

TEXAS REALTOR®

Succeed in Texas Real Estate

June 2020 \$3.50

WHAT'S NEXT?

Two Industry Experts Share Insights on Where Texas Real Estate Goes From Here

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SHAPING
TEXAS
1920-2020

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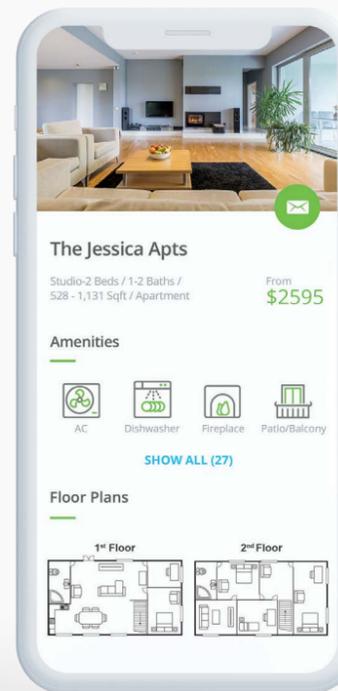
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Texas REALTORS® ADVOCACY During COVID-19

Even while sheltering in place, REALTORS® have been advocating to protect consumers, professionals, and the real estate industry.



ENSURE REAL ESTATE IS AN ESSENTIAL SERVICE statewide to protect real estate transactions



PROVIDE GUIDANCE for serving clients safely and responsibly



PROVIDE RECOMMENDATIONS for conducting in-person real estate license exams



SHARE INSIGHT into impacts on real estate industry and how REALTORS® have adapted to serve clients safely



REAL ESTATE PROFESSIONALS ARE ELIGIBLE FOR FEDERAL RELIEF, including small business loans and unemployment insurance



ADVISE STATE LEADERS on reopening government offices for real estate consumers



PROTECT REAL ESTATE LICENSE HOLDERS seeking renewal and applicants



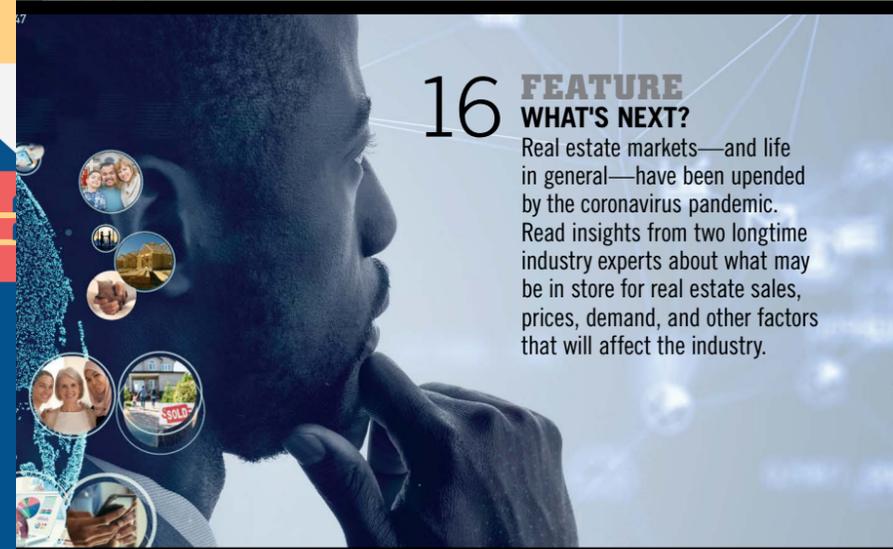
EXPAND NOTARY SERVICES for real estate documents



See Texas REALTORS® resources, updates, FAQ, and other content related to COVID-19 at texasrealestate.com/coronavirus

#TREPACTogether

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Real estate markets—and life in general—have been upended by the coronavirus pandemic. Read insights from two longtime industry experts about what may be in store for real estate sales, prices, demand, and other factors that will affect the industry.

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FEATURE HOW WIDE CAN AN UNSPECIFIED EASEMENT BE?

by Tiffany Dowell Lashmet

Three landowners tried to limit a utility company's existing easement to 30 feet—the width the company had used in the past—despite a contract that didn't specify a width. Find out what the Texas Supreme Court had to say.

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FEATURE MEET TREC'S EXECUTIVE DIRECTOR

Interview by Joe Olivieri

Chelsea Buchholtz started as executive director of the Texas Real Estate Commission on January 1 this year. Find out about her priorities for the commission, the challenges she sees facing TREC, and what the pandemic means for the commission's operations.



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SHAPING TEXAS 1920-2020



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FEATURE TEXAS REALTORS® CENTENNIAL: TREPAC'S HISTORY AND FUTURE

Texas REALTORS® would not have such influence in the state without TREPAC. Learn about the PAC, see the newest members in the RPAC Hall of Fame, and more.



Chairman

“ I’m always amazed at how closely our relationships with our clients mirror our association’s relationship with its members and the Texas consumers we serve.

Take trust, for example. Our clients don’t automatically trust us. We earn that trust through demonstrative proof of our ability and our willingness to put their interests above all else. Once earned, that trust comes not only with a legal burden to deliver a minimum level of service and competency, but also a broader, more powerful moral responsibility for outcomes.

Simply put, we care about more than a successful transaction. The same holds true for our association. Texas REALTORS® has spent the last century—led by members like you and me—earning the trust of fellow members, consumers, lawmakers, and regulators. That earned trust grows exponentially year after year as we become more and more successful in our advocacy efforts. Our collective voice is no longer one of many, but *the* voice for all things real estate at the local, state, and national levels. With that powerful influence comes epic responsibility to our fellow citizens.

In the days and weeks to come, budget and property tax-rate-setting discussions will be held in local jurisdictions across the state. Because of the disruption in commerce caused by COVID-19, those conversations will be especially painful for cities who rely heavily on sales tax revenue to subsidize budgets. Our REALTOR® voice is too powerful to be bystanders in these most difficult and impactful conversations. Do we have enough reserves? What services must be cut? Can we subsidize with debt? What other revenue sources are available? How can we avoid burdening an already overburdened property tax payer? If we must go to the voters, do REALTORS® support, oppose, or simply inform?

As members, you are the eyes into which your clients and your community will look for wisdom and understanding of the consequences of such decisions. I urge you to work with your local associations to ensure REALTOR® voices are unified. The Texas REALTORS® Governmental Affairs staff will help in every way they can. We must protect our consumers by protecting the market, and that means helping find and broker those answers. Perhaps most importantly, we must rally community engagement and support for those decisions. When Texas history books tell the saga of 2020 to our children and grandchildren, let’s be sure Texas REALTORS® is among its heroes. #ShapingTexas

Cindi Bulla **Cindi Bulla**

**SIMPLY PUT,
WE CARE ABOUT
MORE THAN A
SUCCESSFUL
TRANSACTION.**

**TEXAS
LEADS
THE WAY
AT NAR
MEETINGS**

Congratulations to REALTORS® from Texas who won elections in May during the virtual NAR Legislative Meetings.

Leslie Rouda Smith, who served as chairman for Texas REALTORS® in 2016, was elected 2021 National Association of REALTORS® president-elect. Rouda Smith, a member of the Collin County Association of REALTORS® and a broker associate at Dave Perry-Miller Real Estate, has been involved for more than 30 years in leadership roles throughout the REALTOR® organization.

These distinguished members will also be serving REALTORS® at the national level:

- Candy Cooke, Real Estate Business Institute 2021 president
- Vicki Fullerton, NAR Region 10 vice president
- Renee Harvey, REALTORS® Land Institute 2021 president
- Sheila Moran, Women’s Council of REALTORS® national liaison for Western Region
- Sylvia Seabolt, Women’s Council of REALTORS® 2021 president-elect.

Leslie Rouda Smith,
2021 NAR President-Elect



BRING YOUR VOICE TO A TEXAS REALTORS® COMMITTEE

Deadline to apply is June 19

Texas REALTORS® is a member-driven organization, and you can help set the association’s direction by serving on a committee.

Volunteer to be part of one of dozens of committees that:

- Set legislative priorities
- Work on the budget
- Review legal developments
- Identify emerging technology tools
- Create public policy positions
- And more.

Other committees focus on specialty areas, such as:

- Commercial
- Property management
- Global
- Housing Initiatives
- Professional Development
- Professional Standards
- Young Professional Network
- Diversity & Inclusion
- And others.

Visit texasrealestate.com/committees by June 19 to view the full list of committees and to submit the online volunteer form.



REALTORS® APPOINTED TO TREC WORKING GROUP

During the May 5 meeting of the Texas Real Estate Commission, nine REALTORS® were named to the commission’s Broker Responsibility Working Group. This group has been charged with reviewing experience requirements and responsibilities for brokers and making recommendations for any changes.

The nine REALTORS® are:

- **Chance Brown, Houston**
- **Socar Chatmon-Thomas, Austin**
- **Holly Hightower, Tyler**
- **Bob Jacobs, San Antonio**
- **Leslie Lerner, Houston**
- **Yazmin Perez, Hutto**
- **William Roth, Dallas**
- **Brian Sales, Midland**
- **Pamela Titzell, Lubbock.**



GUY CHIPMAN

1919-2020

GUY CHIPMAN, CHAIRMAN OF TEXAS REALTORS® IN 1983, PASSED AWAY AT HIS HOME IN BOERNE ON MAY 3 AT THE AGE OF 100.

Chipman was born in Georgia in 1919 and grew up at military posts and bases where his father was stationed before receiving an Army Reserve Commission himself in 1939. He spent nearly five years with armored cavalry units during World War II and was a real estate officer for the Army Corps of Engineers during the Korean War. After being discharged, he started the Guy Chipman Company, REALTORS® and quickly become a prominent broker in San Antonio.

During his term as chairman, the association successfully lobbied for legislation that established the Texas Real Estate Broker-Lawyer Committee, an advisory body to the Texas Real Estate Commission that reviews all promulgated contracts.

