



Impact



Jenifer Rachel
NOCBOR President

Fall is upon us and the weather has finally started to change. Not that I'm complaining, I loved this summer's weather. It was the first year that I ever remember the grass staying really green all year.

In our Preamble of the Code of Ethics, it states: *"Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. Realtors® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment."*

We, as Realtors®, play a pretty important role in this. We are the land

developers, the connectors of people to properties, the information providers of how to, when to, for how much, and the trusted advocate of making sure that land has the widest distribution of ownership.

When I started the year, I was determined that I would be the President in office when our area finally got electronic lock boxes. As progress moves at a snail's pace, we should have them before the end of the year. The other major goal was to bring unity to our Board and Associations.

This was helped with my participation in the Michigan Realtors® Leadership Academy. I met involved Realtors® from all over the State and the training was some of the best I have had. I got to know the MR® staff, attend a Detroit City Council meeting on rental registration, attend GMAR's Government Affairs "Meet and Greet," and numerous other events that helped me to recognize how dedicated many Realtors® are and how fortunate we are to be in our business. There are so many of us serving our communities, making our State the great State it is.

There was talk at the MR® Convention in Traverse City about developing a State-wide MLS. Those who served on the Great Lakes Repository know how difficult this will be. A State-wide MLS will allow us to share with each other and provide

the most up to date information to our clients without having to search third party vendors for out of area listing information.

NOCBOR members have always been progressive when it comes to our industry. I am honored to be a part of this great Board providing first class education, industry updates, service at an incredibly low cost, and ideas with action, moving us into the next generation. The work that Pat Jacobs and her staff do behind the scenes is comparable to any Fortune 500 company. We are fortunate to have our sharp, business-minded AE at our helm.

Our Board needs your involvement. Come and join one of our Committees. Move up to a leadership position. Learn and take part! It will make you a smarter business owner, help you better serve your clients, agents or staff. It will make our industry more diverse, inclusive and understanding of each other.

Your real estate transactions go much smoother when you are acquainted with the other Realtor® involved. We are all on the same team and our industry needs you.

Jenifer Rachel
Keller Williams Premier





2018 OFFICERS

| | |
|---|----------|
| President Jenifer Rachel | 394-0400 |
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| Treasurer David Elya, GRI, ABR, CRS, SFR, e-PRO | 652-7000 |
| Secretary David Niezgoda | 625-0200 |
| Past President Tom Kotzian, GRI | 652-8000 |

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| Dana Fox | 884-6600 |
| Cheryl Gates-Beers | 620-8777 |
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| Steve Stockton, SFR | 360-2900 |

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| Katie Balkwell | Director, Special Project |
| Janet Sneckenberger | Director, Finance |
| Millie Traylor | Administrator, Member Services |
| Tonya Wilder | Executive Assistant |

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| Bylaws | Tom Kotzian, GRI |
| Education/Tech | David Elya, GRI, CRS, ABR, SFR, e-PRO |
| Executive | Jenifer Rachel |
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| Membership Services | David Niezgoda |
| Nominating | Tom Kotzian, GRI |
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|-------------------------------------|
| Ann Peterson, GRI, ABR, SRES, e-PRO |
| Jenifer Rachel |

NORTH OAKLAND COUNTY BOARD OF REALTORS®
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 Phone (248) 674-4080 | Fax (248) 674-8112
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www.nocbor.com

Board of Directors August, 2018

MOTION CARRIED to approve Three (3) Primary Designated Realtors®; One Hundred One (101) Primary Realtors®; Two (2) Secondary Designated Realtors® and Two (2) Affiliate members.

MOTION CARRIED to oppose the proposed names of Southeastern Michigan Association and Gateway to Southeast Michigan Association and support the name of Monroe Down River Regional Association of Realtors®.

Board of Directors October, 2018

MOTION CARRIED to approve One (1) Primary Designated Realtor®; Ninety-Two (92) Primary Realtors® and One (1) Secondary Designated Realtor®.

MOTION CARRIED to approve the 2018-19 NOCBOR projected budget.

MOTION CARRIED to approve the contribution of Two Thousand (\$2,000) Dollars for the medical, burial and luncheon expenses for **RW Watson, President of NOCBOR, 2012 & 2015.**

MOTION CARRIED to elect **David Niezgoda** as NOCBOR 2019 **Secretary.**

MOTION CARRIED to elect **Steve Stockton** as NOCBOR 2019 **Treasurer.**

MOTION CARRIED to elect **Madeline Dishon** as NOCBOR 2019 **President-Elect.**

MOTION CARRIED to elect **Ray O'Neil** as **NAR Director-at-Large** for the term of 2019-2010.

MOTION CARRIED to donate the sum of One Thousand (\$1,000) Dollars to the Realtors® Relief Fund Contribution for Mexico Beach, Florida.

MOTION CARRIED to donate the sum of One Thousand (\$1,000) Dollars to the Realtors® Relief Fund Contribution for the hurricane damage to portions of North Carolina.

MOTION CARRIED to donate the sum of One Thousand (\$1,000) Dollars to the Fair Housing Center of Metropolitan Detroit in recognition of their 2018 Fair Housing Leadership Awards.

In Memoriam

Mike Bryne, beloved brother of **Kathy Solan**, (Real Estate One-Nov), passed away on August 26, 2018. NOCBOR members, Directors and staff extend their deepest sympathy to the Bryne/Solan family.

S. Kay Dirasian, (Howard Hanna), passed away Friday, September 14, 2018 after a short illness. NOCBOR members, Directors and staff extend their deepest sympathy to the Dirasian family.

Robert (RW) Watson, (Keller Williams Home), went home on October 24, 2018, and was greeted by his Dad, Mom and brother, Bill. NOCBOR Past President (2012 & 2015), R will be sadly missed by his hundreds of friends. RIP, R!

NOCBOR extends sympathy to the family and friends of **Lloyd Daigle**, former NOCBOR member and father-in-law of **Maddy Dishon**, (RE/MAX Encore), who left our land on October 25, 2018.

