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April 2022 \$3.50



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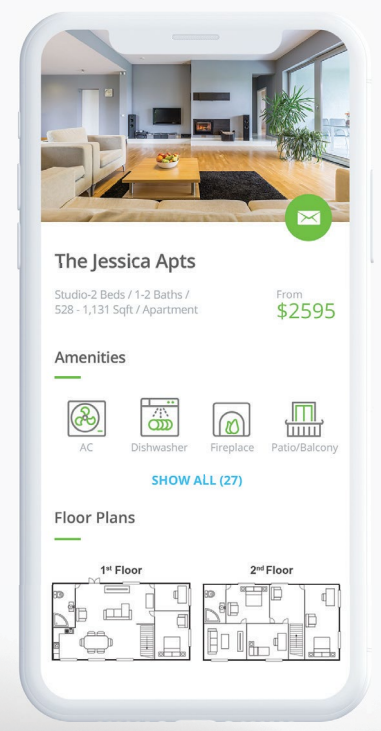


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CONTACT THE EDITORS
editor@texasrealtors.com
512-480-8200
P.O. Box 2246
Austin, TX 78768-2246

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INSIGHTS



Chairman's message

Most people have no idea what REALTORS® do. Sure, they get the basics—we help them buy and sell homes, manage properties, broker commercial transactions and land deals—but we've all run into people who think we do little more than pound a sign into the ground and collect a commission check.

You and I know that nothing could be further from the truth. But if the public doesn't fully appreciate all our hard work and professionalism, it's up to us to help them understand.

How? You may find that many people are surprised if you describe how much it takes to earn and keep a real estate license in Texas. If you really want to blow their minds, explain the difference between a REALTOR® and a real estate agent—and why it matters. Proudly mention the Code of Ethics. Tell them about the ways REALTORS® look out for their interests—from fighting property tax increases to battling burdensome local ordinances to being champions for homeowner rights in HOAs, and many more.

You can explain the value of your professional designations. Tell contacts how we cooperate with our business competitors through MLSs to ensure that buyers get access to the most properties for sale and sellers can market their homes to the widest pool of buyers. Give prospects and clients a list of everything you do for them. For many of us, that list could stretch onto multiple pages, and, like I said, most people have no idea.

Sometimes, we unintentionally send the

wrong message about our value as professionals. A Facebook post announcing that we sold a home in one day says nothing about the months of work we put in to get that above-list-price offer so quickly. Also missing is the extensive analysis and counseling to help the seller sift through dozens of offers. And how, if we don't describe it, would the public know all the steps from contract to closing—the details and deadlines and the behind-the-scenes work to save a transaction hanging by a thread?

We should each have a clear, concise “elevator speech” that not only defines our value as a professional but also quickly promotes all we do for our customers, clients, and private property owners. If you don't, please work on one. If you do, please share it with your fellow REALTORS® and your community. We must stand united to protect our industry and livelihood; it's time the public knows how hard we work on their behalf.

I have always referred to real estate as a profession—not an industry or a job—which is why I choose every day to be a REALTOR®, not just an agent. Our profession dictates we must be professional, and it's up to every REALTOR® to uphold those standards. To borrow from our national advertising campaign, That's Who We R.


Russell Berry

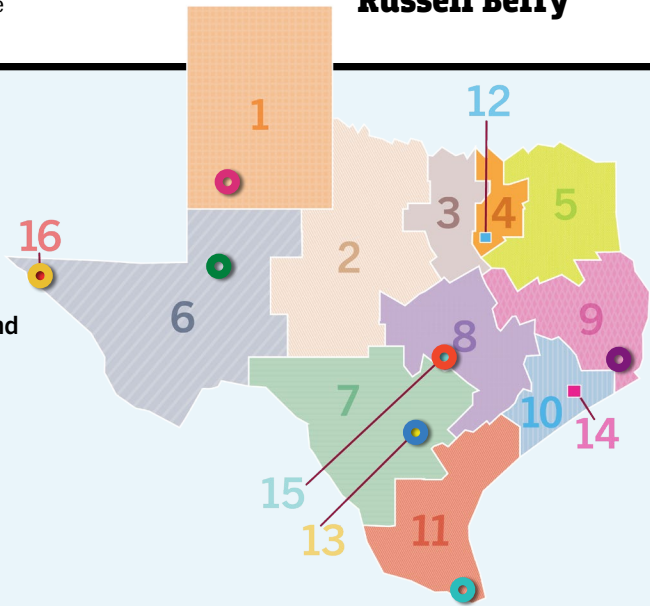
[If you really want to blow their minds, explain the difference between a REALTOR® and a real estate agent—and why it matters.](#)

HEAR THE LATEST FROM YOUR STATE LEADERSHIP

Association leaders are hitting the road to bring important updates to your region. Attend a Texas REALTORS® 360: Real Insights Meeting in-person for news on how state and national issues affect you and your business. Share what's on your mind and hear what fellow REALTORS® have to say.

Learn event details and register to attend at texasrealestate.com/360.

- April 8: Region 1, **Lubbock**
- April 14: Region 16, **El Paso**
- April 22: Regions 7 and 13, **San Antonio**
- April 26: Regions 2 and 6, **Odessa/Midland**
- May 20: Region 11, **Brownsville**
- June 29: Regions 8 and 15, **Austin**
- July 28: Regions 9 and 5, **Beaumont**

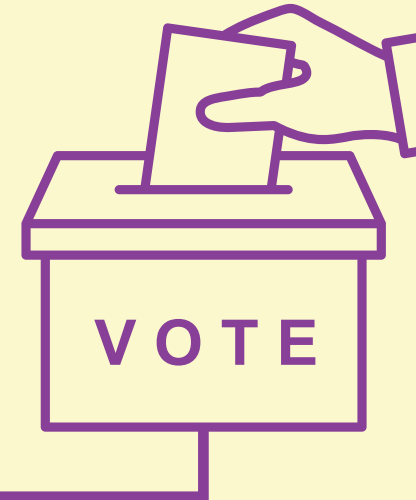


CONSTITUTIONAL AMENDMENT: MAY 7 VOTE FOR PROP 2 FOR PROPERTY TAX RELIEF

Texas REALTORS® has championed many efforts to keep property taxes in check over the years. And this year is no different: On May 7, Texas voters will have the opportunity to approve a constitutional amendment to increase the homestead exemption from \$25,000 to \$40,000. The increase will take effect for the 2022 tax year if passed.

The legislation to put the measure to a public vote passed unanimously in both chambers of the Texas Legislature during the third special session of 2021. According to the bill's author, Sen. Paul Bettencourt, the increased homestead exemption will save the average homeowner \$176 annually.

Low turnout is expected for this election—so by casting your ballot, you'll have a big impact on the outcome for a statewide amendment to appear on a May ballot. Visit texasforprop2.com for more information.



97% of REALTOR®-supported candidates—from both political parties—won their primary elections in March outright or are heading to a May 24 runoff to earn their party's nomination.

Early voting for runoffs begins May 16. Check for REALTOR®-supported candidates on your ballot by visiting texasrealtorsupport.com.

The REALTOR® Political Action Committee and TREPAC/Texas REALTORS® PAC took positions in 90 federal and state races in Texas; 72 candidates won outright, 15 are headed to runoffs, and three were unsuccessful.

REALTOR®-supported candidates have demonstrated they are strong advocates for a robust housing market, private property rights, and a vibrant Texas economy.