A proponent of creating forms that protected buyers, sellers, and agents, Chipman went on to serve as co-chairman of the Broker-Lawyer Committee for 19 years. He also published many opinion pieces and legal articles in *Texas REALTOR®* magazine over the years.

“Guy Chipman was an outstanding leader for the REALTOR® association,” said Texas REALTORS® President/CEO Travis Kessler. “He had tremendous influence on raising the professionalism of our industry, and was instrumental in the development and refinement of standardized forms in Texas that made real estate transactions better for agents and their clients.”



THINGS TO KNOW WHEN MOVING A HOUSE

Moving a structure from one location to another is an option for homes in flood zones, historic homes, or even when it's more cost effective to move a home than build a new one. However, there are some things to know when your client is considering whether moving a home is the right choice.

Permits Will Likely Be Needed

Building permits may be necessary to lift the house from its current site and for work on the site where it will be moved. In some municipalities, there may be permits specific to structural moves, and the Texas Department of Motor Vehicles requires permits for moves where the home is wider than 20 feet. Structural moving companies should know which permits will be required for a move in your area.

A Contractor Will Be Needed To Disconnect The House

A general contractor or several specialized contractors will likely be required to disconnect the home's plumbing, HVAC, and electrical systems, as well as assess the foundation. Utilities must also be disconnected.

The Route Will Need To Be Prepared

Preparing the route is one of the biggest costs of moving a home. Lifting low-hanging utility lines along the route is a significant cost factor. Larger homes may also need poles shifted, trees trimmed, signs moved, and possibly traffic control.

It May Be A While Before You Live In The Home Again

It could be months from the point where utilities are disconnected till the home is moved, placed on a new foundation, and reconnected. Not being able to access the home and finding another place to live for the intervening time is another cost and factor to consider.

HOW SPACIOUS ARE APARTMENTS IN TEXAS CITIES?



A study from apartment search website RENTCafe ranks cities across the country by how spacious apartments are on a per person basis.

The study takes the average square feet of units in large-scale apartment developments—those with 50 units or more—and divides that figure by the average household size of renters in apartments per the U.S. Census Bureau. Nationwide, each resident of a large-scale apartment development can expect 526 square feet of space on average.

In Texas, apartment renters in Lubbock have the most elbow room, at 567 square feet per person, thanks to an average apartment size of 920 square feet and average household size of 1.6 people. With the smallest average apartment size (810 square feet) and a tie for the largest household size per apartment (2 people), El Paso ranks last among the Texas cities in the study at 397 square feet per person. (Dividing average apartment size by average household may give different results due to household average rounding).

Texas cities in the study ranked by space per person:

1. Lubbock: 567 square feet
2. Plano: 561 square feet
3. Corpus Christi: 559 square feet
4. Dallas: 538 square feet
5. Fort Worth: 538 square feet
6. San Antonio: 511 square feet
7. Austin: 504 square feet
8. Houston: 487 square feet
9. Arlington: 463 square feet
10. Garland: 461 square feet
11. Irving: 435 square feet
12. El Paso: 397 square feet.

The study is available at rentcafe.com/blog/rental-market/market-snapshots/apartment-space.

USE RPR COMMERCIAL TO HELP CLIENTS FIND NEW PROPERTY USES



Sometimes commercial properties are marketed and sold for new uses. REALTORS® can use RPR Commercial to help clients determine the best potential businesses for a given property.

Only available to members, RPR Commercial is a comprehensive database that offers location-specific reports for clients. The reports can show potential customer bases in an area based on demographic data around that location. RPR Commercial also provides lists of over- and under-represented businesses in an area.

This powerful commercial-property data tool is one of many member benefits included as part of your NAR dues. Learn more at narrpr.com/commercial.

CONNECT WITH PEOPLE WHO CAN HELP YOU



Many people use Facebook to keep up with friends and view funny memes. But when you join a Facebook group based on a professional interest or affiliation, you connect to others who can provide you information, recommendations, and answers to your questions.

You may be able to find groups for designations and certifications you've earned, committees on which you have served, real estate franchises, in-person networking groups, real estate instructors who have taught classes you attended, and more. Ask your fellow agents and brokers about professional Facebook groups they find valuable. You can also type in keyword searches on Facebook to try to find groups that are a good fit for you.

Many professional Facebook groups are private, so you may have to submit information to a moderator to prove you meet the criteria. Before you start posting to a group you have joined, read the rules. You may find some groups that allow referral requests and marketing messages, while others do not.

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KEEP YOUR DATABASE CLEAN WITH 3 QUESTIONS



You're always collecting leads. You get referrals from past clients, friends, and family. You collect prospects from your website and other marketing efforts.

But it's not worth keeping every lead forever in your address book or customer relationship management (CRM) system. Ask these three questions to figure out who to keep and who might need to go.

Are They Ready?

If your neighbor mentions that he's thinking about someday buying a bigger home, you should note that he's not ready to buy or sell today. Conversely, a prospect who indicates on your web form that he wants to interview listing agents tomorrow should be tagged as such.

Categorize your leads into buckets that make sense to you. They should indicate if the lead is ready now, will be in a specified time period, or hasn't given a time frame.

Did They Provide Good Data?

Prospects who give you incomplete or bogus information about their real estate needs might not be worth your time. However, many of these are judgment calls.

It's easy to delete Abraham Lincoln, who entered a phone number of 713-123-4567 and said he was looking for "outhouses in Harris County." It's harder when a prospect omitted a last name, made a typo in his email address, and didn't indicate what property or services he was interested in.

Are They Engaged?

Leads who have unsubscribed from your email messages or otherwise indicated that they don't want to hear from you are obvious candidates for removal. However, what about contacts who seem disinterested or are unengaged? Set some criteria to establish who qualifies as "unengaged."

Some CRM systems help you track interactions—they may track engagement on your website and social media channels. But you can take a low-tech approach. For example, a contact is "unengaged" if you haven't had a conversation or exchanged messages in the past 12 months. Or you've reached out three times in the past 18 months without a reply.

None of these questions on their own will give you enough information to decide whether to delete a lead. However, the answers to all three taken together provide a clearer picture of whether the prospect is worth pursuing.



THESE PROGRAMS CAN HELP FINANCE FIRST HOMES

First-time homebuyers say getting a mortgage and saving for a down payment were two of the most difficult steps in the buying process, according to the *2019 Profile of Texas Homebuyers and Sellers*.

Several government and financial institutions offer programs to help first-time homebuyers. They often take the form of 30-year fixed interest rate mortgages that include down payment and/or closing cost assistance.

Share the resources below with your clients. Remember to make all resources available to all clients to adhere to fair housing regulations.

The Texas Department of Housing and Community Affairs (TDHCA) offers the **My First Texas Home** and **My Choice Texas Home** programs. The My First Texas Home Program is available to eligible first-time homebuyers, veterans, or homebuyers who have not owned a home within the past three years. It also includes an option to lower your federal taxes through the Texas Mortgage Credit Certificate Program. The My Choice Texas Home Program is open to all eligible homeowners and includes down payment and closing cost assistance. The program cannot be combined with the Texas Mortgage Credit Certificate. Visit tdhca.state.tx.us and click on *Texas Home Buyer Programs*.

The Texas State Affordable Housing Corporation offers the **Home Sweet Texas Loan Program** and the **Homes for Texas Heroes Home Loan Program**. Both programs feature down payment assistance as a grant that does not need to be repaid or a forgivable second lien loan. Home Sweet Texas applicants do not have to be first-time homebuyers and can use the Mortgage Credit Certificate. Homes for Texas Heroes loans are available to public school teachers, counselors, librarians, nurses, police officers, firefighters, EMS personnel, corrections officers, active members of the military, and veterans. Visit tsahc.org and click on *Programs for Home Buyers*.

The Southeast Texas Housing Finance Corporation offers the **SETH 5 Star Texas Advantage** and **SETH GoldStar** programs. In addition to mortgages, the programs provide down payment and closing cost assistance. The programs are available to eligible homebuyers who do not live in Travis County or the city limits of El Paso and Grand Prairie. Visit sethfc.com and click on *Home Buyers*.

The U.S. Department of Agriculture offers mortgage loans with low rates and no down payment requirement through **Single Family Housing Direct Home Loans**. The program is intended for low-income applicants. Visit rd.usda.gov and click on *Buy, Build, or Repair a Home*.

HISPANIC HOMEOWNERSHIP CONTINUES TO INCREASE



Over the past decade, Hispanics have accounted for roughly half of all U.S. homeownership growth, according to the *2019 State of Hispanic Homeownership Report*. Hispanics added 1.9 million new homeowners, or 51.6% of homeownership growth.

During the same time period, Hispanics accounted for 40.4% of all new households formed, adding 4.3 million households. Many of the new households were added in Texas. The Lone Star State had two markets that added the most Latino owner households between 2013-2018: Houston/The Woodlands/Sugar Land, with 40,013 households, and Dallas/Plano/Irving, with 35,630 households. Midland experienced the fastest growth rate of Hispanic homeowners, at 57.9%. Statewide, the Hispanic homeownership rate was 57.26% in 2019. Hispanics are 39.6% of the population. The median household income was \$48,175.

The report, from the National Association of Hispanic Real Estate Professionals, says 2019 marked the fifth consecutive year of gains in the Hispanic homeownership rate. Hispanics netted 277,000 new households, raising the total number from 7,879,000 in 2018 to 8,156,000 in 2019. The homeownership rate increased from 47.1% in 2018 to 47.5% in 2019. Latinos purchased homes with a median property value of \$225,000 in 2018.

The report also included survey results from the National Association of Hispanic Real Estate Professionals' top producers. Among the results, 56.4% of top producers said referrals were the number one way to find Latino clients in 2019, and that 44.6% said Hispanics are more likely to prefer a fixer-upper than non-Hispanics. The survey also said 36% of NAHREP top producers reported that more than half of their transactions were conducted entirely in Spanish.