Ray O'Neil NAR 2019 Committee

Ray O'Neil (O'Neil Appraisal) has been elected by NOCBOR Directors to serve, **2019-2020, as NAR Director-at-Large.** O'Neil will complete two years as NAR Director (2017-18) December 31, 2018.

The 2019 NAR Leadership Team has appointed Ray to the following 2019 Committees: Commercial Committee, Committee Representative (Real Property Valuation), 12/1/18-11/30/19; Real Property Valuation Committee, Member-at-Large, 12/1/18-11/30/19. Congratulations, Ray!

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.

Jenifer Rachel Realtor®-Of-The-Year



Jenifer Rachel, selected as 2018 NOCBOR Realtor®-of-the-Year, was ceremoniously recognized during the Michigan Realtors® Annual Convention in Traverse City on September 26, 2018.

Vice-Chairman of NOCBOR Government Affairs Committee

2016-17, Jenifer has served on the Nominating Committee, as well as currently serving on the Budget & Finance, and Executive Committees, and the Realcomp Shareholders Task Force. Jenifer also participates on the MR® Convention Committee, and recently completed the Realtors® Leadership Training Academy. NOCBOR is proud of Jenifer's accomplishments and unselfish contributions.

For 15 years, Jenifer pursued a career as a landlord and renovator, but in 2006, she decided that her skills were better suited in real estate sales and earned her Michigan real estate license. Today, Jenifer is an associate broker, affiliated with Keller Williams Premier in Clarkston.

Mary Rettig Realtor® Active In Politics



Mary Rettig, an associate broker with RE/MAX Classic in Bloomfield Hills, has been selected as NOCBOR 2018 Realtor®-Active-in Politics. Mary was recognized and honored at the Michigan Realtors® Annual Convention, on September 26, 2018, in Traverse City, for her political involvement and

commitment to protect the rights of property owners.

After spending ten years as an advertising professional, Mary earned her Michigan real estate license in 1996 and emerged herself in what would result in over 20 years of a successful real estate career. An active NOCBOR member, Mary served as Director (2003-07); was appointed to the Grievance Committee for 3 years, and currently serves as Chairman of the Ethics Professional Standards Committee. Elected several times as a member of NOCBOR Nominating Committee, Mary has served on the Government Affairs Committee since 2011.

Congratulations NOCBOR Directors!



Brenda Davis
Realtor®
CENTURY 21 Town & Country
Royal Oak



Ray O'Neil GAA, RAA
Realtor® Owner
O'Neil Appraisal
Clarkston



Dana Fox
Affiliate
Lake Michigan Credit Union
White Lake



David Elya, ABR, CRS, GRI, e-Pro
Realtor® Owner
Brookview Realty
Rochester



Cheryl Gates Beers
Realtor®
Keller Williams Premier
Clarkston

Welcome Aboard...

Mary Katsiroubas joins First National Home Mortgage

Great news! Mary Katsiroubas adds her real estate and mortgage experience to the First National Home Mortgage team. As a Senior Mortgage Lender, Mary and her new team will ensure your clients and you get to closing faster and without aggravation. Put Mary and her decades of experience to work for you and your clients today.



Powered by First National Bank in Howell

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Senior Mortgage Lender

NMLS 1771663

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New! Now offering Hispanic translation. Call for details.



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Special Awards

It's time to nominate your favorite and most deserving business associate for the **NOCBOR 2018 Special Awards Program**. Listed below are the award categories. Nominations must be submitted to NOCBOR **no later than November 9, 2018**.

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.

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.

Assumed Name For Associate Broker

An applicant for a broker license must meet all requirements for licensure before submitting an application to LARA. Successful broker license exam candidates will be provided an Associate Broker License Application with their passing score notification. Other types of broker license applications, (individual, LLC, Corporation, Partnership, etc.) can be found at LARA Forms & Publications page. An application must verify required real estate experience and successful completion of all required education. Some applicants will be required to provide other documentation depending upon their background.

An individual may be licensed as either an Individual Broker, which denotes operation as a sole proprietorship, or as an Associate Broker, an individual who qualifies as a broker but who is licensed to a broker or another broker entity type, LLC, partnership, corporation broker. If individual Brokers are using a business name (i.e., John Doe d.b.a. Doe Realty), an assumed name certificate must be obtained from the County Clerk's office and filed with the application. An Associate Broker cannot operate with an assumed name. If the broker's license will be held by an entity, at least one owner or principal must apply for an associate broker's license to that broker.

Home Inspector Licensing

As of April 2018, 36 of the 54 surveyed jurisdictions had enacted laws governing home inspectors and/or home inspections, leaving 18 jurisdictions without home inspection regulatory laws. Four of the 36 jurisdictions with laws do not require licensing, while 25 states set forth specific requirements for the actual home inspection service. Only five states address third-party liability, while 10 states address liability limitations related to home inspectors.

The various requirements for obtaining a home inspector license are similar to one another. Most states require a high school education, some practical or educational home inspection program, exam passage, and license fee payment. Some states also require insurance coverage, good moral character, and a minimum age, and others bar applicants with certain criminal records.

The performance standards adopted by state home inspector regulatory agencies generally are based on the American Society of Home Inspectors (ASHI) Standards of Practice and Code of Ethics, with minor modifications. These standards require inspection of specified systems and components unless excluded from the inspection by the client and list items that need not be inspected. Ethical code provisions govern the inspector-client relationship and the inspector's interactions with third parties.

MLS of Choice, Now What?

Effective July 1, 2018, a licensee may subscribe to the MLS of his or her choosing, providing their broker participates in that MLS too. Under this new NAR policy, the MLS must offer no-cost waivers to licensees who currently subscribe to another MLS.