INSIGHTS

ISRAEL SUSTER, Attorney

- Disputes between Managers & Owners.
- Disputes and Litigation Regarding Sale of Homes and Commercial Properties, including Fraud and DTPA Claims. Litigation stemming from foreclosure sales.
- Representation of Owners and Managers in Disputes and Litigation involving Residential and Commercial Properties.
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- Tenant Collections.
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HERE'S HOW

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3 TIPS FOR MAKING THE MOST OF YOUR DESIGNATIONS



You spent time and money to put those letters after your name. Don't let them go to waste!

Texas REALTORS® senior instructor Marion Napoleon is the broker/owner at Unlimited Realty Solutions in Grand Prairie. She taught the session Turn Your Designation into Dollars during February's Texas REALTORS® Winter Meeting. Here are three of her tips for maximizing your hard-earned and maintained credentials.

Tell Everyone You're Qualified

If you have a certification or designation, make sure your prospects and clients know it. Don't be afraid to tell people you are an expert in your field. Include your designation in your marketing materials and social media. Start talking about it. You want to be the first person that people think of when they need a specialist.

Access Online Resources

"You have an abundance of resources with whatever designation you have. The Real Estate Buyer's Agent Council (REBAC), Real Estate Business Institute (REBI), and other NAR designating groups provide you with webpages and marketing materials," she says. Most designations have Facebook groups or networks where you can connect with other designees.

Napoleon advocates connecting locally or starting your own online

groups. Larger groups may let you know about listing leads, but smaller groups can foster the connections that produce referrals.

Build Your Referral Network

Knowing your market isn't just good business—it's the law. Texas Real Estate Commission rules require license holders to have geographic competence in the areas they work. They must be informed on local market areas and conditions affecting the real estate where the license holder is providing brokerage services.

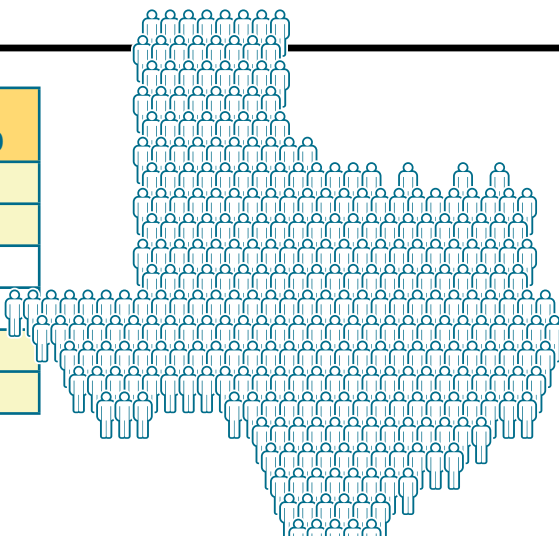
This means you can't help clients buy, sell, or rent where you don't know the territory. What you can do is connect with other agents and brokers statewide and beyond to build your referral network. You can even network with your colleagues if you work for a larger firm or big franchise.

"One of the main strategies is creating meetups in your area and inviting local REALTORS® and those in neighboring cities," Napoleon says. Network with fellow designees. Socialize. Exchange business cards and contact information. Then keep in touch to build those relationships.

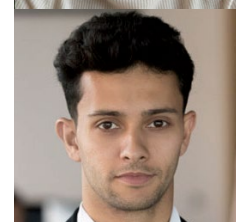
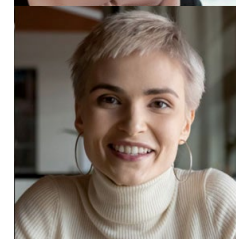
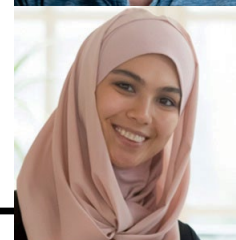
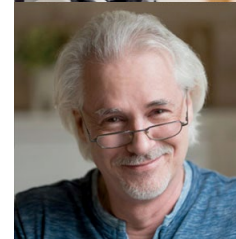
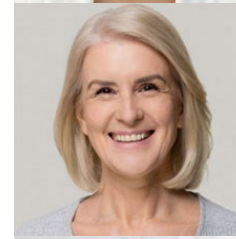
Video conferencing platforms like Google Meet and Zoom can connect people who otherwise couldn't meet up due to time or distance. "There's no limit to what that designation can allow us to do now thanks to the virtual world," she says.

Texas cities topped the list of the most new-home starts in the U.S. in 2021, with Dallas leading the way. Here is how the four largest metros in the Lone Star State stack up, according to housing market research firm Zonda:

Rank in U.S.	Metro Area	Total Starts in 2021	Increase from 2020
1	Dallas	54,670	28%
2	Houston	41,729	14%
3	Phoenix	28,934	19%
4	Atlanta	27,239	10%
5	Austin	26,704	25%
6	San Antonio	21,287	29%



Lights. Camera. Take Your Own Headshot



Making a great first impression is essential for gaining new business. That's why having a current and quality headshot is an important piece of your branding. Not only does it showcase your professionalism, but it also demonstrates that you are established and trustworthy. If you want to save money or simply enjoy DIY, here are seven tips for taking your own headshot:

Ask For Help. Just because you aren't hiring a professional doesn't mean your photo has to look like a selfie. Borrow a tripod for a level and steady shot. Also, have someone around to give feedback and offer suggestions.

Pay Attention to Lighting. If you are shooting inside, natural defused light from a window works best. If outside, avoid direct sunlight. Too much light can wash you out, not to mention cause you to squint.

Be Mindful of the Backdrop. A busy or loud background will take the focus away from you. Instead, look for a color or a simple backdrop—walls or sheets work well—that complements and helps you stand out. The same goes for the outfit you choose. It should be flattering, not distracting.

Frame the Shot. While you want a close-up, you don't want it so close that the picture looks too crowded. Zoom out enough to allow for more space above the head. Also, arrange the shot slightly off-center for better composition.

Express Your Personality. Standing straight towards the camera can make you look stiff or nervous. Try a few different stances and head angles. And remember: Just because it is a business photo doesn't mean you can't have fun and show off your smile.

Know Where to Look. Eye contact is key to grabbing someone's attention and making a connection. Display your confidence by looking directly into the camera lens.

Give Yourself Choices. Block off a few hours and take your time. The more photos you get, the better your chances of finding the headshot that makes you happy. It is also good to pick out a few winners for different marketing purposes.

GET MORE LEADS BY PUSHING AND PULLING



Generating new leads is key to growing your business. A strategic way to increase awareness for your brand is to utilize a variety of push and pull marketing tactics.

What does it mean to push and pull?

Push Marketing is when you actively reach out to educate prospects about what your business offers. This technique is beneficial when just starting out, expanding into a new area or niche, or promoting an offer. While these efforts typically cost money, you have more control over who you target, and it can have a quicker rate of return. Some methods of push marketing are:

- Cold calls
- Direct mail
- SMS (text)
- Pamphlets or brochures
- Google Ads, social media ads, or other paid advertisements
- Promotional emails.

