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JEF CONN
Thinks the Sky's
the Limit **p.16**

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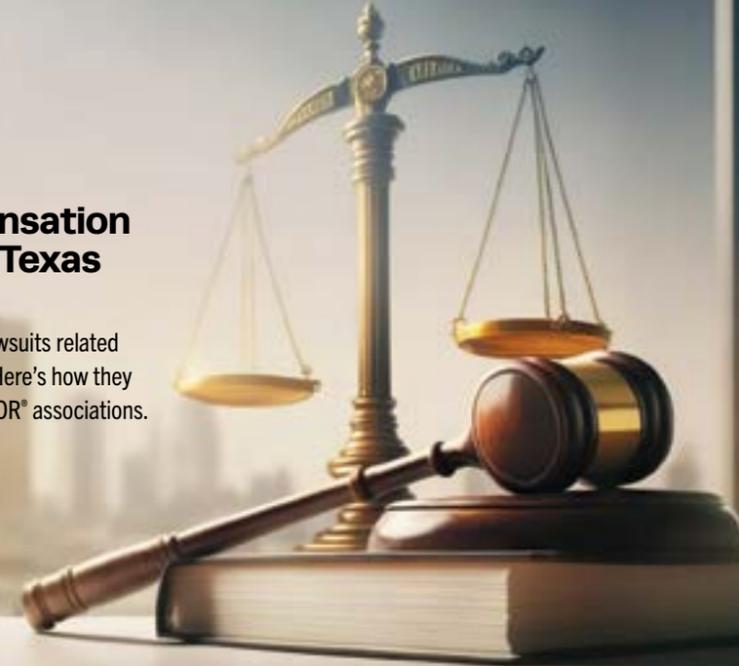
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What the Compensation Lawsuits Filed in Texas Mean for You

Plaintiffs have filed class-action lawsuits related to broker compensation in Texas. Here's how they affect agents, brokers, and REALTOR® associations.



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2024 Chairman Jef Conn

by Joe Olivieri

The 2024 chairman discusses dreaming big, the value of volunteering, and why he loves commercial real estate. Also meet your 2024 Leadership Team, regional vice presidents, and committee leaders.



FEATURE

10

Appraisers Answer Your Questions

Texas REALTOR® magazine asked readers to send in questions about appraisals. Here they are, along with answers from two experienced appraisers. Plus, learn what resources and advice the Texas Appraiser Licensing and Certification Board offers you.



Chairman's message

What Are Your Business New Year's Resolutions?

The new year is a great opportunity to look at areas for improvement, including our businesses. Many REALTORS® use the new year to jump-start changes or growth in their businesses. Even if you didn't make resolutions before January 1, you can start now, or anytime. Here are some ideas to consider:

Focus on what you do for your clients and then share that with your clients!

There's a lot of background noise in the media the past few months about the value of a REALTOR®. As a REALTOR®, you do a lot! You may even do more for your clients than you realize. The National Association of REALTORS® has written down 179 ways REALTORS® help their clients. To find the list, scan the code on this page or search "179 ways" at nar.realtor.

Do you do things not included on this list? Write those down and be sure to share what you do for your clients, no matter how small. When prospects and clients see how many different things we do to make sure transactions are as smooth as possible, they will better see your value!

Get comfortable talking about commissions

Most of our clients have heard something about the lawsuits occurring around the country, and they might be confused. Now's a great time to remind them that commissions are always negotiable between brokers and clients. Sometimes, clients just need us to explain how the MLS compensation model works and how the commissions get paid at closing. Need additional talking points? Check out realestate-commissionfacts.com, which provides

clear information about commissions. Team up with someone in your office and practice having conversations about commissions. Have any questions about how to discuss commissions? Be sure to talk to your broker.

Stay up to date on pending commission lawsuits

You're going to hear a lot about the lawsuits this year, including those filed in Texas. You can stay on top of the latest, most-accurate information by visiting our dedicated webpage, texasrealestate.com/lawsuit and reading other Texas REALTORS® communications (like the article on page 28 of this issue).

Have fun

The most important resolution? Have fun! Real estate should be a challenging and rewarding career. Don't forget to have fun. Get to know your competitors and get involved at your local board. The relationships you make in 2024 will help you in your business for years to come. Have fun doing it.

Your Texas REALTORS® Leadership Team has had lots of discussions about how we can best serve you, our members, in 2024. Our resolutions include keeping our members at the forefront of every discussion and every decision. You'll hear us share a lot about transparency this year and how we're working to make sure you, our members, are informed about what's going on. Especially with these lawsuits. We're here for you and for our industry.



Jef Conn

“When prospects and clients see how many different things we do to make sure transactions are as smooth as possible, they will better see your value!”



TEXAS REALTORS® LEADERS ARE COMING TO YOU

During 2024, your state association leadership travels across Texas to meet with REALTORS®. These Texas REALTORS® 360: Real Insights Meetings are a great opportunity to learn about the latest state and national issues affecting your livelihood—and share your ideas and concerns directly with leaders from the local and state REALTOR® organization.

Here's the meeting schedule as of press time. Visit texasrealestate.com/360 for additional locations and all registration links.

- April 2: Grand Prairie (Regions 3, 4, & 12)
- April 5: El Paso (Region 16)
- April 11: Lufkin (Regions 5 & 9)
- April 18: Lubbock (Region 1)
- May 17: McAllen (Region 11)
- May 22: Austin (Regions 8 & 15)
- May 30: San Angelo (Regions 2 & 6)
- June 13: San Antonio (Regions 7 & 13)



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New app makes it even more convenient to earn the endorsement.

Have you heard of the Commitment to Excellence (C2EX) program? It's an endorsement from the National Association of REALTORS® that measures your proficiency in 10 elements of professionalism—helping you position yourself as a leader and showing prospective and current clients your dedication and high standards. By earning the C2EX endorsement, you also satisfy the NAR Code of Ethics requirement.