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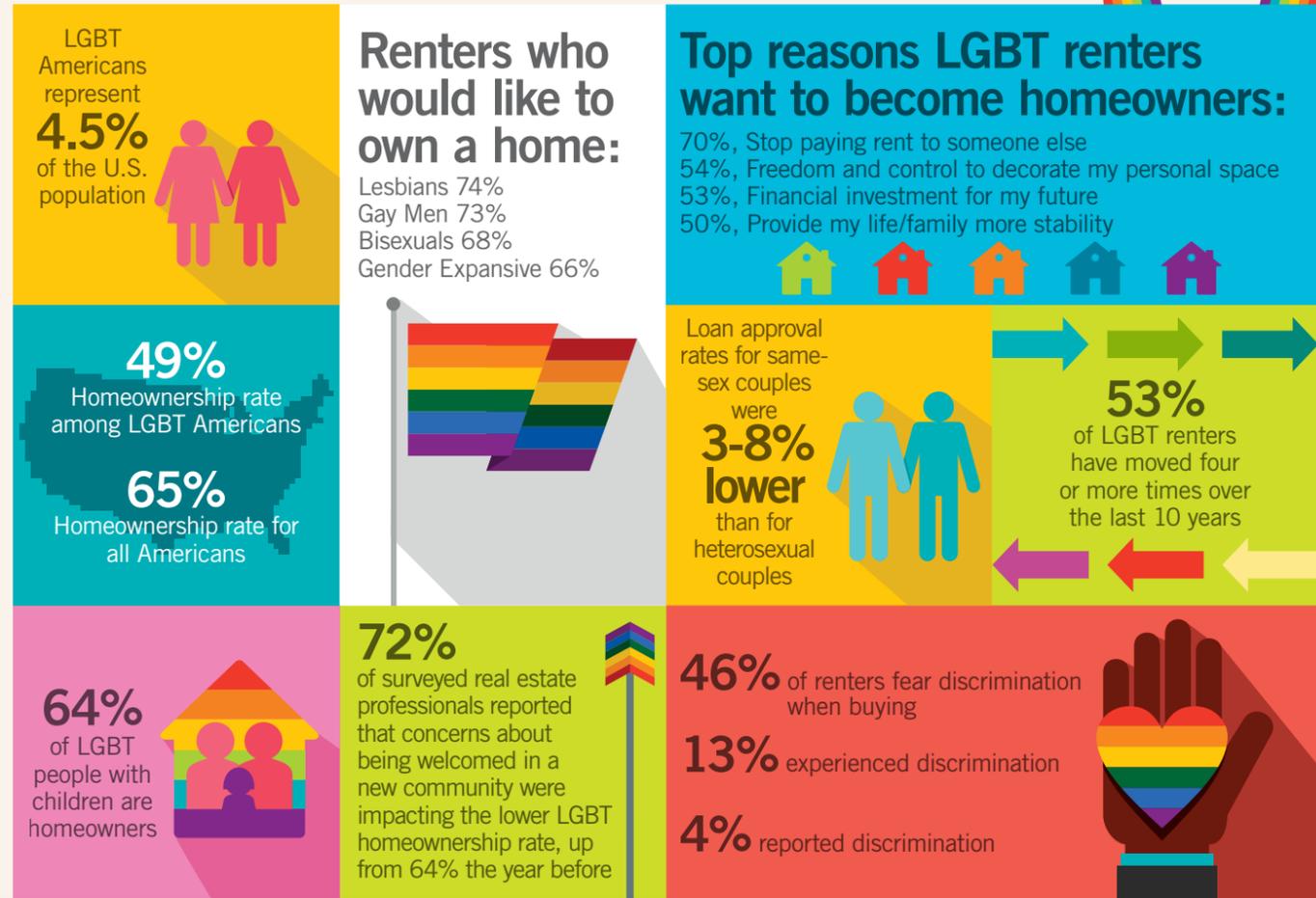
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BUSINESS

REPORT OFFERS LGBT REAL ESTATE INSIGHTS

The National Association of Gay & Lesbian Real Estate Professionals recently released its 2020-21 *LGBT Real Estate Report*. Here are some highlights:



Renters who would like to own a home:

Lesbians 74%
Gay Men 73%
Bisexuals 68%
Gender Expansive 66%

Top reasons LGBT renters want to become homeowners:

70%, Stop paying rent to someone else
54%, Freedom and control to decorate my personal space
53%, Financial investment for my future
50%, Provide my life/family more stability

Loan approval rates for same-sex couples were **3-8% lower** than for heterosexual couples

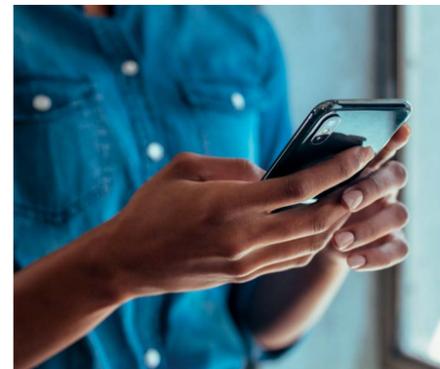
53% of LGBT renters have moved four or more times over the last 10 years

46% of renters fear discrimination when buying

13% experienced discrimination

4% reported discrimination

6 TIPS FOR TEXT MESSAGE MARKETING



Most people have their phones with them morning to night, so what better way to get in front of prospects than texting, right? If you currently use text messages to market or are thinking of jumping in, consider the following do's and don'ts:

Do Get Permission

No one likes unsolicited marketing messages. Sending text messages without permission is not only annoying, it's illegal. Consent must be in writing. You can log that permission through a webform, email, or a text message itself.

Do Give a Way to Unsubscribe

Let people know up front how to get off your list if they decide they no longer want to hear from you.

Do Let People Know What They Will Get

Tell prospects and clients what kind of information and frequency to expect from your texts.

Do Have a Reason to Text

Why are you interrupting someone's day? Merely reminding people that you can help them with their real estate goals isn't enough. Provide recipients with information they will find valuable—like the latest median sold price in their neighborhood—or an action they can take, such as scheduling showings of new listings.

Don't Go On and On

Text messages work best as brief communications. If you want to send a newsletter, use email or print instead.

Don't Ignore Responses

If someone replies to your message, are you ready to answer? The quicker you respond, the more value you provide and the more likely the exchange will benefit you as well.

ISRAEL SUSTER, Attorney

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Representation in North Texas and throughout the State



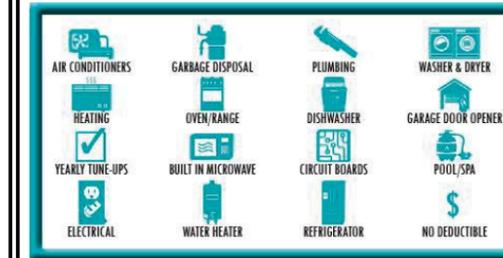
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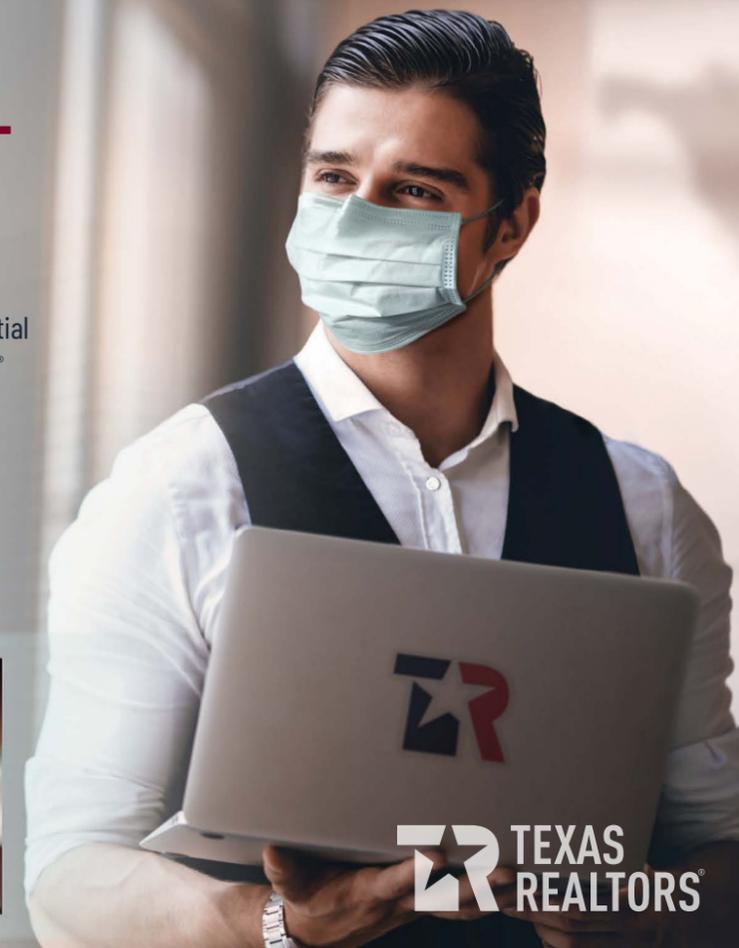
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TEXAS REALTORS®

DO SMART-HOME DEVICES CONVEY?

Residential sales contracts in Texas generally state that the land, improvements, and accessories are all a part of the sale of the property.

Some smart-home devices may be explicitly listed as a part of the property in the residential contracts. For example, the contracts state that security and fire detection equipment are included in the sale.

For items not explicitly listed in the contract, a three-part test is used to determine whether they're considered permanently installed and built-in and would therefore be part of the sale:

- How is the item attached? Will the property be damaged by its removal?
- Is the item customized or standard for the property?
- Was the installation intended to be permanent or temporary?