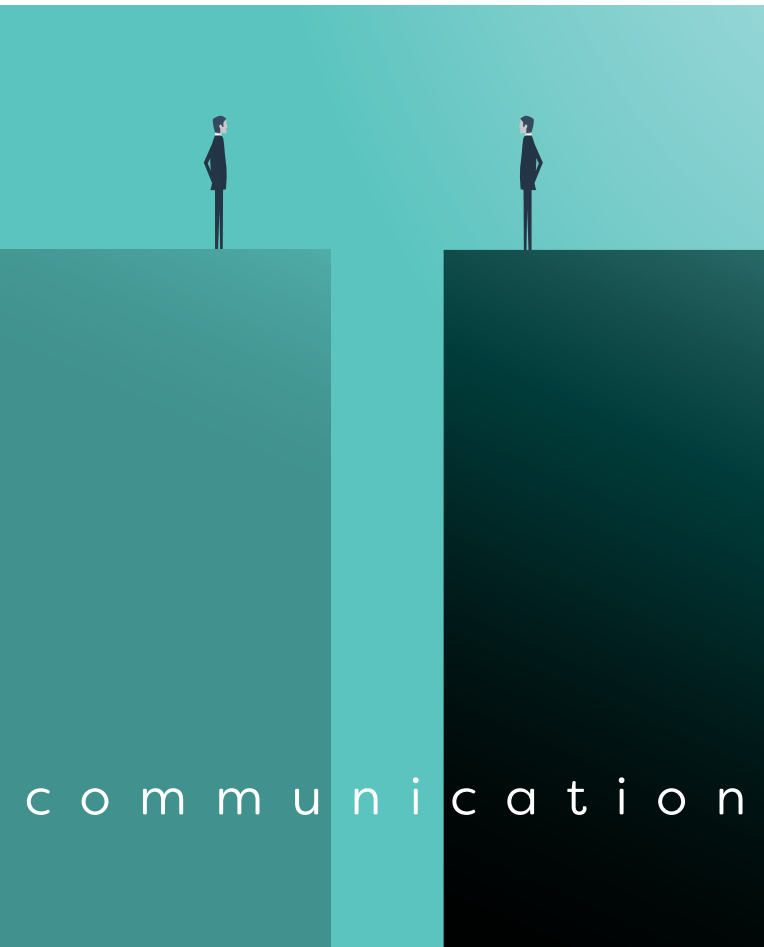
Pull Marketing organically attracts prospective customers seeking specific information or services to your business. The interest is created by producing solution-driven content and focusing on fostering engagement. Even though this technique may take longer to achieve results, it is a low-cost way to build relationships. The different channels to showcase your expertise and establish your credibility are:

- Blogs
- Websites
- Social media
- YouTube
- Whitepapers or educational downloads
- Reviews, testimonials, and word-of-mouth (online and off)
- Educational emails.

By developing a marketing strategy with a mix of both tactics, you can increase your chances of reaching more customers, fulfilling their real estate needs, and achieving your business goals.

When advertising, be sure to follow all pertinent TREC rules, fair housing laws, do-not-call rules, and the Code of Ethics. You can find advertising FAQs at [texasrealestate.com/faq](https://www.texasrealestate.com/faq). Do-not-call model policies are available for download at [texasrealestate.com](https://www.texasrealestate.com) > For REALTOR® Members > Legal & Ethics > Manuals and Guides.

Practice, Practice, Practice: Ways to Revive Your In-person Communication Skills



As reported COVID-19 cases have dropped nationwide, most activities have returned in person. For some, your face-to-face communication skills may still be a bit out of practice.

There are a lot of steps you can take to improve your interactions. Jennifer Jones Barbour, Ph.D., is an associate professor of instruction and the associate director of the Moody College of Communication's Communication and Leadership Degree program at The University of Texas at Austin. She suggests these tips as you get back in the swing of communicating in person.

Listen Actively

Active listening is one of the most important parts of face-to-face communication. "An active listener isn't listening to think of what to say next. An active listener is someone who's listening to learn more about the person who's talking," she says.

Listening attentively can inspire curious questions, which can lead to deeper conversation and connection for those involved in the interaction.

If you find yourself struggling with active listening, tell yourself to engage in nonverbal communication such as eye contact and nodding your head. Your brain processes your body's actions, and by engaging in listening behavior, you start to actively listen.

Be Clear Beyond Your Words

Tone and energy are two key components when it comes to communicating clearly. Whether you're trying to be heard or get your point across, the way you say something is just as important as what you say.

"We get a lot of sense of energy from the tonal quality of the words we're hearing," Jones Barbour says. "We're not one level—we're up and down." Whether it's excitement, joy, or even sadness, communicating with energy and emotion can help you convey your message more effectively.

Be Genuine

People know when you're faking interest or excitement and will quickly be turned off to your message if you're not genuine. Authentically communicating naturally conveys energy and emotion, which will help build clarity between you and your audience. Listeners will perceive you more positively, too.

Put the Screens Away

It's easier to mentally check out when you have your camera off during a Zoom meeting or even on a phone call. That's because you don't have to perform nonverbal listening behavior that helps keep you engaged and actively listening. "We've sort of been able to get out of practice of listening because it looks like we're there, it looks like we're paying attention, but we're not," says Jones Barbour.

Throughout the pandemic, many people relied on their phones and other screens to connect with others. "As we move back out into public spaces, put the phone down," she says.

Offer Grace to Others and Yourself

Imagine you and everyone else has a window of what they can tolerate. These windows can open or close incrementally. Life during the COVID-19 pandemic closed many people's windows, Jones Barbour says. People may be less resilient for the time being.

As you are getting back to face-to-face communication, ask yourself, *how open is my window of tolerance?* Check in with how you are feeling.

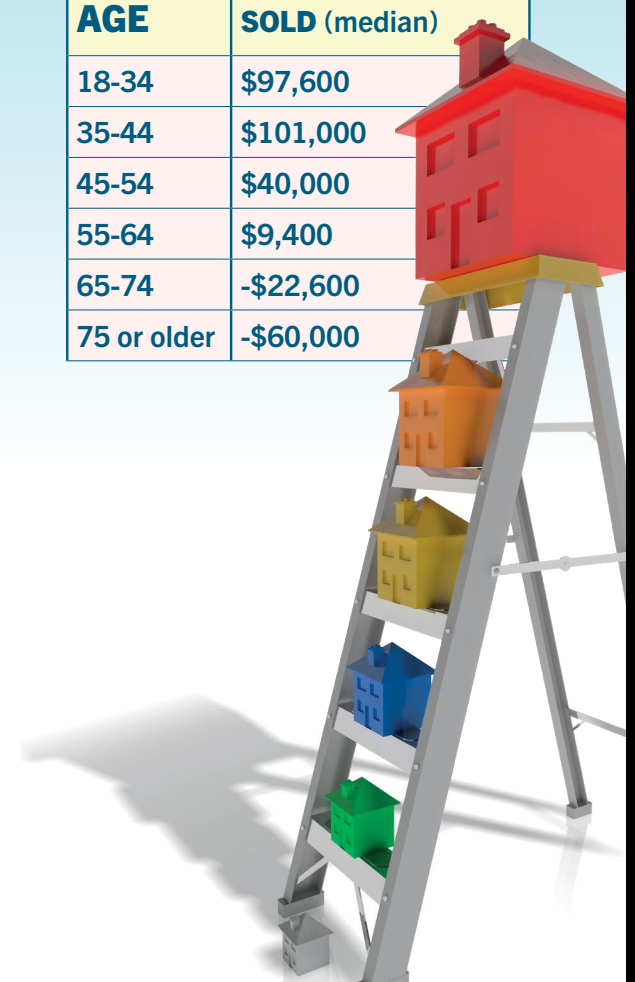
By doing that, you're also more likely to understand if someone else is having a hard time reconnecting in person or, say, being unusually hostile or withdrawn. Their window might be more closed right now.

"We need to offer grace to ourselves and others," says Jones Barbour.

Trading Up or Down?

Older homesellers in Texas tend to buy less expensive homes than the homes they sold, according to the 2021 *Profile of Texas Homebuyers and Sellers*. See more stats on page 16, and download the full report and other survey results from texasrealestate.com/research.