Good news: Gaining your C2EX endorsement just got easier. NAR has rolled out a new, convenient mobile app so that you can access the C2EX program anywhere, anytime.

Within the app, you can create a development plan that fits your schedule, access content matching your day-to-day tasks, and participate in real-world scenarios to expand your expertise. Plus, receive the assistance of a digital coach—with reminders to stay on track, ways to prioritize topics that promote your growth, and helpful tips to make the endorsement journey smoother.

Download the app today and start earning your endorsement while on the go: nar.realtor/C2EX



DON'T MISS EARLY-BIRD PRICING FOR REBAR CAMP

REBar Camp is an interactive conference held at the Altstadt Brewery in Fredericksburg on April 18. It's all about sharing, comparing what works and what doesn't, and learning how to grow your business.

Whether you've been a REALTOR® for 25 years or you just got your license last week, you're guaranteed to walk away with tips and tools you can apply to your business the next day.

Tickets are only \$25 through February 11. Register now at texasrealestate.com/rebar.



HOW LINKEDIN POLLS HELP YOU CONNECT

Have you tried using the LinkedIn Polls feature as part of your marketing strategy? Creating a poll can be a great way to stimulate conversations, gather insights into your audience, and expand your network.

How to Create a LinkedIn Poll

It doesn't take a lot of time to create a poll and get valuable insight in return.

Start a post at the top of your LinkedIn personal or business homepage and click the poll graph icon. You will be prompted to ask a question (up to 140 characters), insert up to four answer options (up to 30 characters each), and choose how long you'd like the poll to run (up to two weeks).

Additional Tips:

- Include "Other (please comment)" as a poll option to receive more engagement in the comment section.
- Encourage your audience to expand on their answer in the comments.
- Add a real estate-related hashtag to attract interested people outside of your connections.
- Pin the poll to the top of your page so it doesn't get lost on your feed.
- After a few days or a week, repost the poll to remind your audience to respond—this also helps increase the post's reach.

Note that some mobile browsers do not show the poll portion, only the caption above the survey. Always include a caption of the poll question and encouragement to respond in the comment section.

Suggestions for Poll Questions

Base them on your goals

Do you want to improve your email open rates? Do a poll asking your connections to choose their favorite real estate topic or something they want to learn more about. Or ask how they like to receive content: through emails, blogs, videos, or social media? The responses may surprise you.

You may learn you have been trying to reach your contacts the wrong way.

Learn more about your audience

You can build better relationships by understanding what your connections are interested in. Do they think a specific home-design trend is hot or not? Are they thinking about selling or buying in the near future. What has been the most challenging part of finding or selling a home?

The poll feature lets you see how each person responded, allowing you to reach out to offer more information or ask additional questions.

Share your knowledge

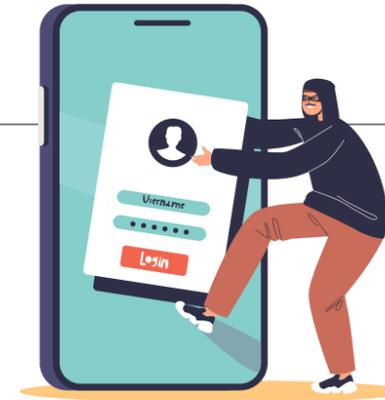
Build trust and establish your expertise by asking a question that starts with *Did you know*, followed by a statistic or interesting fact. Also, try the question starter *Have you tried*, to inspire people to consider downsizing or a staging technique they wouldn't have thought to do. If you receive a lot of "no" responses on a subject, you can create a blog or video to offer more information.

Break up the monotony

Not every question has to be strictly business-related. Sometimes, people are more apt to respond if the question is creative. Try asking an icebreaker-type question or about something currently trending.

By boosting your engagement and gaining valuable insights, you'll strengthen your client relationships—helping you grow your real estate business.

Visit texasrealestate.com/linkedin to find Texas REALTORS® on LinkedIn—and while you're there, please take our latest poll!



Scammers Can Get Into Your Phone While It's Still in Your Hand

Modern scammers do not need to steal your phone to gain access to it.

A SIM swap is a scam where fraudsters trick your phone carrier into moving your phone number to a phone they have. Now your phone stops working and their phone acts like yours. But you may not notice for hours or even a few days. In the meantime, the criminals can receive text-message security codes to unlock your accounts.

In its first year being tracked by the FBI, SIM swaps resulted in more than \$72 million in losses, according to the 2022 *Internet Crime Report*.

Here are some steps you can take to avoid these scams:

Think twice before you share online

The more scammers know about you, the easier it is for them to use your personal information to trick the cellphone carrier into switching your SIM to a phone they control.

Protect your phone service account

Use a strong, complex password that is difficult to guess. Do not share it with others. You may also be able to set up a PIN code that the phone carrier requires before making any SIM changes. Check to see what additional protections your phone carrier offers.

Don't get a false sense of security from text-message codes

Many accounts require two-factor authentication with a code texted to your phone before allowing access to your account. These are exactly the kinds of messages SIM swappers exploit to gain access to your accounts. Multi-factor authentication tools such as Google Authenticator

generate one-use codes in an app that can provide protection. Face or fingerprint scans, or a physical device that generates codes, can also keep your accounts safer.

Don't fall for phishing

If someone calls, texts, or emails looking for personal information, do not share anything. Verify requests that look or sound official via an official channel you find independently, not by replying to the original message.

What about new phones with e-SIMs?

Many new phones use an embedded SIM called an e-SIM rather than a removable one. While an e-SIM shuts off one avenue scammers take—the claim that a physical SIM was damaged or lost—there is nothing about the technology itself that prevents a SIM swap. If criminals can convince the phone carrier to switch your existing e-SIM to a phone in their possession, your accounts are in jeopardy.