At a minimum, a licensee must subscribe to at least one MLS in which the broker participates after July 1, 2018. There has been a lot of buzz about this new ruling over the past few months. Those in favor of the ruling believe it will save agents money and allow more flexibility about which MLS makes the most sense for each agent's business. Those against the ruling are concerned about the enforcement of the waivers and the ability to truly track that an agent is a member of another MLS.

Standard Of Practice 12-5

Realtors® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that Realtors® firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures.

NOCBOR Events

October

November

December

| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|--|---|--|--|----------|
| 29 | 30 9:30 a.m.–3:30 p.m. Course 1900 Con-ed Jack Waller | 31 9:30 a.m.–3:30 p.m. Course 1900 Con-ed Sally Bell | 1 11 a.m. – 12 p.m. Free Workshop "Learn How To Effectively Rebut An Appraisal!" Brenda Brosnan | 2 10 a.m. Ethics Hearing | 3 |
| 5 Expo Boston | 6 | 7 | 8 10 a.m. Ethics Hearing | 9 | 10 |
| 12 9:30 a.m. Education 11:30 a.m. Government Affairs | 13 9:30 a.m. Membership Services | 14 10 a.m. Free Workshop "3D Your Listings" Roy "Joe" Akers 1:30 p.m. BODs' Mtg | 15 9:30 a.m. Grievance Committee Group A 11 a.m. – 12 p.m. Free Workshop "What You Must Know About VA Loans And How To Eliminate Your Sellers Fear Around Them!" Brenda Brosnan | 16 9 a.m. – 12:30 p.m. New Members & Code of Ethics Training | 17 |
| 19 10 a.m. Free Workshop "Structural Issues" "New Homes" & "Major Systems In Homes" Randy Patterson | 20 | 21 | 22 Office Closed Happy Thanksgiving | 23 Office Closed Happy Thanksgiving | 24 |
| 26 | 27 | 28 | 29 11 a.m. – 12 p.m. Free Workshop "How To Write The Winning Offer In A Multi- Bid Situation!" Brenda Brosnan | 30 9 a.m. – 12:30 p.m. New Members & Code of Ethics Training | 1 |
| 3 9 a.m. – 12:30 p.m. New Members & Code of Ethics Training | 4 10:30 a.m. Ethics Hearing 1:30 p.m. Ethics Hearing | 5 10 a.m. Ethics Hearing 1 p.m. Ethics Hearing | 6 9:30 a.m. Realcomp Annual Sharholders | 7 11:30 a.m. Special Awards & Induction Luncheon 11:30 a.m. Petruzzello's, Troy | 8 |
| 10 9:30 a.m. Education | 11 9:30 a.m. Membership Services | 12 10 a.m. – 1 p.m. Free Workshop T.B.D. Randy Patterson | 13 9 a.m. – 5 p.m. ABR "Accredited Buyer Representative" Lori Chmura | 14 9 a.m. – 5 p.m. ABR "Accredited Buyer Representative" Lori Chmura | 15 |
| 17 11:30 a.m. Government Affairs | 18 | 19 1:30 p.m. BODs' Mtg | 20 9:30 a.m. Grievance Committee Group B | 21 | 22 |
| 24 MERRY CHRISTMAS OFFICE CLOSED | 25 MERRY CHRISTMAS OFFICE CLOSED | 26 | 27 | 28 | 29 |
| 31 HAPPY NEW YEAR OFFICE CLOSED | | | | | |

Realtors® Conference &

How the 20% Business Income Deduction Applies to You

Changes stemming from the Tax Cuts and Jobs Act of 2017 allow agents and brokers, who earn income as independent contractors or from pass-through businesses, to take a significant deduction on that income. One of the biggest wins for Realtors® in last year's tax reform bill is the new 20% business income deduction, known as Section 199A. Almost any self-employed person or owner of a pass-through business (such as an S corporation, limited liability company, or partnership) with eligible income, can take 20% off the top after business expenses are taken out.

If you file as an individual, you're eligible up until your taxable income reaches \$157,500. After that, your deduction phases out over the next \$50,000, until you reach \$207,000. For couples filing jointly, the taxable income limit is \$315,000, with a \$100,000 phase-out until you reach \$415,000. That applies to your combined income. So, your spouse's income can impact your eligibility. Real estate professionals with incomes above those amounts also may be eligible for the deduction but, in this case, it's based on a formula that looks at wages paid and depreciable business property.

Tax Changes

To ensure you're positioned to get the most out of the deduction in your 2018 taxes, due next year in April, Realtor® Magazine talked to Peter Baker, a certified public accountant and principal of Business Planning Group in Washington, D.C. whose practice specializes in real estate agents and brokers and he's already begun having conversations with his clients about what to do.

Q: Most real estate professionals are sales associates and are sole proprietors. Is there any tactical reason for them to restructure themselves into an LLC or S corporation to get a better deal under the deduction?

A: No. From the standpoint of 199A, a change in entity type is not necessary because sole proprietorship income qualifies for the deduction. Absent other reasons to change, they should keep filing as a sole proprietorship.

Q: What if you're a broker or otherwise have pass-through income in addition to commissions earned?

A: The deduction is taken on an aggregate basis, so if you have pass-through income from other sources, in addition to commissions, then you combine your qualified business income with any qualified business losses before you calculate your deduction. So, if you have \$100,000 in net commission income and \$50,000 in qualified losses from other sources, the 20% would come off the aggregate amount, or \$50,000. That means your potential deduction would be \$10,000.

Q: What pass-through activities would generate losses?

A: Many things do. It's not uncommon for brokerages to throw off losses today because of generous splits with sales associates. So, if you're a broker-owner who still sells, you might have losses from your brokerage operation while generating commissions earned from your own sales.

Q: What if you have investment rental property or you're involved in land or property development? Those can throw off losses, right?

A: These are most often operated in pass-throughs, but we're still waiting on final IRS rules. [Editor's note: NAR is working with the IRS to get clarification on that question.]

Q: The deduction is taken on your net qualified business income. There's no change to what counts as deductible business expenses, right?