AGE	PRICE DIFFERENCE OF HOME PURCHASED COMPARED TO HOME RECENTLY SOLD (median)
18-34	\$97,600
35-44	\$101,000
45-54	\$40,000
55-64	\$9,400
65-74	-\$22,600
75 or older	-\$60,000



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LEGAL & ETHICS



DO MAILBOX KEYS CONVEY?

If your clients don't have a mailbox on their property, they might get mail from a cluster box: a centralized unit of individually locked compartments.

When your clients move, what happens to their mailbox key? Does the mailbox key convey to the next owner? Yes, according to Paragraph 2C of the *One to Four Family Residential Contract (Resale)* (TXR 1601, TREC 20-14). That paragraph lists mailbox keys as accessories that convey to the buyer.

If the box is privately owned, your seller clients simply give the keys to the new owners.

However, if the U.S. Postal Service owns the box, the Postal Service would like the keys back.

According to the Postal Service, sellers should return old mailbox keys when they move. Sellers who intend to do so should make sure those keys are listed as an exclusion under Paragraph 2D of the *One to Four Family Residential Contract (Resale)* to ensure that the keys do

not convey with the property. After receiving the keys, the Postal Service then changes the lock and issues three new keys to the new postal customer.

If the new owners receive keys from the sellers, they should return those keys to the Postal Service and get new ones.

New residents can request keys at their local post office with closing papers along with a government-issued ID. No key deposits are required, but there is a \$25 fee to replace lost keys.

How do you know if your cluster box is privately owned or owned by the Postal Service? There is no easy way to tell, but in most cases, apartment complexes and multi-housing properties manage their own privately owned boxes. Subdivision cluster boxes could be managed by the Postal Service or an HOA, depending on the agreement with the developer at the time of installation.

CHANGES COMING TO YOUR FORMS

Texas REALTORS® proposed changes to its residential, commercial, and leasing and property management forms. These changes are a result of a comprehensive process to review, clarify, and update the association's forms. Go to texasrealestate.com/changes to view and comment on the changes. The comment period will be open until early May.

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Real estate agents have the right recipe for success. We're here to help.

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LEGAL & ETHICS

Legal Hotline 800-873-9155

In today's busy market, I'm getting calls about how to handle multiple offers. A scenario that's confusing people is when sellers have accepted an offer that includes the *Addendum for Sale of Other Property by Buyer* (TXR 1908, TREC 10-6) and then receive a back-up offer with more favorable terms than the first offer. Just because the sellers have received a back-up offer does not give them the ability to ask for the first buyers to waive their contingency. Instead, the sellers must execute the second offer with the *Addendum for Back-up Contract* (TXR 1909, TREC 11-7) attached before they can ask the first buyers to waive their contingency. The sellers can use *Notices Regarding Contingency Under Addendum for Sale of Other Property by Buyer* (TXR 1912) to notify the first buyers of the accepted back-up offer and to allow the first buyers to either waive their contingency or terminate the transaction.

—Ryan Bauman, staff attorney



Your Forms

If sellers learn new information about the condition of their property, they can amend their original *Seller's Disclosure Notice* (TXR 1406) by completing the *Update to Seller's Disclosure Notice* (TXR 1418). In using this form, sellers must note which sections of the original document must be updated and copy the applicable language verbatim in order to make the changes. If there are numerous updates to the original *Seller's Disclosure Notice*, sellers may also choose to complete a new *Seller's Disclosure Notice*. The *Update to Seller's Disclosure Notice* can be used with residential and farm & ranch properties. It is one of more than 130 forms exclusively for members of Texas REALTORS®.



Yes,
our tools
do make a difference.



CORRECTION

ASSISTANCE ANIMALS

An article about assistance animals in the January/February 2022 issue stated that documentation for support animals is valid for 12 months and that tenants must go back to their healthcare providers to ask if they still endorse the support animal for the disability. However, there is no obligation on the tenant to renew the reasonable accommodation documentation.

If the tenant's disability is not readily observable or the documentation does not include information about a chronic disability-related need for the assistance animal, a landlord may contact the healthcare provider that provided the documentation after 12 months to assess whether the healthcare provider still advises the need for the assistance animal. There is no law that requires the tenant to renew the accommodation request on a yearly basis. Furthermore, if a landlord were to implement a practice of re-assessing reasonable accommodation requests, the landlord should include information about the re-assessment in the landlord's written criteria or policies to apply to future requests. A landlord should not re-assess any accommodations the landlord has already granted prior to implementing such a policy.

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Weichert®

ETHICS COMPLAINTS FAIRNESS OVER SPEED

People sometimes ask why the ethics complaint process takes so long. The Texas REALTORS® complaint procedures are designed to ensure all parties are treated fairly. Parties have a right to appeal certain decisions and must be given sufficient notice at various steps so they have adequate time to prepare. These procedures extend the timeline, but the ultimate goal is fairness. Here is a step-by-step rundown of the ethics complaint process.

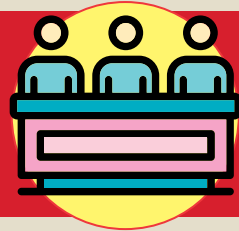
Step 1. Complaint is Filed

When a complaint is filed, the respondent is notified. The complaint must allege violations of one or more articles of the Code of Ethics, and the complainant may submit evidence and documents to support the case.



Step 2. Grievance Tribunal

A grievance tribunal (a four-member panel of the Professional Standards Committee) is scheduled within one to two weeks to decide if the ethics complaint should proceed to the next step.



Step 3. Appeal Period

Once the grievance tribunal's decision is made, the parties are notified and given 20 days to appeal the tribunal's decision. If appealed, the matter goes to an appeals panel to uphold the tribunal's decision or overturn it. If there is no appeal, parties are given 15 days to submit their responses.



Step 4. Mediation

Once a response is received, mediation is offered as an option. If mediation is declined or the matter is not resolved, the case is scheduled to be heard by a hearing panel.



Step 5. Hearing

All parties are notified of the hearing information at least 21 days in advance. During the hearing, the parties are given the opportunity to present their cases. A hearing panel's objective is to be fair, unbiased, and impartial to determine whether the facts support a violation of the Code of Ethics.



Step 6. Decision and Appeal

The parties are notified of the hearing panel's decision and given 20 days to appeal.



Ethics Case Timeline

Here is a sample timeline of the ethics process from the day a complaint is filed to its conclusion.*

JAN 1: Complainant files an ethics complaint online. Within a week, a grievance tribunal is scheduled.

JAN 8: A grievance tribunal meets to determine if there was a potential violation—assuming the facts are true—and the parties are notified of the decision. If dismissed, the parties are given 20 days to appeal.

JAN 23: Assuming no appeal, the parties get 15 days to respond.

FEB 7: Mediation is offered to parties as an option.

FEB 22: If mediation is unsuccessful, the complaint is sent to a professional standards hearing panel, where the parties are given due process to present their case.

MARCH 15: The hearing panel is scheduled 21 days later. After all parties have presented their case, a decision is made regarding the matter.

APRIL 4: Parties are given 20 days to appeal the hearing panel's decision.

JANUARY

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*These timeframes are merely an example, assuming there are no delays and no appeals. Arbitration requests follow a similar process with some variations to the steps and timelines.

