she was aware of, and she did not do this. Further, the court stated that finding a breach of fiduciary finding required the jury to award damages to Hubbard, and so the court remanded the case to the trial court for further proceedings.

Legal Q & A

Q: Is a landlord required to provide a seller disclosure statement in connection with a residential lease that is longer than one year?

A: A seller disclosure statement is not required in connection with a residential lease of real estate unless it is a lease with an option to purchase. (On the other hand, an agency disclosure form is required in connection with a residential lease.)

Q: A man from Canada is selling land located in Michigan. Can I represent him or does he need a Canadian agent?

A: YES, you can represent him in this transaction. Your license authorizes you to sell real estate in the State of Michigan. It does not matter if the client is from another state or country.

Q: We received an offer on a listing, and it was accepted by the seller. We delivered it back to the buyer's agent two days ago. Now we have been advised that the buyer refuses to bottom-line the purchase agreement. Can the buyer walk away from the deal and get his earnest money deposit back?

A. The buyer certainly cannot walk away from the deal and get his earnest money deposit back by simply refusing to bottom-line receipt of the purchase agreement. Unless the specific purchase agreement calls for bottom-lining to form a contract, the contract between the buyer and the seller is formed when the seller signs the offer and delivers his acceptance to the buyer or the buyer's agent. Traditionally, the practice of bottom-lining has been done to assure that REALTORS® can prove that they complied with Rule 307 which requires a licensee to provide a fully executed copy of the purchase agreement to the seller and buyer.

Q: Do sellers have to disclose if a home is a modular?

A: There is no law which requires a seller to volunteer the fact that his home is a modular home.

Duty to Buyer

In *Horiike v. Coldwell Banker et. al.*, a California court of appeal held that where a listing salesperson and a buyer's rep are both licensed with the same broker, they each owe the same fiduciary duties to both parties to the transaction.

In 2006, the owners of a luxury residence in Malibu hired Chris Cortazzo ("Listing Rep") to sell their home. Listing Rep, who was licensed under Coldwell Banker Residential Brokerage Company ("Broker"), listed the property on an MLS. The MLS provided the Listing Rep with public record information on the home, including a statement that the size of the home's living space was 9,434 square feet. Nonetheless, apparently relying on a letter from the property's architect, Listing Rep listed the property on the MLS as offering "approximately 15,000 square feet of living areas." Listing Rep also prepared a flier for the property, which also listed the living area as approximately 15,000 square feet.

A few months later, a couple made an offer on the property, and asked Listing Rep for verification of the square footage. Listing Rep provided the letter from the architect stating that the living area was approximately 15,000 square feet. The couple requested the certificate of occupancy, which was not available. After sellers refused the couple's request for an extension to inspect the property the deal fell through. Shortly thereafter, Listing Rep revised the MLS listing to state that the living area square footage was "0/O.T." meaning zero square feet and other comments.

Meanwhile, Hiroshi Horiike ("Purchaser") engaged Chizuko Namba ("Buyer's Rep) who also held her license with Broker. Buyer's Rep saw listing for the property and arranged a showing, at which Listing Rep gave Buyer's Rep a copy of the flier stating that the living space of the home was 15,000 square feet.

Purchaser bought the property. Sometime later, in preparing to do work on the residence, Purchaser determined that the square footage of the home was significantly less than 15,000 square feet. He filed a complaint against Listing Rep and Broker, alleging intentional and negligent misrepresentation and breach of fiduciary duty, among other counts. At trial, after the presentation of Purchaser's case to the jury, Listing Rep moved for nonsuit on the count of breach of fiduciary duty. The trial court granted the motion, holding that Listing Rep owed no fiduciary duty to Purchaser.

The appellate court reversed, stating that "a broker's fiduciary duty to his client requires the highest good faith and undivided service and loyalty." And where, as in this case, a dual agency relationship has been created by merit of two salespersons licensed under the same broker representing a buyer and a seller, each salesperson owes not only his or her *own* client those fiduciary duties, but also owes them to the other salesperson's client.

The record from trial showed that Listing Rep knew that the square footage of the property had been recorded differently in different documents. The appellate court stated that the Listing Rep's act of changing the MLS listing from "approximately 15,000 square feet" to "0/O.T." suggested that the square footage of the property required further explanation, and "a fiduciary must tell its principal all of the information it possesses that is material to the principal's interests." The court concluded that a trier of fact could determine that Listing Rep had breached his fiduciary due to Purchaser "by failing to communicate all of the material information he knew about the square footage." The case was remanded to trial and proceedings are ongoing. Purchaser was awarded his costs to appeal the trial court's judgment.