A: With the exception of some new rules for depreciation and changes in deductibility for meals and entertainment, that is correct. You take out your expenses in much the same way. Did you travel to conventions? Did you buy a new car?

Q: Sales associates and brokers typically aren't wage or salary earners, so they don't get W-2 income and are required to pay estimated taxes quarterly. That means they've already paid three quarterly estimates for the 2018 tax year even though rules aren't out on the new deduction, or on other changes in the tax law, for that matter. What's going to happen come April if their estimated payments are off?

A: Hopefully they've been talking to their professional tax adviser or accountant for the previous quarters. There are two ways to approach estimated tax payments given the new environment. The taxpayer can apply what's known as the safe harbor approach. That's where they pay estimated taxes based on their prior year's tax liability. As long as they do that, even if they end up owing more tax come April 2019, they won't be penalized or face interest charges for underpayments. They'll just have to settle up the amount they owe. If their current sales volume is down from the previous year, that could be a painful way to do it, because they'll be basing their payments on higher income than they actually earn. The alternative is to forecast taxable income based on what they've earned year-to-date, subtract business expenses, and look at their pipeline of likely sales to forecast their anticipated earnings for the remainder of the year. Then, they factor in the 20% deduction.

Q: If they don't take the safe harbor approach, are they liable for penalties and interest payments if they underpay their taxes?

A: Potentially, they would be. However, the IRS has a first-time penalty abatement process for taxpayers who, for the past three years, have paid and filed their taxes on time and haven't incurred any penalties. So, if they have a good three-year history, they would be eligible for a one-time waiver of penalties and interest payments if they underpay their taxes.

Q: You mentioned final rules aren't out yet. When can we expect them?

A: Hopefully, before the end of the year. The IRS will also be revising forms to reflect the new qualified business income deduction. That should also be coming out before the end of the year.

Free Workshops

Thursday, November 1 (11 a.m. – 12 p.m.)
"Learn How To Effectively Rebut An Appraisal"
Brenda Brosnan, Summit Funding

Wednesday, November 14 (10 – 11 a.m.)
"3D Your Listings"
Roy "Joe" Akers

Thursday, November 15 (11 a.m. – 12 p.m.)
"What You Must Know About VA Loans And How To Eliminate Your Sellers Fear Around Them!"
Brenda Brosnan, Summit Funding

Monday, November 19 (10 a.m. – 1 p.m.)
"Structural Issues" "New Homes" and "Major Systems In homes"
Randy Patterson, Pillar To Post

Thursday, November 29 (11 a.m. – 12 p.m.)
"How To Write The Winning Offer In A Multi-Bid Situation!"
Brenda Brosnan, Summit Funding

To register: nocbor.com Location: NOCBOR

New Members & Realtors® Code of Ethics Training

Jack Waller, trainer and President of NCI Associates, will provide NOCBOR members the required 2½ hours of ethics training as mandated by the National Association of Realtors®. The training is free, however to take advantage of the con ed credits offered, there is a \$20 fee.

(classes begin at 9 a.m.)

Friday, November 16
Friday, November 30
Monday, December 3

All Realtors® MUST Complete 2½ hours training no later than 12-31-18

To register: nocbor.com Location: NOCBOR

"Coming Soon"

Give your clients unparalleled customer service with technology that works. SentiLock, owned by the National Association of Realtors®, offers rapid, friendly and knowledgeable customer service, with the highest security for your clients.

SentiLock delivers security features found in no other lockbox system. Built with best-in-class materials and engineered to withstand attack, SentiLock's approach to security is the most secure in the industry.

Watch for upcoming notices provided by Realcomp!



Accredited Buyer Representative*

**Thursday, December 13 &
Friday, December 14, 2018**

Time: 9:00 a.m. – 5:00 p.m.

Cost: *\$310
(includes elective, materials & first year dues)

Instructor: Lori Chmura,

"Marketing Practice" & "Office Policy, Negotiations and Relocations." Both classes are approved by REBAC (Real Estate Buyer's Agent Council) and fulfills the educational requirements for the ABR Designation. ABR counts as 15 hours of real estate continuing education credit or can be used toward 90 hour broker pre-licensing requirement. Must take an elective for designation see below. *Qualifies for the NOCBOR interest free Education loan.

*\$310.00 includes elective, materials & first year dues

Register nocbor.com

Location: NOCBOR



Seniors Real Estate Specialist

**Thursday, January 17 &
Friday, January 18, 2019**

Time: 9:00 a.m. - 5:00 p.m.

Cost: *\$300.00
(includes material and SRES Council annual dues)

Instructor: Lori Chmura

To receive the Seniors Real Estate Specialist® designation, you must be a Realtor® in good standing with the National Association of Realtors® and complete the SRES® training course, and successfully pass the final exam. SRES® designees are also required to complete at least three transactions with senior clients within twelve months of their training course. This course counts as 15 hrs. Broker Pre-licensing credit and includes 1.5 hours of Fair Housing or can be used for 12 hours of Real Estate Continuing Education. *NOCBOR members qualify for interest free loan.

Register at nocbor.com

Location: NOCBOR

***Education Loans Available
0% Interest For 1 Year
Ask Today 248-674-4080**

Dennis v. Luanne M. Story Trust

Plaintiff Ronald Dennis owned property on which there was a U-shaped driveway that was partially situated on an adjoining property belonging to Defendant, the Luanne M. Story Trust. The driveway was constructed sometime around 1950, and was present in 1986 when the current parcel was purchased by prior owners. Dennis sued, claiming a prescriptive easement over the portion of the driveway that crossed Defendant's land. Dennis acquired the property in 2014, and the Defendant asserted that he could not hold a prescriptive easement because he had not held the property for the 15 year statutory period required to establish adverse use.