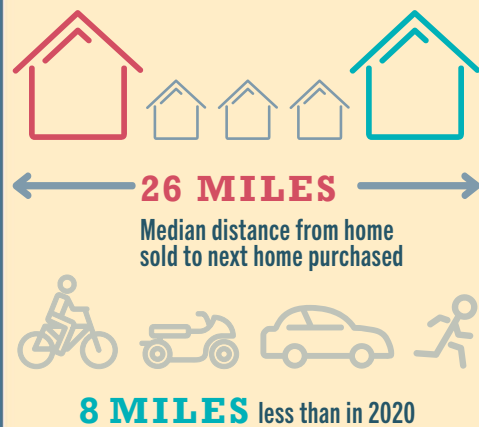
TEXAS HOMESSELLERS

Who They Are and What They Want

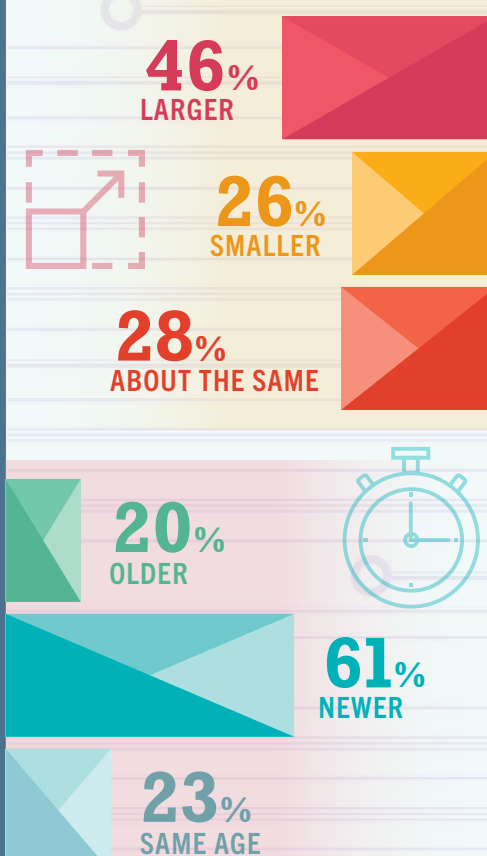
The previous issue of *Texas REALTOR*® featured survey results about Texas homebuyers from the 2021 *Profile of Texas Homebuyers and Sellers*, a Texas oversample of NAR's nationwide homebuyer and seller survey. This month highlights homesellers in Texas. Responses are from homesellers who also purchased a primary residence between July 2020 and June 2021. *Percentages may not add to 100% due to rounding or other responses not listed.

Top reasons for selling

- Move closer to friends/family
- Job relocation
- Home is too small
- Home is too large



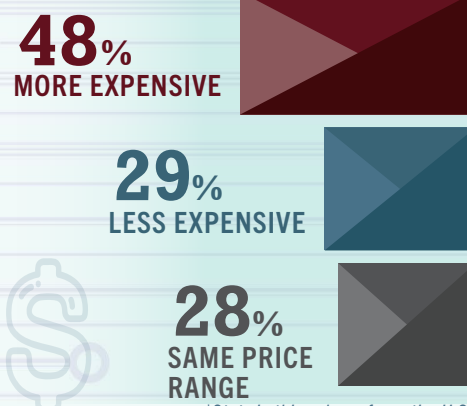
After selling, the next home was...



\$80,000*



MEDIAN EQUITY EARNED IN HOME SOLD
[*Up \$10,000 from 2020]



Most important factor when choosing agent



How seller found agent

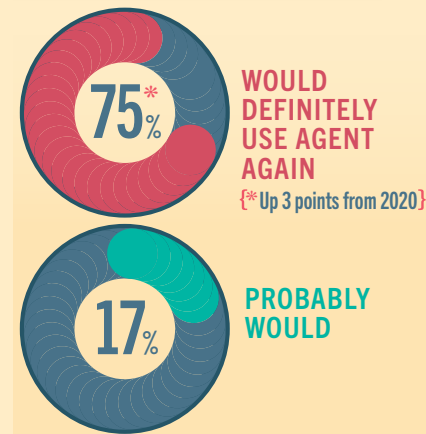
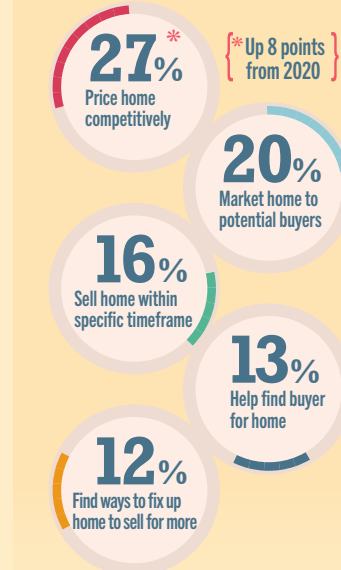


THE DIFFERENCE OVER A DECADE

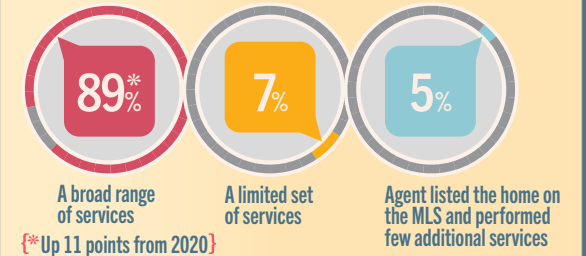
TEXAS HOMESSELLERS	2021	2011
FIRST-TIME SELLERS AS A PERCENTAGE OF ALL SELLERS	36%	25%
AGE: ALL SELLERS (MEDIAN)	54	54
HOUSEHOLD INCOME (MEDIAN)	\$125,000	\$87,000



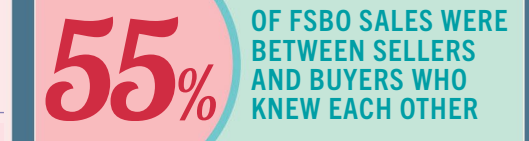
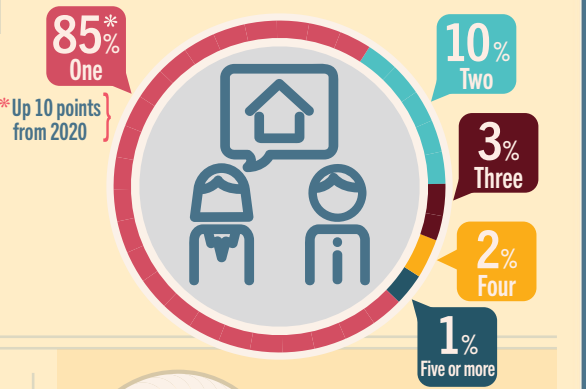
What sellers want most from real estate agents



Level of service provided by agent



Number of agents contacted before selecting one



Download the full 2021 *Profile of Texas Homebuyers and Sellers*—as well as prior versions of this report and other surveys—from:





WHAT YOU CAN DO RIGHT NOW TO HELP FAIR HOUSING

by Joe Olivieri



“Just because you don't see or experience a problem doesn't mean it doesn't exist. It's that type of apathy that is almost as dangerous as the bad behavior itself.”

—Laurie Benner

Fair housing issues can seem enormous and miniscule at the same time. What difference can one agent or broker make against systemic, nationwide problems like racial inequality and the wealth and homeownership gaps? Actually, a big difference. You can help improve fair housing in your business and community.

If you only think of fair housing in terms of avoiding overt, in-your-face discrimination, you will miss the wide variety of violations that could happen in any real estate transaction. Fair housing complaints can spring from actions as small as adding a non-inclusive sentence in a listing description or answering a client's question with an opinion instead of a fact.

Fair housing is everyone's responsibility. Those who say *fair housing isn't a concern because I don't discriminate* are not helping, says Laurie Benner, associate vice president of programs at the National Fair Housing Alliance. “Just because you don't see or experience a problem doesn't mean that it doesn't exist. It's that type of apathy that is almost as dangerous as the bad behavior itself. By denying it, you're contributing to the problem,” she says.