Code of Ethics

REALTORS® are different from non-member licensees in that they voluntarily subscribe to a strict Code of Ethics. If you believe that a REALTOR® has violated one or more Articles of the Code of Ethics, you can file an Ethics Complaint alleging a violation(s) through the local association of REALTOS® where the REALTOR® holds Primary membership, or participates in a REALTOR® association –owned/operated MLS.

In addition, REALTORS® agree as a condition of membership to arbitrate contractual disputes and specific non-contractual disputes as provided for in Article 17 of NAR Code of Ethics.

To learn more about information relative to filing Ethic Complaint and/or Arbitration Request, go to NOCBOR's Web site, nocbor.com.

Median Age Creeping Up!

According to a recent member survey by the National Association of REALTORS®, the median age of REALTORS® in 2012 was 57, up from 51 in 2007. NAR analysts also note that the vast majority of REALTORS® had prior careers in other industries, predominantly in management, business and financial professions. Only 6% of REALTORS® surveyed indicated that real estate is their first career.

More than 500,000 REALTORS® are now over the age of 57. Assuming that most of them will no longer be active in the business after age 80, approximately 22,000 agents will be leaving each year over the next 23 years.

Statistics show that the dropout rate among new licensees has been extremely high, with nearly 80% washing out within the first 3 years. At that rate, to maintain current membership levels, more than 100,000 new members will be required each year. Will new licensees reverse the traditional dropout rates? Or will the total number of licensees shrink?

An average of 6 million sales per year (new and previously owned homes) provides an average of 6 transactions per agent at the current one-million-member mark. And, that's before adjustment for sales done without the assistance of a REALTOR®.

An Unlicensed Personal Assistant MAY:

1. Accompany licensees during the holding of an open house and perform the following functions:
 - a. Open the door and greet prospects as they arrive at the open house.
 - b. Hand out or distribute printed material:
 - c. Have prospects sign a guest book to record names, addresses and phone numbers.
 - d. Accompany prospects through the home for security purposes (ONLY the licensee should answer any questions pertaining to the material aspects of the house or its price and terms.
2. Perform strictly clerical tasks.
3. Function as a courier in picking up or delivering documents on behalf of the employing licensee. (Keys should NOT BE GIVEN to unlicensed persons for the purpose of showing a property).

An Unlicensed Personal Assistant MAY NOT:

1. Independently show or demonstrate property to prospective buyers.
2. Make cold calls by telephone or in person to potential listers, purchasers, tenants or landlords.
3. Answer any questions on title insurance, financing or closing.
4. Independently hold open houses for brokers or staff booths at home shows or fairs.
5. Solicit business through telephone prospecting.
6. Give additional information not included in prepared written promotional material which has been distributed to the public.
7. Represent themselves as an agent for a real estate broker or the owner/seller of the property.
8. Have their name printed on business cards or stationery that would imply they are an agent for the real estate broker.
9. Conduct telephone solicitation calls.
10. Perform any of the acts for which a license is required under Michigan Real Estate License Law (MCL 33.2501 et seq.)

Special Awards

It's time to nominate your favorite and most deserving business associate for the **NOCBOR 2014 Special Awards Program**. Listed below are the award categories. Nominations must be submitted to NOCBOR no later than October 24, 2014.

Broker/Manager-Of-The-Year: You know who this is! It's that person who you can always count on and consider part of your support system. This candidate can be nominated by any NOCBOR member. A narrative must accompany nomination.

Cultural Diversity Member: Someone who has displayed a sense of awareness and commitment to our multi-cultural community.

Distinguished Service: The nominee must be a REALTOR® member. To nominate a candidate for this award, please submit a narrative describing a real estate transaction in which the nominee displayed a true sense of professionalism and ethical behavior. This is your chance to express your appreciation for a "job well done!"

Rookie-Of-The-Year: Must be nominated by the Designated REALTOR® of the office with which the nominee is affiliated. The award will be given to an individual who has been in the business less than 18 months, and will be based on productivity and congeniality.

Humanitarian & Community Service: This award must go to a REALTOR®. It will be in recognition for outstanding contributions and dedication toward the betterment of the community.

Affiliate-Of-The-Year: This award must go to an Affiliate member. REALTORS® can nominate Affiliate-Of-The-Year nominees on the basis of outstanding professionalism and Board activity.

This is your opportunity to nominate your favorite REALTORS® and Affiliate members.



We Are Where You Want To Be!

Earn the GRI Designation



In today's competitive business environment, it often takes more than just motivation and initiative to succeed. Earning the Graduate, REALTOR® Institute (GRI)

designation is a way to stand out to prospective home buyers and sellers as a REALTOR® who has gained in-depth knowledge on technical subjects as well as the fundamentals of real estate.