The Michigan Court of Appeals affirmed the trial court's decision in favor of the Plaintiff. The Court of Appeals concluded that the previous owners of Plaintiff's property met the statutory period of adverse use, and upon the completion of the statutory period, a prescriptive easement attached to the dominant estate and thereafter passed to all subsequent owners along with the land. The Court also stated that the prior owner of the dominant estate was not required to take legal action to claim the easement in order for the vested prescriptive easement to exist.



The image shows a promotional banner for HomeTeam Inspection Service. The top part is a red banner with a white clock icon and the text "CONVENIENT BOOKINGS | EFFICIENT & INSPECTIONS | FAST REPORTS". Below this is a large stylized eye logo with a house inside. To the right of the eye logo are three icons in a vertical stack: a green lightning bolt in a circle labeled "FAST", a red heart in a circle labeled "TRUSTED", and a blue thumbs up in a circle labeled "ACCURATE". Below the eye logo is the text "HomeTeam® INSPECTION SERVICE". At the bottom is a dark grey bar with the phone number "248.366.6215" and the website "hometeam-whitelake.com". Below the website is the text "Each office is independently owned and operated."

5 Risky Off-MLS Scenarios

If you or your client is interested in proceeding with an off-market listing, be aware of the potential peril of compromising your fiduciary and ethical responsibilities. Here are five scenarios to avoid, along with ways to reduce your risk.

1. The real estate agent or broker, not the seller, is the one pushing for an off-MLS listing. Ensure the decision is made voluntarily, solely by an informed seller. Have a signed listing agreement that spells out to clients the limitations of not listing on the MLS (such as that it may reduce their chances of getting the highest and best price for their home by reducing its exposure more widely to the public).
2. "Coming Soon" marketing that limits the listing's availability to a specified group of brokers during the pre-marketing period. Be certain all brokers and buyers have equal access to the listing.
3. An agent fails to notify their MLS when a client opts to keep the listing private. Most MLSs require that after a listing agreement is signed, the agent must file a certification—signed by the seller—noting the listing is not to be disseminated to other brokers using MLS. Typically the notification must be filed within two to three business days after a listing agreement is signed. Agents can be fined for failing to do so.
4. An agent faces accusations of breaching fiduciary duty in order to earn a double commission. Off-market listings can lead to more dual agency transactions, as the agent may actively advertise the property only to his or her clients. While not illegal, the practice can be problematic if the prospect of a double commission is the reason an agent suggested an off-MLS listing. Agents risk being sued by a buyer client, for example, who might believe you didn't seek the best price since you also represented the seller.
5. Agents are accused of antitrust or fair housing violations by limiting listing exposure to a narrow buyer segment. Be sure you are fulfilling your duty to "cooperate with other brokers except when cooperation is not in the client's best interest," as stated in Article 3 of the Realtors® Code of Ethics.

Article 3

Realtors® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.

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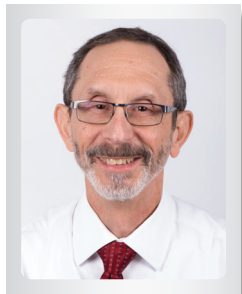
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Legal Q & A

Q: My seller was home when the inspector showed up with the buyer's agent. The seller was told that he could not be present during the inspection. Is this true?

A: No. There is no law that requires the sellers to leave their property during an inspection.

Q: I listed a home for \$300,000. My seller has received a full price offer and wants to counter it at \$310,000. Can he do this?

A: Yes. Even if a full price offer is presented to the seller, he or she is not obligated to sell it at that price and can counter at a price that is higher than the listing price. (A listing broker may be entitled to a commission even if the seller does not accept a full price offer.)

Q: Can a counteroffer be withdrawn in a text message?

A: Yes. The seller may withdraw the counteroffer at any time prior to receipt of an acceptance by any means of communication.

Q: I represent a buyer who entered into a purchase agreement with a 15-day inspection contingency. During the inspection, the buyer discovered numerous defects with the property. My client still wants to purchase the property but only if the seller remedies the defects. Can my buyer force the seller to do this?

A: Probably not. While inspection contingency clauses vary, typically an inspection contingency clause gives the buyer the option of moving forward with the purchase agreement as written or terminating the purchase agreement. A buyer can request that a seller make repairs, but typically cannot require the seller to do so. And some inspection contingency clauses permit the seller to terminate the purchase agreement if the buyer even makes such a request. A buyer needs to carefully review the language of the inspection contingency clause prior to making such a request.

Q: My seller received an offer for \$200,000 and countered that offer at \$210,000. After the counteroffer had been delivered to the buyers' agent, but before the buyers responded to the counteroffer, the seller decided not to take a chance and withdrew his counteroffer and accepted the buyers' offer for \$200,000. I have been told that the buyers will not honor the contract. Don't we have a binding contract?

A: No. The sellers' counteroffer operated as a rejection of the buyers' offer. Once an offer has been rejected, it is "terminated" and cannot thereafter be resurrected and accepted. Legally, where you are at now is the seller has offered to sell the property on the terms originally proposed by the buyer, which offer can be accepted (or rejected) by the buyer.

Q: I am representing a buyer in the purchase of a home. I was told there were two other offers and that we should submit our "highest and best offer." My buyer's offer was not accepted and now my buyer is demanding to see the other two offers. Is the seller legally required to show us the other offers?

A: No. the seller has no legal obligation to let your buyer see the other offers. I represent a buyer who put in an offer on a home where there were multiple offers. My client's offer was not accepted. We have reason to believe that my client's offer was in fact the "highest and best."

Q: Are we entitled to see a copy of the offer that was accepted by the sellers in order to verify that it was the "highest and best" offer?

A: No. Moreover, it does not matter whether the accepted offer was in fact the "highest and best." As long as the sellers did not engage in unlawful discrimination (for example, on the basis of national origin), they were not required to accept the "highest and best" offer or otherwise treat all offers equally. A "Primer on Multiple Offers" prepared especially for buyers in this situation is available on Michigan Realtors® website.