If you think you may be the victim of a SIM swap, call your phone carrier immediately. Change your passwords and check all of your accounts for any activity you don't recognize. Consider freezing your credit file through the credit bureaus. You can sign up for identity theft monitoring services for further protection. The FTC's website [identitytheft.gov](https://www.ftc.gov/identitytheft) offers useful resources in case your information was compromised.

One inch of water can cause up to \$25,000 in property damage, according to FEMA.

In 2022, there were 683,123 flood policies in Texas through the National Flood Insurance Program (NFIP). Texas had the fourth-highest NFIP payments for claims, according to the Insurance Council of Texas.

Whether it's a flood, tornado, hurricane, or another natural disaster, Texas REALTORS® is ready to help with two relief funds designed to help offset shelter-related costs. You can donate and learn how you can help at texasrealestate.com/relief.

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Note: Not all submissions are guaranteed to be published

Contract Closeup

FEES IN THE FARM & RANCH CONTRACT

The *Farm & Ranch Contract* (TXR 1701, TREC 25-15) has two sections on Page 9 related to fees: a Ratification of Fee and an Agreement for Payment of Brokers' Fees.

A listing broker who has already agreed to pay a commission to a cooperating broker—in the MLS, for example—should fill out the Ratification of Fee box. This authorizes the escrow agent to pay the cooperating broker from the listing broker's fee at closing.

The seller and buyer should not sign the Agreement for Payment of Brokers' Fees if the listing broker has already agreed to pay the cooperating broker's commission elsewhere. This could bind the seller or buyer to pay additional amounts to the listing broker or the cooperating broker they didn't intend.

However, a seller and buyer could sign the Agreement for Payment of Brokers' Fees if the listing broker hasn't offered to pay a commission, like if the property wasn't listed in the MLS. Note that the agreement states either the seller or the buyer will pay the brokers.



Your Forms

Commercial practitioners may offer the *Commercial Contract Critical Date List* (TXR 1942) so clients can keep track of performance dates and important milestones in the transaction. The form includes spaces to note the effective and closing dates, as well as dates related to earnest money, financing, and the feasibility period, among others. The form notes that it is not a comprehensive list of critical dates, the dates are not a legal interpretation of the contract, and the form does not amend or modify the terms of the contract. *Commercial Contract Critical Date List* may be used for commercial transactions and is one of more than 40 commercial forms exclusively available to members of Texas REALTORS®.



Fact or fiction?

A licensed attorney can conduct brokerage activities in Texas without first getting a real estate broker's license.



FACT. An attorney licensed in Texas is exempt from licensure requirements and can perform the same functions a real estate broker can except for sponsoring sales agents or acting as the designated broker for a business entity licensed by TREC. Note that while an attorney may conduct brokerage services, The Real Estate License Act prohibits a license holder from splitting a commission or fee for brokerage services with any person who is not a license holder.

The *Residential Lease Application* (TXR 2003) states that our company must make our office privacy policy available to rental applicants upon request. Where can we find information about what we should include in our privacy policy?

Texas REALTORS® created a model privacy policy to help you develop your office's policy about the maintenance and destruction of customers' and clients' personal information.

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APPRAISERS *Take Your* QUESTIONS!

Texas REALTOR® magazine asked you to send in your questions about appraisals. Here they are, along with answers from two experienced appraisers in Texas. Questions and answers have been edited for length and clarity.



Jason Ault is a certified residential appraiser with Ault Appraisal Services in Amarillo. Ault served as 2023 Chairman of the Amarillo Association of REALTORS®.



Candy Cooke is a certified general appraiser with Real Property Counselors in Round Rock. The two-time Texas REALTORS® Educator of the Year teaches the course Understanding & Dealing with Appraisals.

How Appraisers Arrive at Value

How far away from the subject property (geographically and in time) can an appraiser go to find comps?

JASON AULT: It depends on the property. If sales are few and far between, we have to go as far away or back in time as you would need to find something that makes sense. We need something to compare it to. We do have guidelines. For residential properties in urbanized areas, you have to get as close to the subject property as you can. You look for similar property types. You don't want to cherry-pick and skip over good sales because you're trying to reach the contract price or a pre-determined value. But if you can make the case that there are no comps close by, it is appropriate to go farther.

CANDY COOKE: What I ask is: Where would your buyers go? What would appeal to the same buyer? The example I always use is the double-wide on 10 acres. You may have to go to a couple of different counties to find comps for that. It's different than, say, a house in a subdivision in which another house would appeal to that same buyer. Regarding how far back, the Federal Housing Administration allows you to go back 18 months, but I haven't done that in years. Commercial you can go back five years. Then you look at appreciation. But what you really want are the sales that are close in time and similar.

What do you do when the property doesn't have good comps, such as a custom-built home, a home with features uncommon in the area, a home on a different sized lot, etc.?

AULT: First of all, we have to try to find something to compare it to, something as similar as possible. And sometimes that's impossible. That might make it potentially difficult to market. There may be market resistance to that. We may have to use something that is not the same and find something to base our determination of value. Maybe it's something that's available in other parts of the county or state. We have to



use the best available data and go with that. I can tell you that won't be any appraiser's favorite assignment.

How do you determine an appreciation rate for comparable sales?

AULT: You try to derive that from the market. It's sales. If sales are happening right now, you can look back 12, 18, or 24 months to see if there's a trend. If appropriate, you'd get an appreciation or depreciation rate and divide it out to find out how much it is per month. There are going to be flat spots. It's the average over time.

COOKE: It's not just appreciation rates. The rates go up and down. It goes both ways. We look at historical data and graph it out. What were they selling for a year ago? That's why it is so important to have good MLS data.

Can new-construction homes be compared to resale homes for the purpose of appraisal value?

AULT: New construction homes could be, if appropriate. There'd need to be an adjustment for the age of the resale homes.

COOKE: You can but I don't like to. Will that perk or premium feature stay that way? Will that corner lot become a busy intersection when the subdivision is built out? Will that scenic view be there five years from now? The same questions could be asked of special materials or technology. Again, it's about finding the best possible comps for determining value.