For example, an internet-connected light switch is likely permanently installed, but a smart-home lightbulb can be easily removed without damaging the fixture.

Sellers who wish to exclude certain smart-home items from the sale can instruct their Texas REALTOR® to list those items under the exclusions section of the contract.

Buyers who want to request that specific smart-home items are included in the sale can instruct their Texas REALTOR® to prepare the *Non-Realty Items Addendum to Contract* (TXR 1924) with the appropriate items listed.



ACTIONS FROM TREC'S MAY MEETING



The Texas Real Estate Commission met remotely on May 5. Below are highlights relevant to REALTORS®.

New Proposed Form Language

The Broker-Lawyer Committee brought forth several proposals for changes to TREC's forms. The earliest the proposed changes could be reviewed and voted on for adoption would be at TREC's August meeting. Below are the significant changes that have been proposed:

- **Smart devices:** Language in the forms would be updated to account for modern technology becoming more common in homes.
- **Leases:** There would be new language and addenda for fixture leases and residential leases.
- **Prorations:** Clarifying language would be added regarding payment of prorated taxes.
- **Termination option fee:** A proposal would change payment of the termination option fee to the escrow agent instead of the seller.

These proposed changes will be available for public comment in the *Texas Register*, and the full text of the changes can be found in the meeting materials. Texas REALTORS® encourages members to review the proposed language closely and send TREC your comments.

Adopted Rule Changes

The commission approved a handful of new rules. The first change, to \$535.92, requires three hours of real estate contract-specific education within the 18 hours of required continuing education courses. This change does not increase the number of non-elective hours licensees are required to take.

Changes were approved for \$535.72 to streamline non-elective education courses. The change allows exams for online courses to take place within the instruction time, as is done for in-person courses.

Finally, changes were adopted to \$535.75 that streamline requirements for continuing education providers by only requiring examinations for non-elective continuing education courses regardless of course delivery method.

Get All the Details

You can watch the full meeting and download the agenda and materials at trec.texas.gov > *Agency Information* > *Meeting and Minutes*.

AVOID RISK BY AVOIDING PROMISES

by Lisa Scoble

It's easy to fall into the trap of making a property sound better than it really is. An extra adjective or two can make an average property sound like the best thing since sliced bread. But when agents cross over into blatant promises of profitability, performance, or future value, the risk of a claim and unwanted litigation becomes excessive.

Here's a real-world scenario where a real estate agent went too far with promises and guarantees, and it led to perilous consequences.

Guarantees can lead to problems

A real estate agent marketed a commercial property that included street-level retail and residential units on the upper two floors. The residential units were producing a steady stream of revenue, since they were occupied by longtime residents who were making timely rental payments. However, the owner of the property operated a failing business on the ground level and was eager to sell the entire building before the mortgage holder began foreclosure actions.

The real estate agent was overly optimistic about the location of the property and erroneously believed that the street level retail could be successful. In addition, the agent felt the residential rents could be increased, since the tenants were comfortable living there and were unlikely to move.

While working with a prospective buyer, the real estate agent guaranteed the buyer's greeting card business would generate a positive cash flow as street-level retail, and the residential tenants would absorb an increase in their monthly rent.

Buyer sued, alleging misrepresentation

Given these assurances, the buyer decided to acquire the property and notified the tenants of their respective rent increases shortly after the close of escrow. Within the first few months, four of the six tenants told the new owner they were unable to pay the increase and were moving. The buyer experienced difficulty in finding new tenants willing to pay what was needed to make the residential component successful.

Compounding the problem, the buyer's greeting card business was not seeing the desired foot traffic and corresponding



revenue. Over the ensuing months, the status of the business remained unchanged, so the buyer sued the real estate agent, alleging that he intentionally misrepresented the property's profit potential. Damages sought included lost business profits and lost rental income. The parties ultimately resolved the litigation for \$50,000 in lieu of enduring a two-week trial.

No promises about future value

Agents should never make promises or guarantees about the revenue potential or future value of any property marketed for sale. Acting outside their scope of expertise is a dangerous proposition, and such tasks should be left to a buyer as part of their due diligence obligation. Agents should always recommend in writing that buyers seek the counsel of qualified accounting and financial planning experts to help them make decisions on whether to acquire revenue-producing property. Following this practice will not only result in satisfied buyers but will help avoid unwanted litigation.

Most real estate errors and omissions policies do not provide coverage for claims arising out of promises, warranties, or guarantees of the future value of property, or the income potential or performance of a business. A lack of coverage can make this kind of mistake even costlier.

LISA SCOBLE is vice president of program business at Pearl Insurance, which is a Texas REALTORS® E&O risk management partner.



Your Forms COMMERCIAL TENANT ESTOPPEL CERTIFICATE

In some commercial sales of a property with a tenant, the lender or prospective lender may require from the tenant verification of information such as the lease term, current rent, any breaches, and other rights or obligations of the party under the lease. The *Commercial Tenant Estoppel Certificate* (TXR 1938) is designed to be completed by a tenant for this purpose. The tenant certifies that the statements in the certificate are true.

This is just one of more than 130 forms exclusively for members of Texas REALTORS®, including dozens of forms for commercial uses.

STEP AWAY FROM THE SELLER'S DISCLOSURE NOTICE

by Bo Blackburn



Here's some risk-management advice that might surprise you: Real estate agents should not help sellers fill out the *Seller's Disclosure Notice*. Agents who do increase their liability—and their broker's liability—in lawsuits.

The majority of residential real estate lawsuits involve the buyer bringing a claim against the seller. Other participants who often get pulled into a buyer's claim are the listing agent/broker, the buyer's agent/broker, and the inspector. The claim often boils down to some form of misrepresentation about the condition of the property.

When buyers sue alleging fraud, they must prove all of the following:

- The seller made a material representation that was false.
- The seller knew it was false or made it recklessly as a positive assertion without any knowledge of its truth.
- The seller intended to induce the buyer to act upon the representation.
- The buyer relied on the representation that caused the injury.

In order to prevail in court, the buyer must prove the party made a material statement that was false. In layman's terms, the buyers have to prove that they were lied to. The most frequent evidence on which buyers base their fraud claims are the *Seller's Disclosure Notice*, agent marketing materials, and MLS statements.

The *Seller's Disclosure Notice* is the document that contains most, if not all, of the seller's representations about the property's condition. For that reason, I encourage agents to think about the *Seller's Disclosure Notice* as the Seller's Representation List, because it is a list of representations from the seller, *not* the agent. Agents should not take any actions or make any statements that would allow anyone to argue that the *Seller's Disclosure Notice* is the agent's own disclosure—sellers must complete it on their own.

If you insist on helping the seller complete the notice, please understand you are taking on extra and unnecessary liability for you and your broker.

Reasonable minds can disagree on whether agents should check the notice for accuracy. I recommend checking for completeness, not accuracy, because checking for accuracy may increase the agent's liability. One last point: Agents who list their own properties through their broker should check to see if their E&O policy covers agent-owned listings for claims of seller misrepresentation. A lot of policies exclude agent-owned listings from coverage.

BO BLACKBURN is co-founder and chief risk officer of Sellers Shield, a risk management partner of Texas REALTORS®. Sellers Shield is a free disclosure tool sellers can use to fill out the Texas REALTORS®'s Seller's Disclosure Notice (TXR 1406), separating the agent from the process.

IF YOU INSIST ON HELPING THE SELLER COMPLETE THE NOTICE, YOU ARE TAKING ON EXTRA AND UNNECESSARY LIABILITY FOR YOU AND YOUR BROKER.

Contract Closeup SURVEYS FOR RESIDENTIAL PROPERTIES



Paragraph 6C of the *One to Four Family Residential Contract (Resale)* (TXR 1601) includes requirements for property surveys.

This paragraph requires that the survey must be prepared by a registered professional land surveyor acceptable to the title company and the buyer's lender. An agent should ensure that the survey meets these standards if the party the agent represents is required to obtain a survey for the property.

Paragraph 6C(1) should be used when the seller has an existing survey of the property. It is imperative for the seller's agent to ensure that the seller has an existing survey before selecting this option. In this subparagraph, the seller agrees to provide a copy of the existing survey and a *T-47 Residential Real Property Affidavit* to the buyer and title company within the prescribed time. If either document is not delivered, the contract specifies that the buyer will obtain a new survey at the seller's expense no later than three days before closing.

If the existing survey and T-47 affidavit are delivered but either or both of them are unacceptable to the title company or the buyer's lender, the buyer must obtain a new survey. The contract includes checkboxes the parties can use to specify who will pay for the new survey. The contract implies that the buyer will select the survey company regardless of who is paying for it.

Paragraph 6C(2) should be used when the parties are aware that the seller does not have an existing survey and have agreed that the buyer will obtain and pay for a survey within an agreed-upon number of days after the effective date. This subparagraph states that the survey is deemed to have been received either on the actual date of receipt or the date that is in the contract, whichever is earlier. This is important to note for purposes of the date calculations in Paragraph 6D regarding objections to the title, survey, and exception documents.

Paragraph 6C(3) should be used when the parties are aware that the seller does not have an existing survey and have agreed that the seller will obtain and pay for a survey that will be delivered to the buyer within an agreed-upon number of days after the effective date.

Though Paragraphs 6C(2) and 6C(3) do not expressly specify that the survey will be delivered to the title company and buyer's lender, it is implied from the language at the beginning of Paragraph 6C that the survey will be delivered to both. Except in those instances in Paragraph 6C where the contract specifies what happens if the obligation is not performed or the obligation is deemed to have been performed, if one of the parties does not comply with the terms of the contract and does not complete his or her obligation, that party would be in default, and the non-defaulting party could exercise the remedies in Paragraph 15.

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WHAT'S NEXT?

Two Industry Experts Provide Insights About Where The Real Estate Market Goes From Here.