Q: I am representing a buyer in connection with the purchase of a home. The agreed upon closing date is "on or before" January 4th. My client is ready to close and wants to schedule the closing date earlier than January 4. Is the seller obligated to close at an earlier date?

A: No. This language is typically interpreted to mean that while the parties can agree to close prior to the stated date, neither party can be required to do so.

Brokers Turn To Pocket Listings

The real estate market has heated up so much in certain regions that brokers are taking transactions into their own hands, or, rather, their pockets.

With increasing prices and, seemingly, more buyers willing to pay an amount that's leaving sellers with nice profits, the question these sellers keep asking is, "Why bother with the MLS?"

While the answer to that question varies greatly depending on who is asked, more and more brokers are saying don't list on the MLS, or even Zillow, for that matter.

There are many ways to handle pocket listings, ranging from the "double-secret" listing that no one can know about except the most preferred buyers, to the "not-so-secret" listing that brokers blast on their social media accounts. Either way, brokers get to curtail listing fees and retain more control of the process. Increasingly, brokerages are heading toward an independent listing model where properties are marketed exclusively within the company.

Ultimately, it comes down to what arrangement makes the seller the most comfortable. Some clients, such as celebrities or prominent business people, might demand privacy or exclusivity, but others might not want to limit the buyer pool for any reason. Either way, the burden is on the broker to fully educate their clients on all the options and set the proper expectations.

Representing Landlords

Since the Michigan Medical Marihuana Act ("MMA") took effect, many Realtors® have inquired as to whether or not residential landlords are required to all allow registered patients to use and/or grow marihuana in their apartments. In January of 2017, the MMA was amended to specifically provide that the landlord is NOT required to lease residential property to a person who smokes or cultivates marihuana on the premises, so long as there is a specific written provision in the lease prohibiting that conduct. One example of such a clause is:

Drug-Free Housing: (a) Tenant, any member of the Tenant's household, or a guest or other person under the Tenant's control shall not engage in or facilitate criminal activity on or near the premises, including, but not limited to, violent criminal activity or drug-related criminal activity; (b) Tenant or members of the Tenant's household shall not permit the premises to be used for, or to facilitate, criminal activity; (c) "Violent criminal activity" means any felonious criminal activity that has as one of its elements the use, or threatened use, of physical force against the person or property of another; (d) "Drug-related criminal activity" means the illegal manufacture, sale, distribution, or use or possession with intent to manufacture, sell, distribute or use of a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)). The possession, sale or use of any illegal drug in the premises or anywhere on the property is prohibited. **The smoking of marihuana and the growing of marihuana plants anywhere on the premises is prohibited even if the possessor is a registered patient or caregiver under the Michigan Medical Marihuana Act, MCL 333.26421 et seq.**

Detroit To Crack Down On Rental Properties

The City of Detroit has initiated a plan to bring all rental units in the City up to code by 2020 in a series of zip code waves. Properties in zip codes **48215, 48224, 48223, and 48219** are required to have been registered as rental properties. Zip code **48210** have until November 1 to register. Zip codes **48206 and 48214**, launched most recently on September 1, and those properties, must be registered as rental by December 1, 2018. Landlords will have six months after their registration date to bring their properties into compliance, inspected and obtain a Certificate of Compliance, otherwise landlords may cede their rent payments back to the tenants per Detroit ordinance. More information and registration materials can be found at <http://www.detroitmi.gov.rental>.





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Local Market Update – September 2018

This is a research tool provided by Realcomp.



NOCBOR® Report

Covers the following northern areas of Oakland County: Auburn Hills, Bloomfield Twp, Brandon Twp, City of the Village of Clarkston, Springfield Twp, Fenton, Groveland Twp, Holly Twp, Holly Vlg, Independence Twp, Keego Harbor, Lake Angelus, Lake Orion Vlg, Orchard Lake, Orion Twp, Ortonville Vlg, Oxford Twp, Oxford Vlg, Pontiac, Rose Twp, Sylvan Lake and Waterford Twp.

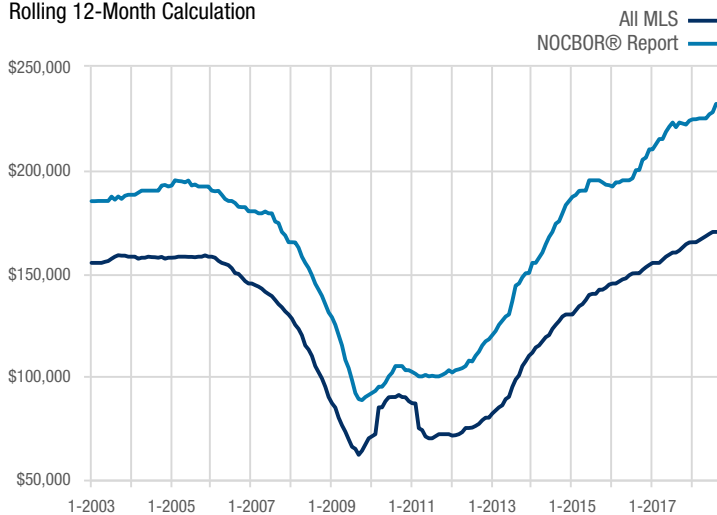
| Residential | September | | | Year to Date | | |
|---------------------------------|-----------|-----------|----------|--------------|-------------|----------|
| Key Metrics | 2017 | 2018 | % Change | Thru 9-2017 | Thru 9-2018 | % Change |
| New Listings | 646 | 612 | - 5.3% | 6,305 | 6,055 | - 4.0% |
| Pending Sales | 388 | 390 | + 0.5% | 3,743 | 3,629 | - 3.0% |
| Closed Sales | 401 | 382 | - 4.7% | 3,532 | 3,383 | - 4.2% |
| Days on Market Until Sale | 30 | 29 | - 3.3% | 38 | 34 | - 10.5% |
| Median Sales Price* | \$227,500 | \$229,000 | + 0.7% | \$225,000 | \$238,000 | + 5.8% |
| Average Sales Price* | \$282,910 | \$300,065 | + 6.1% | \$286,199 | \$297,819 | + 4.1% |
| Percent of List Price Received* | 97.2% | 97.8% | + 0.6% | 97.7% | 98.0% | + 0.3% |
| Inventory of Homes for Sale | 1,640 | 1,369 | - 16.5% | — | — | — |
| Months Supply of Inventory | 4.2 | 3.6 | - 14.3% | — | — | — |