Do appraisers use inspection reports when determining value of a property?

AULT: We can, if we have access to it. It's a good way to determine if there's a major problem. Appraisers are looking for what's readily observable. It's different than what a home inspector would see. If one was made available, it could be useful.

How Much Is That Upgrade Worth?

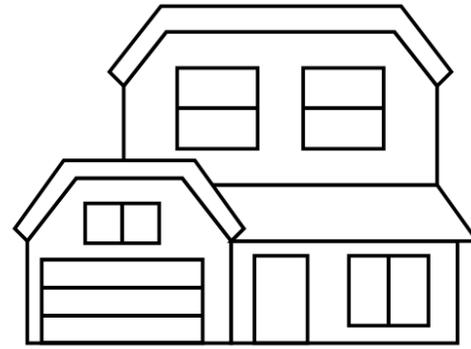
How do appraisers figure out how much to adjust for upgrades to homes?

AULT: We try to find the market's reaction to that amenity. Some things are going to bring in additional value, while others won't. Some upgrades will be considered a superadequacy—that's an improvement that goes beyond what the market will pay for it—or even a detraction. My favorite example of this is a smaller, basic home in an affordable neighborhood, no garage or a one-car garage, maybe a three bed/one bath, and it has a swimming pool. A pool isn't going to bring you anything in that neighborhood. It may even be a money pit. Now, in an area with much larger homes, where pools are a common feature, it will be worth more money. But it's all about the market reaction. If it's difficult to find one, if that pool is an unusual feature, well that's a good indication the market is not necessarily showing much need or demand.

COOKE: The appraisers don't decide the value of upgrades. Buyers decide how much that upgrade is worth in that market, and it's the appraiser's job to find that information from similar sales. A pool in South Texas is worth a lot. A pool in Amarillo, where you can't use it all year round, is worth a lot less. How much are homes with pools selling for in Amarillo? This is important to emphasize: it is not a dollar-for-dollar thing. Cost does not equal resale value.

Has the popularity of outdoor covered living spaces started to add value? If so, how is that value determined?

AULT: Again, it depends on the location and type of property. There are all different types of quality and expense levels. If it's something you typically see in that market, yes. If not, it's a superadequacy.



What factors go into assessing the value of a pool?

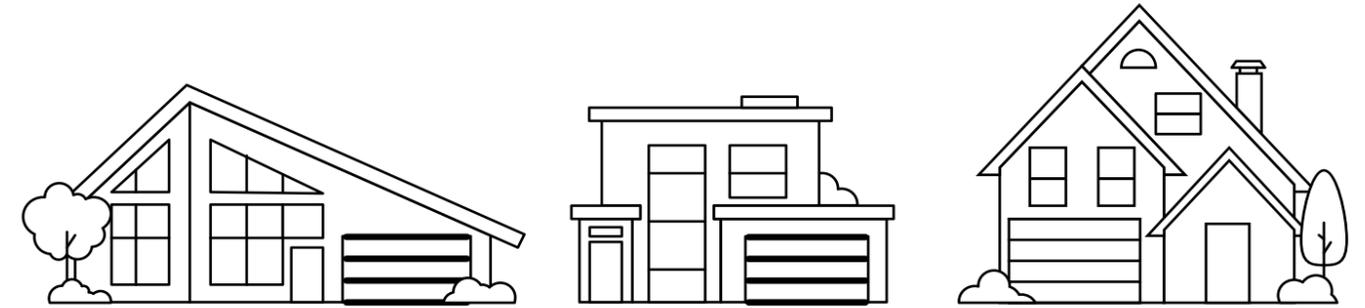
AULT: Again, market acceptability. If it's not common, and it could be an extra expense not typically undertaken in the market, the value is going to be less. If pools are common, and it's what the market demands, it's worth more. As the home sale price goes up, the size, complexity, and features of the pool might, too.

COOKE: Before COVID, I used to drive everyone nuts by saying a pool is worth \$5,000 to \$7,500, because that's what it costs to fill the hole in the ground if you wanted to get rid of it. A lot of pools were filled in. Then during COVID, no one could go anywhere and the market valued it at \$50,000. We're now past that. It's not as far down as it had been, but it's nowhere near where it was. People are not willing to pay for a pool what they paid four years ago.

It seems that subjective adjustments to value (such as location differences) are rare these days on appraisals. Is that true? If so, why?

AULT: Appraisals have to be based on facts, usually numeric data. If you're just pulling values out of thin air, that's a really quick way to find yourself in trouble. Lenders, especially working with government sponsored loans, are looking at appraisals for non-fact based bias. You can't just make up an opinion.

COOKE: It isn't the appraiser who's picking the adjustments. It's what the market is telling us. It's the buyer and seller who have agreed on what something is worth. We have to make sure we support any adjustment we do. And it can't be based on my 40 years of experience and this is how it's always been. We have to come up with the data and use real information.



What Happens If...

How does an appraiser complete an assignment if the property has no electricity?

AULT: There are some circumstances when that does come up—a foreclosure, for example. We wouldn't be able to test items that required electrical service, such as lighting, heating, and cooling. There are some types of loan products that require some testing. It would be difficult to complete an appraisal without electricity. We may have to make that a requirement to have it activated and go back to check that. It also poses some safety issues. It could be a hazard when showing or appraising.

COOKE: Paragraph 7A of the *One to Four Family Residential Contract (Resale)* says the seller has to keep the utilities on while it's under contract. We have to be able to run the faucet and flush the toilet. New construction doesn't have that, so we do have to make some assumptions.

In situations where a major repair (for example, a new roof) is scheduled but not completed at the time of the appraisal, is that factored into the appraised value?

AULT: We could appraise the property with the conditional requirement. It would be subject to completion of the new roof being installed. If it's new construction, it's subject to it being completed.

Are basements and attics included in the total square footage if air conditioned?