These are unprecedented times. COVID-19 has disrupted lives with health concerns, financial struggles, and restrictions on activities. Amidst this uncertainty, real estate professionals, buyers, sellers, landlords, tenants, and investors are trying to figure out the best course forward. Here, *Texas REALTOR*® magazine presents the views of two longtime industry experts.

Mark Dotzour and Steve Murray are known as straight shooters. The views expressed here are their own. Their observations and opinions are presented for the benefit of Texas REALTORS® members to consider as you formulate your plans for dealing with present and future challenges caused by the coronavirus crisis.



MARK DOTZOUR, PH.D., is a real estate economist who served for 18 years as chief economist of the Real Estate Center at Texas A&M University. He has given more than 1,600 presentations to more than 295,000 people and has written over 90 articles

for magazines and journals. His research findings have appeared in *The Wall Street Journal*, *USA Today*, *Money*, and *Business Week*. These comments are excerpted and edited from a webinar he presented in early May.

If you've ever attended one of my presentations, you know that I'm happily unafraid to tell people when the market is good and happily unafraid to tell people when it's a challenge. Well, it's challenging right now. I'm concerned, but I'm also confident that the American people will overcome this situation just like they overcame 9/11.

You Can't Generalize

One of the most frequent questions I'm getting right now is what kind of recovery is this going to be—V-shaped, a U, L, or a W? That's not a helpful question, because a national average or even a statewide average is meaningless. What's going on in Laredo is not relevant to REALTORS® in Amarillo. It's different for people out in El Paso than for people in Austin. So you have to be smart about that.

But What Will Happen To Home Sales Volume?

Three things increase home sales volume: job growth, cheap mortgage money, and home price appreciation. We've had positive job growth for 11 years; we've had cheap mortgage money for about the same time; and we've had home price appreciation for more than that. But as we sit here today, there's so much uncertainty right now—so it's kind of hard to know.

We're going to have cheap mortgage money for a long time. Mortgage rates have been low for a decade, and they're going even lower—possibly for quite a while.

The government and Federal Reserve will make these low rates happen, because they know that's how we got out of the last recession in 2008.

As recently as February, I thought our next recession wouldn't happen until two years from now. But we're

in a recession now. And the Federal Reserve is doing everything they can to get mortgage rates down. You can print money and give everyone twelve hundred bucks, but that only lasts a month. But when people can refinance a 3.75% mortgage to 2.5%, that's a pay raise they get for a long time, and it really doesn't cost the government anything.

So sales volume may depend on job growth. Job growth is going to be damaged for a while. It's going to come back, but in lumps. Jobs will come back faster in some cities than others. Houston and Midland, with oil and gas—they're going to struggle. Other cities with other types of jobs could be different.

So you can see how it's more complicated than whether we're going to have a V-shaped recovery or a W or an L—it's going to vary from city to city and even from neighborhood to neighborhood. For example, in Houston, it's going to be hard on a sizable part of Houston, but there's a medical district and other parts of town where jobs clustered in certain industries are not going to be affected the same way oil and gas is going to be.

How To Talk With Clients About Home Prices

I don't see any reason why home prices need to fall. Home prices don't fall just because the national media says they will; they don't fall unless you have too much home supply in the market.

The demand for homes before the virus had been relentless, and we've been underbuilding homes for a decade. We've been in an inventory shortage for eight years. If you live in a town that's had two and a half months of inventory, and the number of home sales are cut in half, that moves you up to five months of inventory. That's still below the magic number of six and a half months that we say is a balanced market. You need the context.

This situation regarding the virus will unwind, and when it does, we're going to be right back in the same boat—without enough houses for all this growth, so people are going to bid the prices up. I see the supply continuing to be constrained.

I'm guessing home prices will be a lot higher four years from now. Could prices go lower for a few months—the first few sales by people who are under duress? That's possible.

I think houses at the bottom price range of the market may be affordable—due to lower mortgage rates—for more people for about a year, but those home prices are going to get bid up again. Think

about this: If you're looking at a \$250,000 house that's just out of your reach with a 3.75% mortgage, when you get the signal to go out the door and you can find a mortgage at 2.5% to 3%, that house is suddenly not out of range.

Home prices don't fall just because the national media says they will ... they don't fall unless you have too much home supply in the market.

- Mark Dotzour

So I can't visualize homes in the bottom third of the price range—even in Midland or Houston—going down in value that much, let alone some place like Austin or San Angelo or El Paso or Laredo. The demand is just too strong.

Months of inventory is a crucial number when you're talking to people about price trends. When talking to a client, it would be best to have not just the overall number for your city but also the subgroups of various price ranges. The months of inventory in the bottom third of the market might be one month, while the months inventory at the top third of the market could be 12 or 14 months.

This is a new environment, so old statistical models may not hold, but as a general rule, when you had six and a half months inventory, that was a "normal" market, where home prices went up about 2.5% a year. Months inventory has to get up to nine, 10, or 11 months before prices really start to fall. So if clients ask you if prices are going to fall, the real answer is that it depends on the months inventory

in a particular price range. That would lead to a very informed discussion. It might be different depending on price range.

I feel like higher-priced homes could see decreased demand and increased supply, which could lead to a significant price decline in the short term. The middle-priced market could see some decline as well. What happens when a market is kind of frozen like it is right now, the first transactions happen under duress, like with divorces or deaths. These are hyper-motivated sellers, so you could see prices dropping. But if you see some marked drawdowns in price early on, I would not assume that means the market is collapsing in price.

Investments Could Move To Real Estate

For people who don't understand the stock market, buying a house near the one they live in is one of the best investments they can make. Why? Because they understand owning a home in a way they don't understand stocks. Stock market volatility will remind people what 2008 was like. They may say, "You know what? Maybe owning a house or a duplex in my town is a better deal than owning a stock that I don't know if it's going to be worth zero in another three weeks." So I'm bullish on the investment side of real estate.

Moving Away From The Urban Core

The urban vibe just isn't what it used to be. I feel like a lot of people are going to want to move to the suburbs. And when millennials start getting married and having children, all of a sudden living on the 20th story of a high-rise downtown just isn't what it used to be.

The suburban market is going to have a lot more demand than we've seen in the last decade. The same is true for communities within 40 minutes of a major urban area. As managers and business owners have gotten comfortable with remote work, there's more opportunities for people to live 40 minutes away and come into work for staff meetings, as long as they can be monitored that they are doing their jobs.

The Bottom Line

How many people think a house someone buys today is going to be less expensive a decade from now? I don't.

Even if we have continued bad news about the virus, people are going to want to buy homes. There's an underlying demand.

I always say that clients have two goals, and it's true whether everything going's fine or things are difficult: One goal is that they are pursuing a dream of some kind, and the other goal is that they need to solve a problem. Helping clients achieve those goals is what real estate professionals do. People are sidelined for a little bit right now, but we'll get back to normal. Get out there and serve your clients!



STEVE MURRAY is president and owner of REAL Trends. He has co-written several real estate books and has served as a consultant to many local and state REALTOR® associations, MLSs, and technology companies. The comments here originally appeared in the May 2020 issue of the REAL Trends Newsletter and are reprinted with the permission of REAL Trends, Inc. Copyright 2020.

I love this industry. It's been my home for 44 years now. In my time, there have been three significant recessions and one minor one.

While today's market is unprecedented, the history of housing recessions gives us some insights. For instance, the U.S. housing market peaked at nearly 4 million unit sales in 1979 before crashing to 1.9 million in 1982, a 50% drop in two years. The next peak was in 1988 when the industry had 3.6 million closed unit sales. Notice we still didn't get back to 4 million units even though the number of total households had increased by about 10 million during that period.

The next trough came in 1991 at 3.1 million units sold and then climbed to 5.2 million in 1999—the next peak. After a small decline in 2000, the market for housing unit sales shot to 7 million in 2005. It then crashed to a trough of 4.1 million in 2008.

Think about that: In 2008, the country experienced a nearly 50% increase in the number of households (117 million in 2008 vs. 81 million in 1980), yet, at the trough, with 36 million more households, we sold only approximately 100,000 more homes.

We climbed out of the 2008 low to achieve a peak of 5.5 million unit sales in 2017 and have been slightly less than that in the last two years. As of 2019, we had 5.3 million housing unit sales—33% above the totals of 1979. Total households climbed over 55% in that same time frame.

One other interesting fact: The industry hit 4 million-unit sales in 1979 and did not reach that number again until 1996—nearly 17 years later. The peak of 1999 at 5.2 million was only slightly exceeded by the peak of 2017 at 5.5 million-unit sales—that's in 18 years. One must make an exception for the burst of housing sales from 2003–2006 based on the excess of mortgage laxness, which we are all too aware of today.

I would love to think that this will be the first V-shaped housing recovery in the last 40 years (which didn't have funny money mortgages involved). History indicates otherwise. Recessionary shocks to the entire economy typically unnerve consumers, especially when it comes to housing. The history of the last 40 years instructs us that recoveries are often drawn out over years, not months.

Is This An Anomaly?

I share this with some reluctance because it has far-reaching implications for every brokerage and

agent in the country. I'm also reluctant because, of course, this could be the exception to the last 40 years of brokerage sales history. Why?

First, I recall the experience of living through 9/11, when housing sales in New York City and elsewhere shuddered for three to four months, then took off on a tear.

Second, it occurs to me that once the shock of the medical and employment waves have been incorporated into our thinking and our lives, a majority of Americans will want to get back to living. They'll want to do all the things that we enjoy doing, whether that means going out for dinner, taking a trip to the beach, going to the movies, worship services, and sporting events—the things that give our lives meaning and enjoyment.

In short, once this shock wave has passed, will Americans yearn to get back to a life that many enjoyed fully?

I think we will. And despite what the long-term track record of housing recoveries shows, this time will likely be different. After all, there are incredibly low-interest rates, and those with stable jobs may see this as an opportunity to grab a great house when others are on the sidelines.