| Condo | September | | | Year to Date | | |
|---------------------------------|-----------|-----------|----------|--------------|-------------|----------|
| Key Metrics | 2017 | 2018 | % Change | Thru 9-2017 | Thru 9-2018 | % Change |
| New Listings | 113 | 90 | - 20.4% | 851 | 910 | + 6.9% |
| Pending Sales | 68 | 63 | - 7.4% | 631 | 663 | + 5.1% |
| Closed Sales | 74 | 61 | - 17.6% | 597 | 609 | + 2.0% |
| Days on Market Until Sale | 28 | 20 | - 28.6% | 42 | 33 | - 21.4% |
| Median Sales Price* | \$148,500 | \$132,000 | - 11.1% | \$164,800 | \$165,000 | + 0.1% |
| Average Sales Price* | \$181,554 | \$165,922 | - 8.6% | \$201,313 | \$197,265 | - 2.0% |
| Percent of List Price Received* | 97.3% | 97.6% | + 0.3% | 97.7% | 97.7% | 0.0% |
| Inventory of Homes for Sale | 204 | 124 | - 39.2% | — | — | — |
| Months Supply of Inventory | 3.1 | 1.8 | - 41.9% | — | — | — |

* Does not account for sale concessions and/or downpayment assistance. | Percent changes are calculated using rounded figures and can sometimes look extreme due to small sample size.

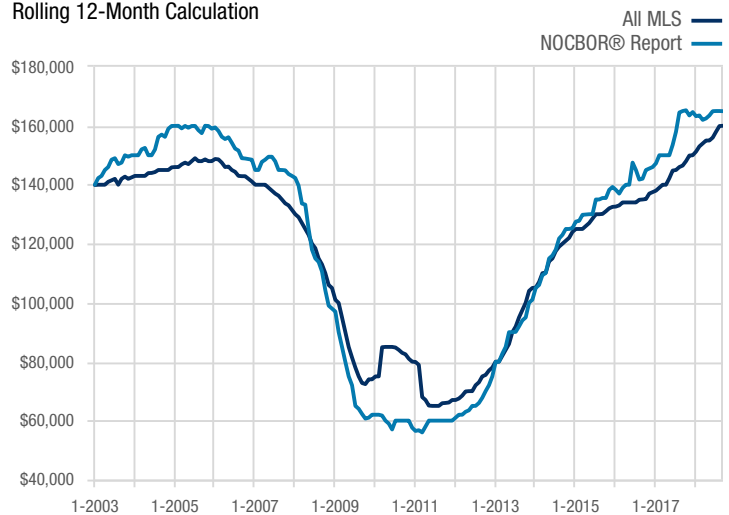
Median Sales Price - Residential

Rolling 12-Month Calculation



Median Sales Price - Condo

Rolling 12-Month Calculation



A rolling 12-month calculation represents the current month and the 11 months prior in a single data point. If no activity occurred during a month, the line extends to the next available data point.

NAR's Newest Realtor Benefits® Program

Offering Expanded Vehicle Maintenance Package Created Exclusively for Realtors® (Fiat Chrysler Automobiles), the “Official Automobile Manufacturer of the National Association of Realtors®”, has partnered with NAR under the Association’s Realtor Benefits® Program to create an exclusive vehicle maintenance program, expanding upon the popular \$500 cash allowance and oil change program that has been in place since 2011.

What: The exclusive two-year vehicle maintenance package is available at no extra charge with purchase or lease of the many eligible vehicles — including program best sellers Jeep Grand Cherokee and Ram 1500, Chrysler Pacifica, or the newly added Alfa Romeo Stelvio and Giulia. Eligible vehicles now also include the 2019 Jeep Cherokee and 2019 Ram 1500.

The maintenance plan (Mopar® Vehicle Protection package) features:

- 4 (two per year) lube, oil, filter changes using synthetic oil
- Road hazard tire and wheel service plan that includes full repair or replacement cost for all four tires and wheels
- Free first day car rental and daily \$35 rental car or taxi reimbursement (if needed) while your car is being maintained at the dealership

This new maintenance benefit (a \$500 value) is in addition to the \$500 cash allowance and is on top of the deal negotiated at the dealership and can be combined with most national and local incentives. Leveraging the savings offered through just one Realtor Benefits® Program partner can return the value of NAR membership dues many times over and this benefit alone is valued at \$1,000, the equivalent of more than six years of NAR membership dues.

Who: \$500 cash allowance benefit - NAR members; staff of national, state and local associations or board of Realtors® located in the 50 United States, the District of Columbia and Guam; and family members of Realtors® and staff, who reside at the same address. The maintenance package is available to Realtor® only.

How: Be certain you receive all your benefits and view the eligibility requirements at NAR.realtor/RealtorBenefits/NAR before heading to the dealer. Make sure to bring the appropriate documents, including a copy of your current-year NAR membership ID (other documents are required for association staff and family members). Reminder: Negotiate your best price before mentioning the \$500 cash allowance.

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Realtor® Guilty For Extortion

South Beach Realtor Kevin Tomlinson avoided prison time after being found guilty on extortion charges in June, 2018 for allegedly demanding \$800,000 from rivals Jill Hertzberg and Jill Eber, a high profile luxury real estate duo known as “The Jills.”

Judge Milton Hirsch sentenced Tomlinson to two years of house arrest, 15 years probation and is barring him from working in real estate or tweeting about The Jill’s, according to *Miami Herald* reporter David Ovalle, who attended the sentencing.