COOKE: The American National Standards Institute counts anything below grade on a separate line item. So basements are not included in square footage. For attics, if it's at full height, you can have regular access to it, it's heated and cooled, it can be counted. But if there's a sloped roof, or you can hardly stand, or you have to pull down the stairs to access it, it isn't included in the main square footage. That doesn't mean either space doesn't have value! It just isn't counted on that line item.

I know square footage can vary depending on who is measuring. How does the square footage used by the appraisal district change without someone from the appraisal district visiting the property?

AULT: Sometimes they'll use aerial photography or satellite photos. They can look at photos year over year and tell a property's had an addition put on. From there, they can estimate how much more square footage. It's not uncommon.

COOKE: Sometimes, if they have a sketch, or if the house has been measured by a viable service, districts can make the change.

For FHA and VA appraisals, what repair issues will prevent a buyer from closing until the issue is repaired or replaced? I'm specifically interested in windows, electrical, septic, plumbing, wells, and others. Are there standards for this, or is it left to the opinion of the appraiser?

COOKE: There are standards. FHA has a guidebook, *Single Family Housing Policy Handbook 4000.1*, at hud.gov. VA has them, too: the *Lender's Handbook – VA Pamphlet 26-7*. They want to make sure that this borrower, who is making this big jump to homeownership, is going to be able to afford to live there, that this is a livable place, and that there aren't major repairs needed. They're looking for safety, security, and soundness.

What Can I Do?

What are the best ways for agents to factor in the value of upgrades before the appraisal is done?

AULT: They would need to do adjustments on their CMA. The easiest way is to put your property next to the comps and make your adjustment. It may also be worth a call to your friendly neighborhood appraiser or ask other agents what they've encountered.

COOKE: Section 535.16(C) of TREC rules says an agent must do a CMA when negotiating a listing. They have to have the ability to look and research in the marketplace and see what other people are paying for things.

535.16 Listings; Net Listings

(c) A real estate license holder is obligated to provide a broker price opinion or comparative market analysis on a property when negotiating a listing or offering to purchase the property for the license holder's own account as a result of contact made while acting as a real estate agent.

What items do agents provide in an appraiser packet that are not helpful? What items are the most helpful?

AULT: We like to know all of the data we can get. We operate off of data. If they know about an update, such as an improvement to the wiring or plumbing, we can factor that into the equation. There's not anything necessarily bad to put in the appraisal packet. I do appreciate appraisal packets from agents; I like seeing where they came up with the list prices.

What are the benefits—and any drawbacks—of appraisers receiving a copy of the contract prior to the appraisal?

COOKE: It's mandated. It's a federal requirement. They require us to look at it. We're required to analyze it.



What Should I Include in an Appraisal Packet?

You can help appraisers by sharing important information with them. Find out which documents Candy Cooke recommends in this December 2020 *Texas REALTOR*® magazine article.

What forms of accountability are there for appraisers and appraisals when mistakes are made that affect the value of an appraisal?

AULT: If it can be corrected, the appraiser can be alerted and the change can be made. There may be times when that's not possible. At that point, it might be appropriate to talk to the lender and let them know. The lender might want to pursue that. If it was an egregious mistake and it's not able to be handled through other means, the last resort is to make a complaint with TALCB. It's like filing a complaint with the state licensing agency against a real estate practitioner—when everything else is exhausted.

COOKE: We do make mistakes. In those situations, the client would go to the lender. They can't go to us.

How can agents and appraisers improve their relationships?

AULT: I encourage appraisers to go to association events like luncheons to meet the agents. That's one way to build rapport. Agents should be reaching out to appraisers. That's another good step. Sometimes that's not always possible, or the appraisers aren't always amenable to it. But that first step is key to establishing a professional relationship.

COOKE: We need to get to know each other. Interact. We could use some help. I would love to see education that counts for appraisers and agents, so we're in the same room together. A lot of people don't know the other role.



What About Solar?

Several member questions dealt with solar panels and appraisals. To learn more, read the article from the August 2023 issue of *Texas REALTOR*® magazine.

Insights and tools for working with appraisers

The Texas Appraiser Licensing and Certification Board has resources for you.

It's a common misconception that it's hard to get an appraiser on the phone, says Melissa Tran, Director of the Texas Appraiser Licensing and Certification Board (TALCB). Agents may even incorrectly think appraisers don't want to talk with them at all.

Not true, says Tran. "Appraisers are walking a fine line," she says. "They're working for the lender and required to be unbiased. But they do need to work with agents in order to do their jobs."

Appraisers are working under significant time constraints. "Everyone wants their appraisal done yesterday," Tran notes. And there's fewer of them than you: In October 2023, there were roughly 7,521 licensed appraisers in Texas compared with 232,120 licensed real estate agents and brokers.

TALCB was founded to safeguard consumers in matters of real property appraisal services. But it also offers resources to others—including the public and real estate agents and brokers—to help make the appraisal process as smooth and professional as possible.

You Can Search Online

TALCB publishes informative articles in its News and Articles section of its website, talcb.texas.gov.

The site also features a license-holder search function. "If you need an appraiser, you can look up ones in your area," Tran says. "If you need to file a complaint, you can look up the license holder to make sure you have the correct information you need."

You Can Ask the Lender for a Reconsideration of Value

Appraisers can talk with you and your clients but they cannot discuss confidential information, such as the appraised value.

If you and your clients believe some part of the appraisal was incorrectly valued—and you have materials to back up your opinion—you can ask the lender for a reconsideration of value, Tran says.

Perhaps you have found more applicable comps or more detailed information on an upgrade that would warrant a second look. You can share these with the lender, who will send them to the appraiser.

"It's an opportunity to revise it," Tran says. "And it's not adversarial. It could be the appraiser might have missed that information. It's a more effective and practical way to get a resolution."

TALCB doesn't get involved with reconsiderations of value, but Tran promotes the practice as a strong tool for resolving concerns.

You Can File a Complaint

Members of the public—including real estate agents and brokers—can file a complaint against a licensed appraiser on the TALCB website.