The Outlook For Brokerage Firms

Each time the brokerage business has gone through a recession, significant changes occurred in the structure of brokerage firms. Here are some examples:

After the 1980-82 recession, brokerage firms began to increase the size of their offices in terms of the number of agents; stopped offering programs to buy homes from sellers when the home wouldn't sell (yes, leading brokerage firms in the late 1970s and early 1980s were iBuyers). The trend towards franchising in our industry experienced significant growth.

After the 1988-1991 housing recession, brokerage firms started the process of cross-marketing mortgage, title insurance, escrow, and other services. The move towards national brands became more pronounced. The early 1990s were some of the most significant growth years for Coldwell Banker, Prudential, and RE/MAX.

After the 2006-2010 recession, brokerage firms finally stopped using classified advertising. Even as late as 2007, classified advertising in newspapers was still the largest line item in many firms' advertising budgets. It took the recession to kill that idea for most brokerage firms once and for all.

What Might Happen To Incumbent Brokerage Firms Now?

Fewer, smaller offices would seem to be at the top of the list. Occupancy costs range from 22% to 32% of gross margin for many traditional brokerage firms. That ranks only behind employment costs as the most expensive segment of overhead. With gross margins coming down from 22% to 14% over the past six years (the national average among all brokerage firms), the trend toward fewer and smaller offices was already becoming evident. Now that brokerage firms and their agents are doing most of their work from home offices, some brokerage firms may use the next few years to reduce the size and number of offices.

Short term, there is a movement to the rural and exurban markets—will it continue? REAL Trends has spoken to the leaders of two major rural, farm and ranch property brokerages that report their website traffic has grown in the past month, and they see measurable increases in purchases of rural property. Tied with the reported flow of families from major metro areas to suburban and rural markets, this seems to indicate that, at least for the short term, families are seeking shelter outside of major metropolitan areas. Is there an opportunity for metro brokerage firms to expand their offerings into the countryside to follow this shift?

Capitalizing On Existing Technology

Brokerage firms and their agents will, at last, start building their business practices around available technology platforms rather than trying to make technology fit their existing business practices.

Many brokerage firms and agents sought to build technology to support their existing business processes and practices. The recession in the housing market, no matter how long or deep, is likely to drive the brokerage community to rethink that approach. Evidence that we've seen from Adwerx and leading CRM providers shows a direct correlation between the full use of these existing platforms (and others) and increased productivity and retention factors. As brokerage firms rethink their approach to technology, they will also take advantage of the information that systems can provide to deliver more useful insights for their firms.

What About Newer Brokerage Firms and Real Estate Portals?

Zillow, Redfin, eXp, and Compass (and their

Once the shock has been incorporated into our thinking, the majority of Americans will want to get back to the things that give our lives meaning and enjoyment.

- Steve Murray

investors) will get to discover that they are in the residential brokerage business and are thus affected like everyone else.

I think these firms will make the adjustments necessary to survive—different than they may have guessed—but each should become stronger and more focused than before this downturn started. This also goes for firms like Open Door and OfferPad.

While iBuyer activity seems to have cooled off for the time being, these programs will pick up again once a new floor of housing sales has been determined and what damage, if any, has been done to housing values.

For firms like Zillow and realtor.com, the decline in housing sales will affect how much agents and brokerage firms spend on online advertising. For firms like Redfin and Compass, the decline in sales will negatively affect their revenues and profit and loss statements. In the case of Zillow and Redfin, the loss of growth from iBuyer activity will have a significant impact on their growth.

It's funny that at exactly the time iBuyer activity would seem to be a real winning strategy (no need for showings, etc.), many of the leaders in the segment pulled back.

As with previous recessions, we will only know for sure how these scenarios play out when we can look back and study the outcomes.

How Wide Can An Unspecified Easement Be?

The Texas Supreme Court weighs in.

by **Tiffany Dowell Lashmet**

Three landowners in Bowie County own land burdened by a utility easement held by Southwestern Electric Power Company. The easements were granted to the power company's predecessor in 1949 by the landowners' predecessors in title. The easement document provides as follows:

"[A]n easement or right-of-way [is granted to Southwestern Gas & Electric Company] for an electric transmission and distributing line, consisting of variable numbers of wires, and all necessary or desirable appurtenances (including towers or poles made of wood, metal or other materials, telephone and telegraph wires, props and guys), at or near the location and along the general course now located and staked out by the said Company over, across and upon the following described lands . . . Together with the right of ingress and egress over my (our) adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wires on, maintaining and removing said line and appurtenances . . ."

Importantly, none of the documents specified a width of the easement.

In 1949, the company constructed a wooden-pole transmission line. The company has continued to use the easement to maintain the line following the same general path since the line's construction.

Updating the transmission line without an updated agreement

In 2014, Southwestern Electric Power Company began a project to rebuild and modernize the transmission line, replacing wooden poles with steel. The company sent landowners a letter informing

them of the planned modernization of the line and offering each of them \$1,000 in exchange for supplementing the existing easement to include additional terms. The supplemental agreement would have expressly included a width of 100 feet.

The plaintiff landowners refused to sign the supplemental agreement, but the company entered their properties anyway and upgraded the transmission line under the original terms of the 1949 easement.

See you in court

The landowners filed a declaratory judgment action in the Bowie County District Court seeking a ruling that the company's easement was limited to 30-feet wide, 15 feet on each side of the transmission line. Their rationale was that the company had only ever used 30 feet for the transmission line. The landowners argued that should be the maximum amount of land the company is allowed to use in the future.

A bench trial was held. Over objection, the judge allowed extrinsic evidence from the landowners regarding the historical use of the easement. The company maintained that the general easement it has for the property is not limited to a specific width but instead gives the company the right to access the property as much as is reasonably necessary for the purposes specified in the easement. The court found that the company had only used 30 feet in the past and limited future use to the same width.

Southwestern Electric Power Company appealed to the Texas Court of Appeals. The court held that the general easement described a "framework or skeleton of the easement conveyed without describing the width" and, therefore, extrinsic

evidence of historic use was admissible. Further, the court held that once the company had built and maintained the transmission line, "its rights under the easements became fixed and certain." Thus, the court of appeals affirmed the lower court's ruling.

Southwestern Electric Power Company appealed that decision to the Texas Supreme Court.

Should a court supply a missing term?

The Texas Supreme Court noted the easement essentially grants to the company two rights: 1) the right-of-way on the property on which it may construct a transmission line upon a particular course; and 2) the right of ingress and egress over the property adjacent to the right-of-way. The easement does not specify the maximum width of the easement, nor does the easement specify how much land the company may use for ingress and egress.

The legal issue before the Supreme Court was whether the trial court was correct to admit extrinsic evidence to determine the scope of the easement. The court determined that, at least under the language at issue in this case, the lack of a specified width in an easement does not mandate the admission of extrinsic evidence to prescribe a width. Determining a limited width where the parties did not negotiate for or agree on one, the court reasoned, is not something a court is required to do.

The court stated, "We see no reason to disturb this Court's...long-standing treatment of general easements in Texas. The starting point of any exercise in easement construction is the same as for contract interpretation: the easement's plain language. If the easement's terms are ascertainable and can be given legal effect, courts will not supplant the easement's express terms with additional terms nor consult extrinsic evidence to discern the easement's meaning. Parties who enter into easements are certainly capable of writing a fixed width into the easement. That is their prerogative. But as the prior cases demonstrate, sometimes parties to an easement account for anticipated developments in technology and demand by not fixing an easement's width. The use of a general easement without a fixed width is a strategic decision that does not render an easement ambiguous or require a court to supply the missing term."

Further, the court noted that the landowners purchased the property already subject to this easement, which did not specify a width. The landowners were free to re-negotiate with the company to limit the width of the easement—which the company sought to do with their 100-foot offer—but the parties refused. As a result, "the Landowner's properties remain burdened by general easements with no fixed width."

The plaintiffs may still have options

Lastly, the Supreme Court noted that the landowners are not without recourse as to the company's future use of the easement, because the holder of a general easement must utilize the land in a reasonable manner and only to the extent that the use is reasonably necessary. Thus, the court says, the landowner has the right to pursue recourse if the grantee utilizes the land in an unreasonable or unnecessary manner. If the landowners believe the company is utilizing the easement in a way that is unreasonable, not reasonably necessary, or that violates the express terms of the easements, the landowners may bring suit to enjoin the company's use of the easements.

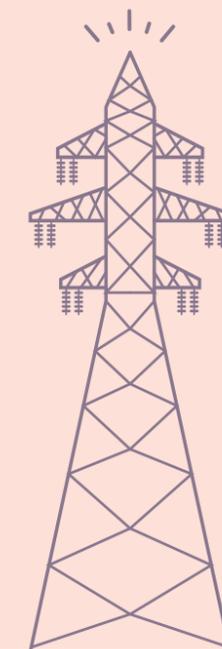
This case illustrates the importance of detailed terms, such as a set limitation of width, in every easement agreement. The chances of the court implying limiting terms into a general easement appear extremely unlikely given this opinion.

How can landowners protect themselves?

If a landowner is negotiating an easement agreement, including specific, measurable terms is critical to ensure these limitations exist. Keep in mind that the first easement offer from the pipeline or transmission line company will likely not have these types of limiting terms included. Landowners must negotiate for them!

For landowners who may have general easements already burdening their property, this case indicates there are likely two options for imposing limitations: 1) renegotiate the agreement to include specific limitations, or 2) seek an injunction if the easement holder is using the land in an unreasonable manner or in violation of the express terms of the agreement.

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*, which includes a chapter on pipeline and transmission line easements.