GRI-I (Broker Basic)

Topics Covered:

- 1 Building a real estate business
- 2 Construction, home inspection, environmental/health issues
- 3 Fair Housing and Civil Rights
- 4 Michigan license law, contract law, real estate finance
- 5 Professional standards, condominiums and cooperatives

Broker Licensure & Fair Housing Hours: GRI-I: 30 hours
Broker licensure credit, 9 hours Fair Housing; GRI-II: 30 hours
Broker license credit, 0 hours of Fair Housing; GRI-III: 30 hours
Broker licensure credit

Date: **September 25, October 9, 10, 17, 2014**

Instructor: Tom Kotzian

Location: North Oakland County Board of REALTORS®
4400 W. Walton Blvd
Waterford, MI 48329
Phone: 248-674-4080

Time: 8:00 a.m. - 5:00 p.m. • Registration 7:30 - 8:00 a.m. first day

Registration: NOCBOR/MR Members: \$350.00 • Non-members:
\$400.00 Registrations must be in by September 12, 2014 (*Eligible
for the NOCBOR Education Loan Program*)



CRS-206 "Technologies To Advance Your Business"

While every agent attends a course with particular goals and each leaves with specific bits of information that will enhance their business, we believe the CRS 206 course will provide at least seven valuable takeaways.

Date: **September 11 & 12, 2014**

Instructor: Rich Sands, CRS

Location: North Oakland County Board of REALTORS®
4400 W. Walton Blvd
Waterford, MI 48329
Phone: 248-674-4080

Time: 8:30 a.m. - 5:00 p.m. • Registration 8:30 - 8:30 a.m. first day

Registration: NOCBOR/MAR Members: 328.00 (*Eligible for the
NOCBOR Education Loan Program*)

Free* Backdoor Workshops

"Successfully Selling HUD Homes-Advanced Training 2014"

Evduza Ramaj, Inside Realty
Thursday, August 7
(2 hours con-ed)
9:30 a.m.

Authensign Workshop

Tami Cummings, Realcomp Staff
Wednesday, August 20
10 a.m.

Understanding Dual Agency

Tom Kotizan, Keller Williams Realty
Tuesday, September 9
2 p.m.

"Create Your CMA Using Excel"

Rick Bailey, Bailey Realty & Investment Company
Wednesday, September 17
(2 hours con-ed)
10 a.m.

"Properly Present a VA Offer Sellers Will Actually Accept!"

Jay McMaken, Ross Mortgage
(2 hours con-ed)
10 a.m.

"Protecting Your Digital Security"

Rick Bailey, Bailey Realty & Investment Company
Friday, September 19
(2 hours con-ed)
10 a.m.

Location: NOCBOR

(*Free for NOCBOR member/Non-member \$20.00)

2014 Con-ed (Course 1500)

Wednesday, August 13

Thursday, August 28

Wednesday, September 10

Tuesday, September 16

Monday, October 16

Monday, October 27

Friday, November 14

Monday, November 24

Sally Bell

Bill Haviland

Sally Bell

Sally Bell

Bill Haviland

Bill Haviland

Bill Haviland

Bill Haviland

9:30 a.m. – 3:30 p.m. (6 hrs con-ed)

9:30 a.m. – 1:30 p.m. (4 hrs con-ed)

9:30 a.m. – 12:30 p.m. (3 hrs con-ed)

9:30 a.m. – 11:30 a.m. (2 hrs con-ed)

Course fee: (6 hrs) \$35 member/\$45 non-member
(4 hrs) \$25 member/\$30 non-member
(3 hrs) \$20 member/\$25 non-member
(2 hrs) \$15 member/\$20 non-member

Wednesday, August 27

Friday, September 26

Thursday, October 30

Tuesday, November 18

Friday, December 19

Instructor: Jack Waller

9:30 a.m. – 3:30 p.m. (6 hours con-ed)

Course fee: \$40.00 member/\$50 non-member

Location: NOCBOR

“Coming Soon” Is it in the Seller’s Best Interest?

What does it mean to advertise a property as “coming soon?” The answer to that seemingly simple question varies among agents, brokers, MLSs and state regulators nationwide. While the real estate industry has not agreed on a definition of “coming soon,” one thing is certain and consistent—a broker’s decision to market a seller’s property as “coming soon” must always be made based on the client’s informed determination of what best serves the client’s interest.

Some “coming soon” advertisements involve unlisted properties that may or will be listed with a broker in the near future, while others relate to properties that are subject to listing agreements where property is available to potential purchasers only through the listing broker and not available, temporarily or indefinitely, for showing or purchase through other MLS participants. In either case, “coming soon” properties are commonly withheld from the MLS.