The board offers detailed guidance about what TALCB can do and what you can expect. The *Complaint Overview Handbook* is another resource.

The most important takeaway is that complaints are not resolved quickly. "It may take as long as a year," Tran notes. "We do not get into the middle of disputes between appraisers and agents. We are there to ensure that appraisal standards are being upheld."

TALCB thoroughly investigates complaints. The board assigns the complaint to an appraiser investigator, a former appraiser who knows how the process works. Following the investigation, the complaint is sent to TALCB's legal experts for resolution. You can learn more at talcb.texas.gov/public/filing-complaint.

You Can Reach Out

Real estate agents and brokers can contact TALCB through the board's Contact Us page.

"If you have any questions, please feel free to reach out to us and we'll do what we can to help you," Tran says.

TALCB OVERSEES TRAINING AND EXPERIENCE

"Our business includes licensing appraisers," Tran says. "We confirm all of their qualifying education and exam requirements. It's difficult to become an appraiser. The exam is difficult."

One difference between TALCB and TREC is that TALCB has a federal oversight body that makes sure federal regulations are adhered to.

TALCB recognizes licensed residential appraisers, certified residential appraisers, and certified general appraisers. It administers background checks and the required national exam to earn the credential. The board also checks the hundreds of hours of qualifying educational credits and thousands of hours of experience credits.

TALCB has recently made it easier to become an appraiser by accepting experience gained from the Practical Applications of Real Estate Appraisal (PAREA) program. PAREA is an alternative to the traditional way of meeting an appraiser's in-person experience requirement. Participants in PAREA can gain experience in a simulated virtual environment.

The Appraisal Institute, a private organization receiving federal grant money, began signing up aspiring Texas appraisers at the end of 2023. "From what I've heard, the number of Texas participants has far exceeded those in other states," Tran says. "In early October we had 15 signups while the next closest state had four."

LIMITLESS OPPORTUNITIES

2024 Chairman Jef Conn discusses dreaming big, the value of volunteering, and why he loves commercial real estate.

by Joe Olivieri

Texas REALTORS® Chairman Jef Conn believes in your unlimited potential. He wants you to seek out a mentor or leadership program to learn from longtime practitioners. He wants you to join a committee—any committee—and gain as much knowledge as you can. Most importantly, he wants you to expand your idea of what’s possible.

Why? Because he knows that there’s room for success for everybody. “You may not be one of those agents doing \$100 million in sales a year, but you could get there,” he says. “It’s all a learning process. There are limitless opportunities for you to be successful.”

Conn believes in his own potential, too. If he wants it and works hard enough toward it, he believes he can achieve it. That’s not unearned confidence, he clarifies. It stems from his type-A personality and abundance mindset.

That attitude has been the secret to his success. Conn won the William C. Jennings Award for commercial transaction of the year in 2016. He was a Texas REALTOR® to Watch in 2017, the same year he served as president of the Lubbock Association of REALTORS®. The Lubbock association named him REALTOR® of the Year in 2018.

Now, at age 37, Conn is the youngest chairman in Texas REALTORS® history. And don’t get him wrong: the leadership roles and recognition are great. But the awards, the accolades, and the accomplishments are not what drives him.

“I’m motivated to find out how far I can go,” he says. “I don’t put limitations on how much I should sell, or how big I can grow the business, or how much we can innovate. And I feel that way about the people around me, too. I always encourage them.”

COMMERCIAL REAL ESTATE—A PERFECT FIT

Conn started his real estate career on May 15, 2007. He was intrigued by real estate conversations with his friend, who was working as an assistant to a commercial broker. He liked what he heard and got his real estate license.

Commercial real estate—specifically office and industrial—was a good fit for him. Conn’s a numbers guy, so commercial’s returns on investment and dollars per square foot appealed to him. Plus, the commercial sector typically sticks to regular business hours.

“*I’m about abundance and not scarcity. Gratitude, not negativity. Lifting people up is more fun.*”





“IT IS POSSIBLE TO CLOSE A DEAL AND THEN SHOW UP TO THE BOARD MEETING. THE TWO ARE NOT MUTUALLY EXCLUSIVE.”

He went to work for Coldwell Banker Commercial in Lubbock. Dwight Thomason, the firm’s broker who specialized in industrial, took him under his wing. The first property Conn ever sold was a red metal barn in Plainview. “Dwight asked me if I wanted to handle it,” he remembers. “We had these interactions with the client, and I had no idea what I was doing. I am so grateful he was there every step of the way. I had to say, ‘Let me get back to you,’ a lot. It was a great learning experience.”

Those early years taught Conn the importance of nurturing personal relationships. “It’s about checking in when they don’t need something,” he says. “It’s about being a sounding board even when there’s no transaction going on. It allows me to become my clients’ go-to person in the real estate world.”

Repeat business is an essential component of Conn’s business strategy. That long-term lease or initial property use may not stay the same forever, he reasons. Several years down the line, when those clients have real estate needs, they will remember him.

“I talk with my clients a lot. I try to have three meetings a day. When there’s a gap, I might stop by a former client’s unannounced and chat. I may say, ‘Show me the warehouse. What are you seeing out there in the market?’ During COVID, the issue was the supply chains. Now it’s whether you have enough employees. I ask, ‘What are the pain points?’”

The people are Conn’s favorite part of commercial real estate. He loves working with salt-of-the-earth folks, the kind of people who wear their name on their shirt. “Industrial is not the sexy type of real estate,” Conn jokes. “It’s dirty. It’s hot. You’re opening overhead doors. Sometimes you’re walking past hazardous materials. When I got into it, there weren’t many people doing that work. But I stuck there. In industrial—as well as office—the people you meet are just so nice. Plus, I get to see how the widgets are made for the oil and gas economies as well as agriculture. That’s so interesting.”

Sixteen years later, Conn remains with Coldwell Banker Commercial. “I’m proud of the consistency,” he says. “I didn’t jump around. We have a great team we built here and we have respect for each other.”