What Landowners Should Strongly Consider Before Agreeing to An Easement

One issue not discussed in the Supreme Court's opinion is that the easement contained the language "at or near the location and along the general course now located and staked out by the said Company." What was the width of the easement that was staked out in 1949? Could this have been an attempt by the parties to identify a width of the easement? We do not know these answers, but it does offer another lesson: Terms in an easement must be carefully drafted, measurable, precise, and able to be determined from the text of the easement itself, even 70 years later. Landowners would be wise to hire an attorney to help with negotiating and drafting easement agreements.

—Tiffany Dowell Lashmet



We're Ready to Help

Q&A with TREC Executive Director Chelsea Buchholtz

Interview by Joe Olivieri

Chelsea Buchholtz started January 1 as executive director of the Texas Real Estate Commission and commissioner of the Texas Appraiser Licensing and Certification Board. She formerly served as TREC's general counsel and is the commission's first female executive director.

What's the most important thing REALTORS® should know about TREC?

We're just here to help. Our agency can fulfill its mission by balancing consumer protection with regulation that supports the continued economic growth in the changing marketplace.

To do that, we need license holders who are successful and well trained and informed. When our license holders are well equipped, it makes TREC's job a whole lot easier.

How do you see the relationship between TREC and Texas REALTORS®?

First, it's important to remind everyone that TREC and Texas REALTORS® are not the same entity. We each have our own missions, and people often get us confused.

TREC is the agency that licenses agents and brokers and protects consumers. We regulate license holders and enforce laws.

It's important to me personally to have a healthy relationship with license holders and the associations that speak on their behalf, especially Texas REALTORS®.

We may not always be in lockstep because we have different roles. But our missions do overlap; they're not identical. With that in mind, it's important for TREC and Texas REALTORS® to be candid, communicative, and transparent with each other, and provide the benefit of the doubt to each other. I think that's happening really well right now. I'm committed for it to continue. I would say our relationship is strong and getting stronger.

What has been your primary focus since starting as executive director?

My first focus has been staffing. I was general counsel before I was executive director, so I needed to hire my replacement. I needed a director of finance.

My other focus is organizational planning. Are we as good as we could be? How could we be more responsive to the needs of consumers and license holders? How do we need to spend our energy and time in terms of our initiatives?

Commission Chair Scott Kesner and I planned a tour across Texas to ask

license holders those questions. We couldn't complete that schedule of in-person meetings, but we will continue that remotely in the next month or two.

What do you see as the biggest challenges and opportunities for TREC right now?

Well, an obvious challenge right now is COVID-19 and how that's changed things. There are so many unknowns associated with it.

Also, we have a challenge of how best to reach license holders because of how many there are. If you combine the appraisers and all the real estate professionals who we license, we have more than 200,000 license holders. Engaging with that population on a personal level becomes a challenge but one that is very important to me. Those more than 200,000 people have differing opinions and needs, and we want to support that.

For opportunities, I would say it's a chance for a fresh start and a new beginning. With every transition comes an opportunity for something new: relationally, culturally, and organizationally. I'm not looking for any sort of wholesale change, but I want to take the opportunity to review and change what's necessary and to lead with my distinct style and vision.

Obviously, the coronavirus pandemic is going to affect how real estate professionals do business for the near future. What would you like REALTORS® to know about TREC's position going forward?

Well, I sense there's a wariness in the industry and fear of what is ahead in our economic environment.

Let us know how we can help. I anticipate that there will be opportunities. Questions will come up. Do certain rules need to change to allow people to function in this new world? Maybe. I don't know. But we want to be open to that. There's certainly going to be a lot of innovation that comes from this pandemic. We want to stay on top of that and stay nimble and supportive of that innovation.

There's a lot that has changed at TREC related to the coronavirus. Our reception team is now answering phones and emails faster than they ever have. Even though they're doing so

“I lead an agency that plays a specific role as a licensing entity, but I want to fulfill that role as an agency with great kindness and humility.”

from their homes, on many days our hold times have improved to under 10 seconds. We are very ready and willing to help. We are equipped to do so.

We also have a lot of tools on our website—such as the application status search—that allow license holders to help themselves without even having to talk to a person. We want to be very accessible, and that's one opportunity for us to do so.

How does your previous experience in state government and the law inform your approach to real estate?

My experience in state government helps me navigate our state agency structure and our hierarchy, from our appointed commissioners to our relationship with the governor's office and the legislature. Having that prior experience in state government gives me the familiarity and comfort with my role.

The legal training is a backbone for how I make decisions and how I think. It gives me great appreciation for those providing legal support and advice for our agency. There's great complexity to some of this work in real estate, and I'm really grateful that the lawyers can help simplify it. I'm grateful that I'm able to lean on their expertise and that I get to ask questions.

What does it mean to be the first female to hold your position?

It's an absolute honor. While I am the first female head of the agency, there has been strong female leadership above and below my role, such as former Commission Chair Avis Wukasch. We've also had female general counsels and female division directors.

I do think a female in this role brings a unique perspective. For me, I am currently juggling the privilege of this work with the privilege of motherhood. There has been a generation of women who have gone before me to make it easier for each generation to come. I am grateful.

Anything else you'd like to share with the members of Texas REALTORS®?

I am proud to be associated with your organization. This is a hard time for many in real estate and even beyond real estate. I have no doubt that we will see great resiliency in this hard time. As executive director of TREC, I lead an agency that plays a specific role as a licensing entity, but I want to fulfill that role as an agency with great kindness and humility.

JOE OLIVIERI is assistant editor at Texas REALTORS®.

“It's important to me personally to have a healthy relationship with license holders and the associations that speak on their behalf, especially Texas REALTORS®.”



Prior to joining TREC, Chelsea Buchholtz was deputy director of operations for the Community Development and Revitalization Program of the Texas General Land Office. She was chief of staff at the Texas Juvenile Justice Department and served as assistant general counsel and a policy advisor to former Gov. Rick Perry.

When she is not helping to safeguard consumers, Buchholtz enjoys spending time with her family, cooking, baking sourdough bread, and running.

TREPAC: Our history and our future



Honoring your voice during the Texas REALTORS® centennial

As we commemorate the association's centennial year in 2020, we can attribute the political strength of Texas REALTORS® in part to members who have raised their voices by investing in TREPAC/The Texas REALTORS® Political Action Committee.

TREPAC has been the cornerstone of the association's grassroots advocacy since its creation.

In the late 1960s, association leadership partnered with local associations to launch a major initiative to increase REALTOR® influence with state and local elected officials. And in 1972, the state association formed TREPAC, raising \$17,250 from 923 investors in the first year.

After decades of demonstrating TREPAC's critical role in the political arena, in 2019, TREPAC raised the most funds ever: \$5.7 million, with 48% of Texas REALTORS® participating.

Thanks to years of building a PAC culture that enables members to understand the value of investing in their industry, TREPAC has grown into the largest and most successful trade association PAC in Texas, amplifying the REALTOR® voice across the state.



PRESTIGIOUS RECOGNITION

TREPAC proudly recognizes investors with benefits and accolades at several award levels:

- Participation Club (\$35-\$109)
- 110 Club (\$110-\$249)
- Lone Star Statesman (\$250-\$499)
- Capitol Club (\$500-\$999)
- Major Investor (\$1,000+)
 - Sterling R (\$1,000-\$2,499)
 - Crystal R (\$2,500-\$4,999)
 - Golden R (\$5,000-\$9,999)
 - Platinum R (\$10,000+)



LEADERS OF THE PAC

TREPAC operations and financial disbursements are overseen by a 52-member board of trustees who are REALTORS® from every region of the state.



TREPAC hosts memorable state and local events to raise funds that support real estate.



The TREPAC Eagle mascot makes an appearance at the association's 1983 convention.



TREPAC hosts an annual orientation that prepares local REALTOR® leaders to foster a TREPAC culture among their networks.



REALTORS® BRING D.C. HOME FOR REAL ESTATE CONSUMERS

Texas REALTORS® had unprecedented access to national leaders and regulators during NAR's REALTORS® Legislative Meetings, May 12-14.

Transitioning this in-person event held in Washington, D.C., annually to a virtual experience expanded its reach, allowing over 28,000 REALTORS® to participate and hear key legislative, political, and regulatory updates.



REALTORS® POLITICAL ACTION COMMITTEE 2019 HALL OF FAME

These incredible Texas REALTORS® are among the newest members of the REALTOR® Political Action Committee Hall of Fame for their commitment to protecting the real estate industry.

\$200,000 Level

Mary Frances Burlleson, MetroTex

\$100,000 Level

Alvin Collins, Permian Basin

\$50,000 Level

David Alan Cox, Collin County
 Raymond "Skeet" Doss, Permian Basin
 Kaki Lybbert, Greater Denton/Wise County
 Ronda Needham, MetroTex
 Cameron Willmann, Permian Basin
 Mark Woodruff, Houston

\$25,000 Level

Candace Cargill, Four Rivers
 Candace Cooke, Austin
 Jim Cornell, Brazoria County
 Dave Dalzell, Abilene
 Dee Davey, Arlington
 Karen Driscoll, Houston
 Paul French, Amarillo
 Nancy Furst, Houston
 Christy Gessler, Williamson County
 Terri Hardee-Romere, Williamson County
 Rebecca Hill, Houston
 Diane Kennedy, Austin
 Tera Kiger, Waco

Tony Lloyd, Lubbock
 Mary Miner, Williamson County
 Jimmy Peacock, Odessa
 Victoria Printz, Permian Basin
 Scott Senter, Abilene
 Cheri Sperling, Corpus Christi
 Kay Spiva, Abilene
 Jack Stapleton, Williamson County
 Barbara Trumbull, Collin County
 Jeff Varnell, MetroTex
 Joe Williams, Austin
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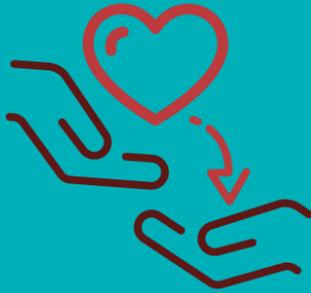
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SAVE THE DATE

Attend the 2020 Texas REALTORS® Conference in San Antonio!
 Aug. 31 - Sept. 03

Celebrate the Centennial!