The first important step in advising a seller-client on whether to advertise a property as “coming soon” is to identify the client’s best interests, as defined by the client. Failing to act in the client’s best interest and failing to disclose the pros and cons of a limited marketing plan, such as “coming soon” advertising, can violate state real estate license laws and regulations, MLS policies and the Code of Ethics of the National Association of REALTORS®.

For most sellers, getting the highest possible price on the best terms is their “best interest,” and maximizing exposure of their property to potential buyers advances that interest. Multiple Listing Services promote the interests of sellers by compiling property information in an orderly manner and distributing that information to MLS participants who have buyer-clients actively seeking to purchase property in the location served by the MLS. Restricting the marketing of a seller’s property to only small networks, private clubs, or even to national web sites without also making it available to other area brokers and agents and their buyer-clients through the MLS results in the property not being exposed to the widest group of potential willing and able buyers, and may not provide the seller the best opportunity to attract offers at the highest price.

It’s important that sellers understand the implications of various ways of marketing the property so that they can knowingly determine the choice that best serves their interests.

If a broker determines that “coming soon” advertising is in the client’s best interest and confirms that the client understands the possible consequences, then it’s imperative for the broker to know the state’s real estate license laws and regulations to ensure that such advertising is in compliance. A broker who fails to comply with state laws and regulations risks facing disciplinary action from licensing authorities, as well as the possibility of litigation from unsatisfied clients.

Many states’ license laws impose certain duties on licensees including the duties of care, loyalty, good faith, and honest and fair dealing. An unsatisfied seller could allege that

a broker breached one of these duties if the broker did not seek to obtain the highest possible price for his client where the client didn’t understand that the marketing of the property might not achieve the highest price.

Recently, the Colorado Department of Regulatory Agencies, Real Estate Division, issued “CP-44 Commission Position on Coming Soon Listings” clarifying that a licensee’s existing duty to promote the interests of the seller or landlord with the utmost good faith, loyalty and fidelity” requires Colorado licensees to advise clients during the negotiation of the listing contract of the benefits or risks of limiting a property’s exposure through “coming soon” advertising. The broker’s motivation for such limited exposure of the property must be for the seller’s benefit—not the licensee. The Commission Position concludes by requiring licensees to describe in the listing contract the marketing plan agreed upon by the broker and seller prior to any marketing being performed.

In South Carolina, advertising a property as “coming soon” prior to entering into a listing agreement with the seller violates South Carolina license law. Check out the license laws and regulations in your state for guidance regarding “coming soon” advertising.

In addition to complying with state license laws, brokers advertising a listed property as “coming soon” must ensure the advertising complies with their local MLS rules. As previously discussed, MLSs serve the interests of sellers by compiling property information in an orderly manner and distributing that information to MLS participants who have buyer-clients actively seeking to purchase property in the area served by the MLS. However, MLSs also benefit consumers generally because they facilitate aggregation and evaluation of numerous factors that can affect a property’s fair market value. MLS information facilitates preparation of appraisals, comparative market analyses, and broker price opinions that help consumers ascertain a property’s fair market value. Sellers often rely upon those valuations when setting listing prices; buyers use them when making offers to purchase. Those valuations are especially useful when they include information about comparable properties, including sales prices, days on market, and property conditions. Withholding that market information from the MLS hinders consumers’ ability to receive useful estimates of value.

Article 12 of the NAR’s Code of Ethics states, **REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional.** Adherence to the NAR Code of Ethics is an important consideration for brokers when advising clients on whether or not to advertise properties as “coming soon.” *(Article written by Katie Johnson, General Counsel for the National Association of REALTORS®)*

CRS 204: Income Properties Course

August 25 & 26, 2014

Presented by CRS Michigan Chapter
Instructor: Dale Carlton CRS, J.D.

8:30 a.m. – 5 p.m. daily

\$308 (2014 Chapter Members) Non-member \$328

GMAR

20 Oak Hollow, Ste 100
Southfield, MI 48033

Call Furhad Waquad at 248.877-2337 or e-mail furhadw@flash.net to register.

40 HOURS

PRE-LICENSE TRAINING

Monday, September 8, 2014
(Monday & Wednesday for 5 weeks)

NCI ASSOCIATES

North Oakland County Board of REALTORS®
4400 W. Walton Blvd, Waterford, 48329

6-10 p.m.

\$235.00 includes materials

Register: by phone with Visa/MasterCard

No later than September 5, 2014

586-247-9800 or 586-247-9820 (fax)



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