He is constantly learning and growing in his profession. Conn got his Certified Commercial Investment Member (CCIM) designation in 2010. He then earned the Society of Industrial and Office REALTORS® (SIOR) designation in 2018; that really opened doors for him.

“I’ll get calls saying, ‘We see you have this designation.’ I’ve worked with Tesla and Amazon. These companies have national brokers. I’ll get very prominent clients, but also a milk factory that you’d only know if you were in the industry. The designation really builds your reputation. In my market, there may be 25 CCIMs, but only three or four SIORs. The list gets a lot smaller.”

MORE THAN ENOUGH TO GO AROUND

Conn is a big believer in lifting others up. In his chairman installation speech, he told members to speak up when they see something positive in their workplace, association, and industry.

“I believe there’s more than enough to go around for everybody,” he says. “I’m about abundance and not scarcity. Gratitude, not negativity. Lifting people up is more fun. I

“FREE TIME? I THINK I’VE HEARD OF THAT...”

Work/life balance has always been important to Conn. When he isn’t working on his business or helping his industry, Conn enjoys spending time with his partner, Lane, and their two dogs, goldendoodle Cole and labradoodle Bentley. “We take the dogs on road trips,” he says. “You can find us hiking and fly-fishing or on a beach in Mexico.”

Conn wants to thank the families of volunteer leaders, adding that the association’s work could not be done without them. “Without Lane taking care of life at home, it’d be impossible.”



want to promote volunteering and leadership as an uplifting and beneficial experience. I want to hear people say that their year in leadership was the best, not that they’re glad it’s done and they don’t want to do that again.”

Just because he’s convinced of his potential doesn’t mean he never doubts his abilities. “I feel like I’m constantly in this cycle of I made it and I’m a total imposter, you know? I have the confidence and I’ve done the classwork. I know what I’m supposed to know. Every deal adds to my knowledge and skill levels. I alternate between being humbled and blessed, and thinking, *Just wait until what happens at the next meeting.*”

He had heard some REALTORS® say you couldn’t be successful in association leadership and business at the same time; the business would suffer. When he got into leadership, though, he took it as a personal challenge to prove that idea wrong. “It is possible to close a deal and then show up to the board meeting,” he asserts. “The two are not mutually exclusive.”

Conn graduated from NAR’s Leadership Academy in 2019. “I stay involved and made lasting relationships with my fellow graduates,” he says. “I speak with them every day. They’re not only great friends, but if I need to talk through something, I can reach out.”

VOLUNTEERING BENEFITS BUSINESS

Conn first got involved in volunteering for the REALTOR® association by serving on the commercial committee of his local association. He started making connections in his market.

“
EVERYONE KNOWS SOMETHING
YOU DON'T. EVERYONE IS SMARTER
THAN YOU IN SOMETHING. WHAT
ARE THEY DOING DIFFERENTLY?
VOLUNTEERING HAS IMPROVED
MY BUSINESS.”



After a while, Conn attended state meetings and signed up for committees. “I really enjoyed the process,” he says. “I was surrounded by very talented people. The staff were so helpful and guided us. I kept enjoying the relationships and continued to serve and just kept coming back.”

Conn has also been active with the Young Professionals Network. “The group is inclusive, friendly, and fun, and it’s a great entrance into what service is at the local, state, and national levels,” he says. “That was the best thing for me. I was with some very successful agents, and they helped challenge me.” It also taught him how to serve as a volunteer leader while honing his craft and taking care of his business.

Conn went on to serve on the YPN Advisory Board at the national level. Getting involved with NAR was a whole other level for Conn. “There are hundreds of different ways you can serve,” he says.

Volunteering also taught him a lot about running his real estate business. “I’ve learned more about marketing and building relationships,” he says. “When I go to meetings, it’s like a family reunion. You shouldn’t just see these people a few times a year. You need to call and make the connections. Follow their social media. Everyone knows something you don’t. Everyone is smarter than you in something. What are they doing differently? Volunteering has improved my business.”

While serving with NAR, he worked on communications, including NAR’s “That’s Who We R” campaign, and that taught him about the consumer side of marketing. Conn enjoyed his experiences learning about NAR’s finances while on the NAR Finance Committee. He currently serves on the Real Property Operations Committee, which handles the association’s commercial properties.

LOOKING AHEAD WITH OPTIMISM

Conn’s first priority for 2024? “Don’t screw it up,” he says, laughing.

He isn’t worried. Conn is excited to work with the talented 2024 Leadership Team: Chairman-Elect Christy Gessler, Secretary/Treasurer Jennifer Wauhob, Immediate Past Chairman Marcus Phipps, and President/CEO Travis Kessler. “We are a team,” he says. “The members are our entire focus. It’s a great environment, and the members will be well-served.”

This year will have its share of challenges. Late last year, Texas REALTORS® was named in two lawsuits, *QJ Team et al v Texas Association of Realtors et al* and *Martin et al v Texas Association of Realtors et al*. Conn sees an opportunity to be a great communicator for the association, ensuring the association communicates and explains what is going on to members.

He hopes communication will go both ways. Conn feels it’s important to have a commercial point of view at the table. “There’s fewer of us commercial members and we’re not always involved in leadership,” he explains. “We kind of keep to ourselves. When there is someone in leadership, commercial practitioners may feel comfortable enough to call if they have a question. They know I’ll understand.”

Conn hopes to bring his positivity and enthusiasm to everything he does this year. “So often we encourage people to say something when something’s wrong,” he notes. “But then we don’t share the positive thoughts. We don’t take that extra step. I remember that when I received a compliment on my work—especially when I was just starting out—it made me feel like a million bucks. We’re all busy and stressed. If we take the time to share a kind word and gratitude, it opens doors and builds relationships.”

Conn is ready to work for you and this industry. But he wants your help. “We all can do bigger and better things,” he says. “We all can be better together. I see the best in people. I’m always looking for the good things.” ✪

JOE OLIVIERI is a business writer who frequently writes for Texas REALTOR®.