Here's how you can participate in marking 100 years of REALTORS® shaping Texas.



NOMINATE A REALTOR® FOR "100 ACTS OF KINDNESS" RECOGNITION

This recognition shows the many ways REALTORS® help their communities. Any member, brokerage, or local association can submit entries. Deadline for nominations is June 15.



VIEW THE INTERACTIVE 3D ART PIECE

A 5' x 5' piece adorned with milestones and mementos was unveiled at the Texas REALTORS® Winter Meeting in February. If you didn't have a chance to see it in person or would like a closer look, view an interactive version online.

ENTER YOUR DESIGN FOR THE CENTENNIAL T-SHIRT

The winning design will be printed on T-shirts and available for purchase online and during the Texas REALTORS® Conference. The winner will also receive \$500. Deadline for submissions is June 15.



GET YOUR CENTENNIAL MERCHANDISE

Get your limited-edition centennial merchandise and show your Texas REALTORS® pride! You can purchase keychains, pins, tumblers, and more.



MARK YOUR CALENDARS: AUGUST 31 - SEPTEMBER 3

The 2020 Texas REALTORS® Conference promises to be a memorable event, with special programming commemorating the association's centennial.



BUY THE BOOK

A special coffee table book filled with historical photos and accounts of the association's history features many of the people and efforts that made Texas real estate what it is today.

CHECK YOUR FEED FOR #SHAPINGTEXAS

Weekly posts on Facebook, Instagram, and Twitter will celebrate the association's rich history. Be sure to use #shapingtexas to add your own memories.



VIEW VIDEOS OF THE ASSOCIATION'S HISTORY

Watch a mini-documentary of the first 100 years of REALTORS® in Texas—plus, see videos of past chairmen discussing important association achievements and milestones.



Visit texasrealestate.com/100 for all this ... and more ways you can learn about and participate in the history of Texas REALTORS® shaping Texas!

Download a PDF of this page at texasrealestate.com/100

DID YOU KNOW? REALTORS® HOLD THEMSELVES TO A HIGHER STANDARD



Members of Texas REALTORS® have been working for the betterment of consumers for 100 years. They advocate on behalf of buyers, sellers, and homeowners at all levels of government, and they are trusted advisors who help you buy, sell, lease, and manage real estate.

REALTORS® also hold themselves to the highest professional standard. That's not just talk—they voluntarily join the REALTOR® organization and pledge to follow a strict Code of Ethics.

WHAT IS THE CODE OF ETHICS?

The Code of Ethics is a set of duties that members of the REALTOR® organization must follow. All licensed agents and brokers must comply with Texas laws, but REALTORS® go beyond those requirements. Members of Texas REALTORS® also must complete additional education requirements than those required by law. That means you benefit from the highest level of service and expertise.

WHAT KIND OF DUTIES DO REALTORS® PLEDGE TO UPHOLD?

REALTORS® pledge to abide by 17 articles and dozens of standards of practice that outline the behaviors required of all REALTORS®—duties to clients, consumers, the public, and other REALTORS®. It ensures all parties in transactions are treated fairly.

HOW IS IT ENFORCED?

Anyone who believes a REALTOR® has not met the obligations outlined in the Code of Ethics may file a complaint, which sets in motion a process to assess the complaint's validity. If the REALTOR® is found to have violated the Code of Ethics, penalties can include taking further education, paying a fine, facing suspension of membership, or being expelled from the REALTOR® organization. That makes REALTORS® accountable.

WHEN YOU HAVE REAL ESTATE NEEDS, DON'T SETTLE FOR LESS. MAKE SURE YOUR AGENT IS A REALTOR®. Learn more about the Code of Ethics and the commitment of REALTORS® to a higher standard of professionalism at texasrealestate.com/code.

TAKE 5

Photo: © kasyia - stock.adobe.com

DO PEOPLE KNOW THIS ABOUT YOU?

You know how qualified you are to help clients realize their real estate dreams. But don't assume that current and future clients know that. Here are details you may want to point out.

YOU ARE A REALTOR®

Don't let people think that a real estate agent and a REALTOR® are the same thing. Explain how, as a REALTOR®, you pledge to uphold a Code of Ethics with higher standards and responsibilities above what is required by law. Let people know that you are part of an organization that is always working to protect property rights and make our communities better places to live.

THE LETTERS AFTER YOUR NAME MEAN SOMETHING

If you've earned designations, don't assume those acronyms will impress or inform others about your additional expertise. Let prospects and clients know specifics about your designations and how they will translate into better service for them.

YOU ARE A FIDUCIARY

As a licensed real estate professional, your primary duty is to represent the interests of your client above your own. That knowledge can give prospects more confidence in working with you.

NOT ALL AGENTS AND BROKERAGES ARE THE SAME

Firms and agents have varying business models, capabilities, fee structures, and strengths—make sure people know what differentiates you and makes you the right choice for them.

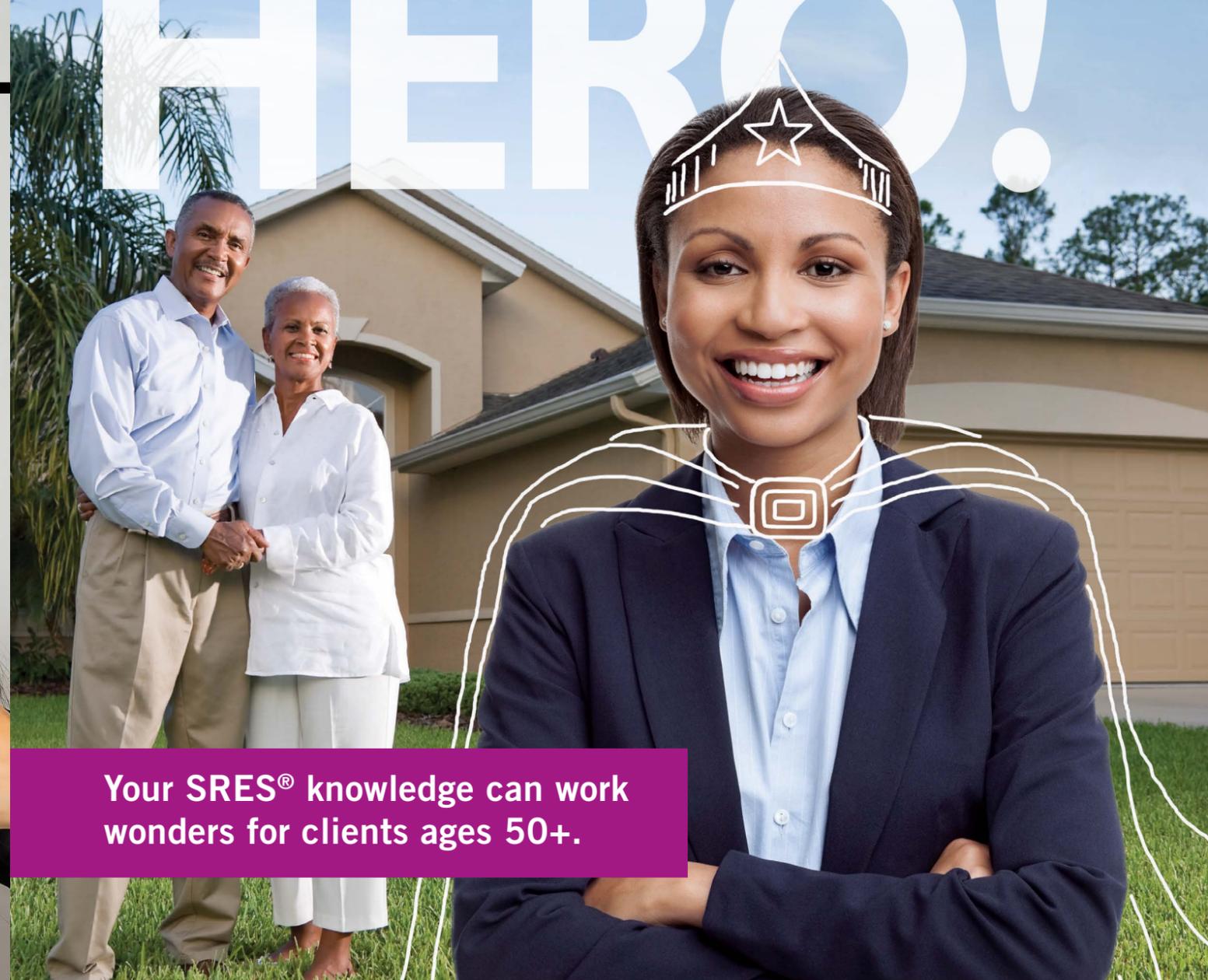
YOU DO MORE THAN PEOPLE KNOW

Most people have no idea how much you take care of behind the scenes. While they don't need a blow-by-blow description, they may appreciate you more if they understand the scope of what you are doing on their behalf.



Be Their HERO!

Proud partner in NAR's REALTOR Benefits® Program



Your SRES® knowledge can work wonders for clients ages 50+.

Earning your Seniors Real Estate Specialist® (SRES®) designation is a super-savvy business move. Our 2-day course — available in the classroom or online — empowers you to meet the unique needs and expectations of clients ages 50+, the fastest growing market in real estate. Plus, you'll gain exclusive access to custom marketing tools and a referral network of more than 15,000 REALTORS®.

Transform specialized expertise into a powerful opportunity. Learn more at: www.SRES.realtor.





Find your escape.

Every day, we work with our fellow Texans to help them buy the land they've always envisioned. And as a cooperative, we share our profits with those same customers. Last year alone, we paid our customers more than \$57 million in dividends. So when you're ready to secure a property loan for the perfect place to retreat, try a **partnership that really pays.**

Together we're better.



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