Here are things you can do *right now* to support fair housing in your brokerage, community, and the state of Texas.

Get Educated

“First off, I think REALTORS® should make a commitment to educating themselves, not only on fair housing laws and best practices, but related topics such as diversity and inclusion, racial disparities, and barriers to housing opportunity. It's hard to have a depth of understanding without a holistic knowledge of the history of fair housing and how the past is still impacting people today.”

Trainings include:

- NAR provides the online simulation Fairhaven and online workshop Bias Override: Overcoming Barriers to Fair Housing.
- Learn about upcoming sessions of What's Fair in Fair Housing and Texas Affordable Housing Specialist: FHA Lending and Fair Housing at texasrealestate.com/findacourse.
- Texas Department of Housing and Community Affairs trainings can be found at tdhca.state.tx.us/fair-housing/index.htm.

Build Fair Housing into Your Everyday Business

Benner recommends that agents, in cooperation with their brokers, develop a plan and use it consistently. “You can even use a checklist if it helps. Make sure to apply policies to absolutely everyone across the board evenly. For example, if you are in the habit of asking for a loan preapproval letter from buyers, ask every single client for it,” Benner says.

You can also put fair housing information in buyers' presentations and sellers' packets, so your clients know what the responsibilities and obligations are.

Follow the Code of Ethics

The NAR Code of Ethics also has provisions related to preventing discrimination. You cannot deny equal professional services to, nor can you be part of a plan or agreement to discriminate against, anyone for reasons related to the protected classes listed in the Fair Housing Act. The Code also prohibits harassing speech, hate speech, epithets, and slurs based on the protected classes. REALTORS® may not refuse cooperation with another broker because the other broker is a member of a protected class. There are also provisions in the Code to prevent discrimination against protected classes related to employment practices and the information you can share with clients.

For Brokers

“It's imperative that brokers prioritize fair housing,” says Laurie Benner, associate vice president of programs at the National Fair Housing Alliance. “Make it a part of every office meeting just the way that some associations read an antitrust statement before every committee meeting.”

Brokers should make it part and parcel of the culture of their brokerage, she adds. They should require fair housing training as part of an agent's employment. Consider working with a fair housing organization to develop a custom training.

Benner says brokers shouldn't be scared of how their agents might react. “I've heard of brokers who don't want to impose too many requirements on their agents because they're afraid they'll go elsewhere. And I say if their agents aren't fully committed to be the best, most ethical agents they can be, then they ought to go elsewhere—even if, or especially if, they're a top agent or a top team. No broker wants to see their name on the front page of a newspaper for being associated with illegal or unethical activity.”

She also suggests including support staff in fair housing training, since those staffers are often the first point of contact with the public and clients.

For Property Managers

“Property managers need to take fair housing laws just as seriously as any other real estate professional—possibly even more so, since the majority of fair housing complaints stem from rental situations rather than homeownership,” says Laurie Benner, associate vice president of programs at the National Fair Housing Alliance.

Nationwide, disability is the top category of fair housing complaints, and those complaints are largely coming from rental properties. Property managers must know how to respond to requests for reasonable accommodations and modifications, including those for service or assistance animals, Benner says.

Managers should make sure all staff are trained on fair housing issues. Property managers can take the National Center for Housing Management's Fair Housing Essentials and Fair Housing Specialist online certification courses.

Learn the Laws

The Fair Housing Act of 1968 prohibits housing discrimination based on:

- Race
- Color
- Religion
- Sex (including gender identity and sexual orientation)
- National origin
- Familial status
- Disability.

The U.S. Department of Housing and Urban Development offers many examples of housing discrimination based on those categories:

- Refusing to rent or sell housing
- Refusing to negotiate for housing
- Otherwise making housing unavailable
- Setting different terms, conditions, or privileges for sale or rental of a dwelling
- Providing a person different housing services or facilities
- Falsely denying that housing is available for inspection, sale, or rental
- Making, printing, or publishing any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination
- Imposing different sales prices or rental charges for the sale or rental of a dwelling
- Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analyses, sale or rental approval procedures, or other requirements
- Evicting a tenant or a tenant's guest
- Threatening, coercing, intimidating, harassing or interfering with anyone exercising a fair housing right or assisting others in exercising such right
- Failing or delaying performance of maintenance or repairs
- Limiting privileges, services, or facilities of a dwelling
- Discouraging the purchase or rental of a dwelling
- Assigning a person to a particular building or neighborhood or section of a building or neighborhood
- For profit, persuading, or trying to persuade, homeowners to sell their homes by suggesting that people of a particular protected characteristic are about to move into the neighborhood
- Discriminating in the terms or conditions of homeowners insurance because of the race, color, religion, sex (including gender identity and sexual orientation), disability, familial status, or national origin of the owner and/or occupants of a dwelling
- Denying access to or membership in any multiple listing service or real estate brokers' organization.

The Texas Department of Housing and Community Affairs lists several federal laws that may provide a justification for enforcement of fair housing. The list includes Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Learn more at tdhca.state.tx.us/fair-housing/index.htm.

Use Inclusive Language

How you treat clients is at the heart of fair housing. Knowing what you can and can't say is essential. Here are a few things to keep in mind:

- **DON'T** ask questions that could categorize buyers. Though you generally may ask about lifestyle interests and priorities, you are not allowed to ask questions that attach a buyer to a protected class, Benner advises.
- **DO** direct clients to unbiased sources of information when answering questions.
- **DON'T** give your opinion, especially when it comes to school or crime information. "Opinions are not facts," Benner says. An opinion could be construed as influencing clients' housing choice based on demographics.
- **DO** offer listing options from the entire local area unless specifically told by clients to focus on a particular neighborhood.
- **DON'T** make assumptions about where someone will or will not be comfortable living.
- **DO** be honest about what you can say. Feel free to tell clients that you are prohibited from answering questions with opinions or offering subjective information, Benner says.

Review Your Marketing Materials

Some of the most common fair housing violations can be found in advertising or MLS listings, Benner says. Including language about families runs the risk of indicating preference, limitation, or discrimination.

Check your marketing photographs and artwork, she adds. Make sure your advertisements include a diverse group of people; your materials shouldn't feature the same group or groups of people.

Work with Public and Private Fair Housing Groups

You can link up with local, state, and national organizations working on fair housing in your area.

Benner recommends joining local chapters of multicultural real estate associations. These organizations welcome all real estate professionals from all backgrounds.

Examples include:

- National Association of Real Estate Brokers (NAREB)
- National Association of Hispanic Real Estate Professionals (NAHREP)
- Asian Real Estate Association of America (AREAA)
- LGBTQ+ Real Estate Alliance.

Talk about opportunities to participate with local nonprofit fair housing centers or related state government agencies.

You can find groups online, such as the Facebook groups *Deliberately Fair Housing* and *Real Talk - Race and Real Estate*, where real estate professionals and fair housing advocates share information, Benner says.

Don't be afraid to speak up when you see evidence of fair housing violations even if the people involved are your coworkers. "Hold your peers accountable even if it's messy."

Seek Official Data and Unofficial Discussions

To get an official look at the state of fair housing in your area, you can review fair housing complaints through the U.S. Department of Housing and Urban Development as well as local fair housing centers, Benner says. These groups have complaint data broken down by the protected classes. Look for official reports, annual reports, and lawsuit case studies on websites related to fair housing.

For an unofficial view, talk with fellow agents and brokers in your community. What are they seeing and hearing on the job? Conversations can point to trends or percolating issues that have the potential to become problematic later, Benner says.

Hold Everyone Accountable

Don't be afraid to speak up when you see evidence of fair housing violations even if the people involved are your coworkers.