The Jill’s success in the Miami market drew suspicion from rivals like Tomlinson, so in April, 2015, Tomlinson filed a complaint with the Miami Association of Realtors® alleging that The Jill’s had been manipulating data on the multiple listing service (MLS).

Tomlinson’s complaint alleged that The Jill’s hid properties that had been on the market for more than six months – making it appear as though their sales track record was more impressive than it really was, according to a report in the *Miami Herald*. It also prevented other brokers, like Tomlinson from seeing potential clients whose listings otherwise would have been expiring in the MLS.

Tomlinson reportedly confronted the Jill’s and tried to shake them down for \$800,000, by threatening to take the MLS complaint public. The conversations were secretly recorded by police. Tomlinson’s defense claimed the money was an attempt at settling before a potential lawsuit, according to the *Miami Herald* report.

“The Jill’s each testified that they have been traumatized by Tomlinson’s threats to ruin their reputation,” according to Ovalle. Eber reportedly told the Judge that “Extorting the Jill’s was [Tomlinson’s] business plan,” according to Ovalle. A jury found Tomlinson guilty of extortion on June 22, 2018.

Arizona Man Indicted For Mortgage Fraud Scheme

The owner of a small Arizona real estate company has been charged with running a mortgage loan fraud scheme that cost victims more than \$6.3 million.

Hawkeye Real Estate Services owner, Jon Richard Rattray, was indicted by an Arizona grand jury on charges of fraud, money laundering, identity theft and forgery, according to local news outlet AZ Central. Rattray allegedly filed a series of forged lien release documents through his Phoenix-based company in order to free up equity and take out new loans.

As a result of the forged releases, homes would appear unencumbered to prospective buyers and lenders. After the Maricopa County Recorder’s County contacted the authorities about potentially fraudulent activity, Rattray was arrested at his home in Gilbert, Arizona on August 16, 2018. Rattray is reportedly not licensed as a real estate agent or a mortgage officer. Go figure!

Hackers Target Real Estate Transactions

James and Candace Butcher were ready to finalize the purchase of their dream retirement home, and at closing time wired \$272,000 from their bank, following instructions they received by e-mail. Within hours, the money had vanished.

Unbeknownst to the Colorado couple, the e-mail account for the real estate settlement company had been hacked, and fraudsters had altered the wiring instructions to make off with the hefty sum, representing a big chunk of the Butcher's life savings, according to a lawsuit filed in state court.

A report by the FBI's Internet Crime Complaint Center said the number of victims of email fraud involving real estate transactions rose 1,110% between 2015 to 2017, and losses rose nearly 2,200%.

Nearly 10,000 people reported being victims of this kind of fraud in 2017, with losses over \$56 million. The Butcher's, forced to move into their son's basement instead of their dream home, eventually reached a confidential settlement in a lawsuit against their real estate agent, bank and settlement company, according to their lawyer, Ian Hicks.

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The problem is growing as hackers take advantage lack of security in the chain of businesses involved in real estate and a potential for a large payoff.

"In these cases, the fraudster knows all of the particulars of the transaction. Things that are completely confidential. Things they should not know," said Hicks, who is involved in more than a dozen similar cases across the United States.

E-Mail Insecurity

Numerous cases have been filed in courts around the country seeking restitution from various parties. One couple in Washington D.C. claimed to have lost \$1.5 million in a similar fraud scheme.

Real estate is just one segment of what the FBI calls "business e-mail compromise" fraud which has resulted in some \$12 billion in losses over the past five years. But for home buyers, the fraud can be particularly catastrophic.

"In these cases, the loss can be devastating and life-altering," Hicks said.

Real estate transactions have become a lucrative target for hackers "because they handle a lot of money and because they have employees who are not the most technically savvy," said Sherrod DeGrippe, Director of Threat Research for the security firm, Proofpoint.

Additionally, hackers often do their homework and "sometimes they know more about the business than the employees do," she said.

Consumers may also be less cautious when they are feeling positive about a new home, making it easy to fall prey to scammers, DeGrippe said.

"These social engineering tactics rely on a heightened emotional state, and people can be in that state when it comes to purchasing their dream home," she added.

DeGrippe said the schemes appear to originate from overseas, possibly from Russia or Africa, using a variety of techniques to stay ahead of law enforcement.

"They employ a lot of money "mules," she said. "They move the cash from bank to bank to bank."

"Banks have been working to counter what is seen as a growing fraud problem but are often unable to prevent scams stemming from hacked e-mails," said Paul Benda, senior vice president for risk and cybersecurity at the American Bankers Association.

"Banks have very strong controls in place," he said. "But when they are given wiring instructions from a customer they have a responsibility to send it where it was instructed."

Benda said that customers need to know a wire transfer is "just like cash" and may be impossible to recover, especially if it ends up overseas.

Who's To Blame

Lawsuits from consumers often target real estate agents, attorneys, escrow agents, banks and settlement companies that prepare documents for real estate transactions.

"There are a lot of people involved, and (fraudsters) can hack into any one of these parties," said Finley Maxson, senior counsel at the National Association of Realtors®.

"These emails have become much more sophisticated, they are much harder to catch."

Maxson said the Realtors® and other associations are moving aggressively to educate all parties involved about the potential for fraud and the need for better security.

"We're telling people they should never give these (wiring) instructions by e-mail," he said.

It may be difficult to establish liability, but Hicks said that "consumers are not going to be careless with their life savings" and that the real estate professionals have a responsibility to ensure the security of their systems, and to give customers adequate information.

The lawsuit filed by Hicks for the Butcher's said that "the scam that befell the Butcher's was well-known in the real estate industry and easily preventable."

Earlier this year, a Kansas court assigned 85% of the liability to a hacked real estate agent and awarded a homebuyer defrauded by fake wiring instructions \$167,129.

Hicks said that in these cases, "there is a lot of blame to go around," but argued that "unless companies have to pay money they won't do what's necessary to protect the consumer."

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