"Hold your peers accountable even if it's messy," Benner says. "REALTORS® should be aware that there will be more real estate testing and related enforcement actions to come in the future. What happened in the *Newsday* investigation is almost certain to happen again. Agents should at a minimum be protective of their ability to earn a living."

All REALTORS® pledge to uphold the NAR Code of Ethics and not make discrimination a part of their business, employment practices, and conduct.

"REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor," the Code says.

If you aren't already doing that, the best time to start is right now. ✨

JOE OLIVIERI is assistant editor at Texas REALTOR®.

Read More

Laurie Benner, associate vice president of programs at the National Fair Housing Alliance, suggests the following books:

- Matthew Desmond, *Evicted: Poverty and Profit in the American City*
- Diana Lind, *Brave New Home: Our Future in Smarter, Simpler, Happier Housing*
- Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass*
- Antero Pietila, *Not in My Neighborhood: How Bigotry Shaped a Great American City*
- Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*
- Keeanga-Yamahatta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*
- Isabel Wilkerson, *The Warmth of Other Suns: The Epic Story of America's Great Migration*

Texas REALTORS® YPN Committee's book club has read:

- Emmanuel Acho, *Uncomfortable Conversations with a Black Man*
- Mehrsa Baradaran, *The Color of Money: Black Banks and the Racial Wealth Gap*

The NAR Library and Archives offers e-books and audiobooks on a variety of real estate topics. The national association offers resources for book clubs and reading discussion groups.

Watch More

Laurie Benner, associate vice president of programs at the National Fair Housing Alliance, suggests the following videos online:

- Act.tv, *Systemic Racism Explained*
- Apple TV+, *The Banker*
- Netflix, *13th*
- Netflix, *Amend: The Fight for America*
- Newsday, *Long Island Divided*
- NPR, *Housing Segregation and Redlining in America: A Short Story*
- *Grab the Key* on YouTube

Apply for a Texas REALTORS® Committee

Consider applying to join one of the state association's committees. The Diversity and Housing Initiatives committees include fair housing in their work. Registration is open from May 1 to June 30. Everyone who volunteers will be appointed to a committee, but some may not get their first choice of appointment. Learn more at texasrealestate.com/committees.

Wait a Second ...

TikTok Can Boost Business?

Some REALTORS® are using the fun video-sharing app to promote themselves and gain clients.

by Payton Reeves

For most people, TikTok is a mindless diversion to enjoy during down time. However, some REALTORS® have found success using TikTok while on the clock. By sharing real estate advice or funny content based on the industry, these members have reached potential clients and expanded their business with the app. Here's some input on using TikTok from those who've benefited from this tool.

What inspired you to begin using TikTok to market your business?

Natalie Benavides, marketing coordinator at Berkshire Hathaway HomeServices Stovall, REALTORS® in Abilene, was eager to embrace the new social media platform taking the world by storm. Although she was initially hesitant about what her broker and agents might think, Benavides was met with enthusiasm when she suggested the marketing idea. "To my absolute surprise, the staff and agents in our office began discovering TikTok and watching it on their own," says Benavides. "I gladly jumped in to help and pitched the idea to our broker of adding a company TikTok, and we were making videos the next day!"



Miriah Zuniga, with Premier Realty in Corsicana, saw TikTok as a great opportunity to promote her business. "When the app came out, I saw how quickly videos can take off and how it wasn't just all dancing on there but comedy and education as well," Zuniga says. She was also inspired by videos she viewed of people asking questions about real estate. Zuniga realized she could use this platform to market her business and attract potential clients.

What do you find to be the most successful techniques when using the app?

There are many ways to boost your videos on TikTok to attract more views and followers. Benavides suggests posting videos

at peak social media times, which she says for her are around 11 a.m. and just before 5 p.m. She also says that being familiar with trends on the app, especially trending sounds, is crucial to getting more recognition and engagement. "Sounds are always changing, so if you have an idea that goes with a particular sound today, you better get a video out soon before it's forgotten and not trending," she says. It's also important to share the links from your videos across other social media networks, so it brings people to your TikTok account. While she acknowledges not every video will be a hit, Benavides notes that these tips have helped her build her audience on the platform.

How has using TikTok impacted your business?

Lori Silva, with Vive Realty in Houston, says that the app has helped her connect with potential clients in the Houston area and across the country. Zuniga has received business and had clients reach out to her because they saw her videos on TikTok. "Every week I'll have a lead come through my CRM and say, 'I've watched your videos on TikTok and want to know if you'll be my agent,'" Zuniga says. "I have videos I've posted six months back still getting traction, bringing leads to my website and new clients."



How is using this app different from other social media marketing?

While TikTok has aspects similar to other social media platforms, some characteristics set it apart. Morad Fiki, with Keller Williams Platinum in Houston, says that the atmosphere of the platform is more relaxed and lighthearted compared to other marketing platforms. "TikTok really allows the creator a more authentic outlet to be creative and genuine," says Fiki.

What do you enjoy about using this app in your work?

Zuniga appreciates the simplicity and connectivity of the app

in her outreach. "I enjoy the ability to reach others all around the whole world with a single video, which over time has made people feel they truly know me and see the value I provide. That has turned into business time and time again," she says. For Benavides, TikTok adds a great deal of fun to her professional life and workplace. She, like Zuniga, also likes how the app fosters connectedness, not only online but among her colleagues too. "It is an absolute blast to get to come to work and have a meeting scheduled to discuss TikTok ideas. We are an office full of people of many different ages but can all come together and talk TikTok and real estate," Benavides says. "We all have so much to learn from each other and have many stories and experiences to share. It is never boring!"

What are some challenges you face on TikTok?

Fiki says that it can be difficult to pinpoint which videos will get the most engagement. It's not always easy to determine what kind of content to create that people will enjoy and share. He also says the unpredictability of going viral is a bit of a challenge. Zuniga points out that while TikTok as an app isn't difficult to grasp, it does require an effort to find success by regularly posting content. "It has to be in your schedule. You have to have a plan, and you have to be consistent for it to work," she says.

Would you recommend other REALTORS® use TikTok for their business? Why or why not?

Silva highly recommends the app to other REALTORS®. She notes that TikTok allows the content creator to "promote themselves and showcase what there is to offer for the next potential client." Benavides also advises REALTORS® to put themselves out there and use TikTok to advertise their business. "Join the conversation. Share the stories that made you laugh; share the ones that made you scared," Benavides says. "Whether you are trying to promote your personal brand or your company's, there is a whole community of TikTok users out there ready to find your content."

PAYTON REEVES is the editorial intern for Texas REALTOR®.

Watch Out For Advertising Rules

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Carbon Contracts

This income opportunity for landowners comes with unique considerations.

by Tiffany Dowell Lashmet



Carbon contracts have been a popular topic of conversation for farmers and ranchers around the country recently. Essentially, companies interested in lowering the impact of their carbon emissions pay landowners to take steps to store more carbon in the land.

As with any agreement, several legal and economic issues arise and should be carefully considered before entering into a carbon contract. A critical consideration is that landowners should never rely on verbal representations made by anyone related to a contract; assume only the written contractual terms will be enforceable. This is new territory, and many unknowns still exist about the carbon market and these carbon agreements. While this article outlines some features typical in carbon contracts, it is essential that any landowner considering entering into one engage an attorney to review the contract prior to signing.

What are Carbon Contracts?

Currently, most carbon markets are voluntary programs where carbon-market brokers negotiate agreements between companies seeking carbon credits and farmers and ranchers willing to generate these credits. A landowner agrees to undertake certain practices that sequester carbon or reduce carbon emissions, the company pays the landowner, and the company claims the carbon credit generated by the landowner. This helps to offset the carbon footprint of the company.

Several farming and ranching practices have the ability to reduce carbon emissions and/or sequester carbon. The most common carbon practices include no-till farming, planting cover crops, crop rotation, planting buffer strips, and regenerative grazing.

KEY CONCEPTS

When reviewing a carbon contract, landowners may notice it seems to speak a different language than most agricultural contracts. Understanding the basic concepts is an important starting place. Importantly, each contract will likely have specific definitions of these terms. It is critical for landowners to carefully review the definitions in any contract before signing.

Additionality – Some companies only pay for new carbon-sequestering practices. If additionality is required, the farmer or rancher would have to undertake a new practice, such as converting from conventional farming to no-till farming, to qualify. A producer who has already adopted carbon-sequestering practices would need to seek a contract that pays for these previously adopted practices or allows a look-back period and does not have an additionality requirement.

Carbon credit – A frequently used measurement unit to quantify carbon. Typically, one carbon credit is equal to one metric ton of carbon or carbon equivalent that is sequestered.

Carbon emissions – The release of carbon into the atmosphere.

Carbon sequestration – The process of capturing carbon from the atmosphere.

Permanence – The length of time a carbon reduction lasts. Some contracts may require a producer to abstain from certain activities for an extended period of time to ensure the continuation of storing carbon that has been sequestered.

Stacking – This refers to one producer enrolling the same land in more than one program or contract. Many contracts prohibit stacking, meaning the producer may enter into only one carbon contract for a specific piece of property. The breadth of a stacking prohibition can vary greatly by contract, with some prohibiting only other carbon contracts, while others may prohibit participation in any government programs as well.

Verification – The process of confirming carbon reduction or sequestration.

KEY CONTRACT TERMS FOR LANDOWNERS TO CONSIDER

Control of land

Brokers or companies seeking carbon agreements will likely require some proof the party entering into the contract either owns or controls the land. This may include a copy of a written lease agreement, for example. Some companies or brokers may require both the tenant and the landowner sign any contractual agreement. This is particularly true if the lease in place is for a shorter timeframe than the carbon contract will be.

Data ownership

Data collection is a requirement for any carbon contract, and a carbon agreement should address issues related to the ownership and use of such data. Issues like who will be given access to the data, how the data may be used, and who has ownership rights in the data should all be addressed.

Indemnification

Indemnification clauses essentially shift potential liability and costs from one party in the contract to another. These clauses are an agreement to reimburse another party for damages it sustained as a result of the indemnifying party's actions.

Impact on energy production

Producers should carefully consider what impact a carbon contract may have on energy production on the land. Depending on the mineral ownership or the potential energy production activities, this may require identifying carve-out areas where oil or gas wells—or even wind turbines or solar panels—can be placed.

Land title implications

Landowners should determine if there are contractual provisions that may impact their ability to sell or otherwise transfer ownership of the land. For example, carbon contracts may allow the carbon-credit purchaser to place a restrictive covenant or a lien on the property, or require the landowner to enter into a conservation easement for the term of the contract. These types of limitations could impact the marketability and potential sales price for the land.

Negotiation costs

Some companies and brokers are offering to pay a certain portion of a landowner's legal fees associated with negotiating a carbon contract. This would likely be an agreement separate from the contract itself but might be worth a landowner requesting from the company or broker. Regardless, a producer should use an attorney to assist with reviewing or drafting any carbon contract.

Other allowable uses

Landowners may wish to make other uses of the property at issue in a carbon contract. Many farms and ranches have added various agritourism activities as ways to diversify income. For example, a landowner may wish to reserve the right to hunt or fish on the land.

Payment

The payment provisions of the contract are extremely important for the landowner. There are several potential payment methods, including a per-acre payment for adopting certain carbon practices, a payment per metric ton of carbon as measured and verified, or a payment based on the carbon market at an identified time. Landowners should ensure the contract

sets forth the exact details about how payment will be calculated. For any contracts based on actual carbon sequestered, a landowner should investigate the amount of carbon likely to be sequestered in their particular area. For example, agronomists report the amount of carbon likely to be sequestered in the Texas Panhandle and South Plains to be far less than the one ton of carbon per year it takes to create a carbon credit. Also important is to determine what costs or expenses may be deducted from the landowner's payment and when and how payments will be made.

Parties

Landowners should investigate any party with whom they will enter into a carbon agreement to understand the party's position in the market. Many contracts are being offered by brokers or aggregators, but there are also ag retailers offering these types of contracts. A landowner can try to speak to others who have entered into contracts with a company to ask about their experiences.

Penalties

It is important to understand a contract's penalties if certain conditions are not met. For example, there could be a penalty if an external factor such as weather prevents a party from undertaking an agreed-upon practice. Some contracts may require a certain increase in the amount of carbon in the soil and include a penalty if that amount is not realized or is released during the term of the contract. Contracts will likely also contain early termination penalties if the producer is unable to comply with the contractual requirements for the term of the contract.

Required practices

An agreement will set forth the required practices a landowner agrees to undertake. Some contracts may list very specific requirements, while others may contain a more general description, such as conservation practices. Landowners should be careful to analyze the additional costs to adopt a required practice. Finally, landowners should pay attention to whether the required practices are set through the entire contract or whether they may change from year to year.

Stacking prohibition

Often, carbon contracts will include a prohibition on stacking. Some may be worded broadly enough to prohibit participation in other government programs, such as the U.S. Department of Agriculture's

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This is new territory, and many unknowns still exist about the carbon market and these agreements.



How Much Money is a Carbon Contract Worth?

There are too many variables to provide a reliable range for the value of carbon credits. Additionally, the specifics of one contract may differ substantially from another. A landowner may find it helpful to seek out other property owners who have entered into carbon contracts to learn about income generated as well as other factors of this income-producing opportunity. The payment structure likely depends on whether the contract is one offering payment for practice, which typically offers a flat per-acre fee, or payment for outcome, which typically offers an amount per ton of carbon sequestered.

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Environmental Quality Incentives Program or the Conservation Reserve Program.

Verification

Provisions regarding measurement and verification are some of the most important in a carbon agreement. The contract should set forth exactly what is being included in the measurements. For example, will the verifier simply measure the carbon in the soil, or will the entire system be looked at, including the impacts of livestock on the property or the impacts of using nitrogen fertilizer? Next, parties should agree upon who will conduct any testing and verification, what methodology will be used, and when and where such data collection will occur. Some contracts may offer payments based on modeling, while others take actual measurements. Measurements may be done in a number of ways, including algorithmically, by taking physical soil samples, and by using satellites. The manner in which samples are taken can affect the results, and considerations related to the time of year (and even time of day), location in the field, and soil depth are all important to consider.

A contract should spell out who will bear the costs of the data collection and verification. Typically, these costs fall to the purchaser. Finally, the landowner may want to include a provision allowing an audit of the data and payments to ensure requirements are being followed. The landowner may also benefit from a provision that specifies a process for how a landowner can challenge or appeal determinations they believe are inaccurate.

While a carbon contract may be an enticing way for a landowner to make money, this new development in agriculture and business requires careful consideration. Any property owner contemplating entering into an agreement would be well advised to consult an attorney. ★

TIFFANY DOWELL LASHMET is associate professor and extension specialist with the Texas A&M AgriLife Extension. She specializes in agricultural law and blogs about legal issues related to Texas land at agrilife.org/texasaglaw. Lashmet is the author of *Owning Your Piece of Texas: Key Laws Texas Landowners Need to Know*.

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