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2024 TEXAS REALTORS® LEADERSHIP TEAM



CHAIRMAN-ELECT
CHRISTY GESSLER CRB, CRS, GRI, SFR,
 SRES, SRS, TAHS, TRLP

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Gessler is the Broker and Owner of Freedom 512 Real Estate Group, an independent brokerage in Central Texas. She serves on the NAR Board of Directors and was the 2012 Board President of the Williamson County Association of REALTORS®. She has served on numerous committees in the state and local REALTOR® associations. Gessler is a graduate of the NAR Leadership Academy and the Texas REALTORS® Leadership Program. She is a real estate instructor and the creator of The Dependent Agent podcast.

- Working as a Travis County Sheriff's Department deputy taught me how to address conflict: the value and importance of not running from it but addressing it head-on and working to a quick and fair resolution.
- Serving on committees allows you to grow and understand people better. Working with a committee allows you the opportunity to learn and understand where your strengths lie within a work group.
- I've always loved the quote, "Our fingerprints don't fade from the lives we touch." It has inspired me to work to grow at least 20 new brokerages from agents who have worked under my leadership in my 20 years in real estate. I'm almost there!
- To me, technology is a blessing and a curse. I love using technology to manage my calendar, but beyond that there is a lot of noise and fuzz that can be hard to get past. I'm a little old school. I believe our best work is done seated around a table having great conversations.
- One of my best pieces of advice when I first got into this business was to read and know my forms. We rise and fall based on our paperwork, and knowing what is in those documents is the most valuable tool we have in our toolbox. I was told once to read one form a day and master it.
- I enjoy RVing; my favorite part is observing and meeting new people! I love hearing stories on the campground. Comparing and touring other people's rigs is fun, too. People's creativity and ingenuity always makes my heart sing.
- I have been striving for a balance between expenses and income as a brokerage owner for years. I have finally found a mix of people and services for the right arrangement that fits my needs. As a broker-owner, we sometimes don't put our needs first. Putting my needs first helped me change perspective and create a less stressful work environment.
- We are a competitive bunch, but the best trait in any REALTOR® I have ever dealt with is when they come into every transaction and every interaction with kindness and grace.



SECRETARY/TREASURER
JENNIFER WAUHOB CRS, GRI, MCNE

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Wauhob leads The Jennifer Wauhob Team with Better Homes and Gardens Real Estate Gary Greene in Katy and West Houston. She served as the 2022 Houston Association of REALTORS® Chairman and 2021 Texas REALTORS® Strategic Planning Committee Chairman. She has been named a REALTOR® to Watch and a Top 20 Under 40 Rising Star in Real Estate by the state and Houston associations, respectively.

- The most exciting topic in real estate for me is where the market is headed. Now is such an important time for you to be a good resource for your clients and help guide them through what's really happening in your market.
- My advice for new agents is to stick it out. This is not a get-rich-quick business. It takes time to build your knowledge and connections. Get through that first year and you'll see your business really start to grow in years two and three.
- I am a lifelong learner. I've been doing this for 13 years, and I'm always reading business books, listening to podcasts, and taking trainings.
- I always recommend everyone earn their GRI. It helps agents get CE hours, and you earn a designation along with it. The credential I've gotten the most benefit out of is the negotiation training, MCNE. I use those skills all the time at work, with my kids, my husband—everybody!
- The most rewarding part of getting involved in the REALTOR® association is the friendships I've gained. Real estate can be an isolating job. Being able to come together with your peers and work on things together makes it so much more enjoyable. And none of us would do it if we didn't also have fun!
- I'm originally from Lubbock but my husband's job moved us all over the country. I got into residential real estate after we moved to Houston. I was a teacher, then a stay-at-home mom. I decided to get my license. I didn't know what I was getting into.
- I taught junior high choir. Coming from a teaching background, I really enjoy taking people all the way to the end of what can be a complicated process of buying and selling real estate. You become friends and a big part of their lives for a couple of months.
- My favorite quote is from Zig Ziglar: "You can have everything in life you want if you will just help enough other people get what they want."
- We're a sports family and big Red Raiders fans. If we're not going to games, we're at home, keeping up with the kids and what they're up to.



IMMEDIATE PAST CHAIRMAN
MARCUS PHIPPS GRI, CRS, AHWD,
 C2EX, TAHS, TRLP

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Phipps is the Broker/Owner of Marcus Phipps Real Estate, a full-service brokerage serving the entire Rio Grande Valley and beyond. He was formerly a Texas REALTORS® Regional Vice President and President of the Harlingen Association of REALTORS®.

- My favorite memory of my time as chairman was REALTOR® Day at the Texas Capitol. I was overwhelmed at this event by the engagement of our members and by the incredible efforts of our entire Texas REALTORS® staff. Texas REALTORS® shined brightly that day.
- My most significant takeaway from being chairman is that the leadership is choosing what's best for the association. This means that some members will be mad at us sometimes, and that just has to be OK.
- To get better at networking, many people just need to jump in there and engage with others, build relationships, and grow their network. Others, however, need to learn how much is too much.
- Knowing your limitations is an underrated skill. You can't do it all. Sometimes you need to hire help, and other times you need to refer the business out.
- GRI is hands down the best education out there! I took it 24 years ago!
- Attending the Shaping Texas Conference is the best opportunity any member has to see Texas REALTORS® as a whole: who we are, what we do, and how we do it.
- I mostly do listings, so good communication from the buyer's agent is always a key indicator to me of a good transaction. If they're quiet, it's troublesome!
- The most important thing to do in a listing presentation is to ask for the business.
- This is a member-led association from the ground up. We need members from all over the state and from all walks of life to make us the best we can be!
- Many members don't realize how powerful and important Texas REALTORS® advocacy is. \$18.2 billion in property tax relief for all Texans—we did that!
- One of the best ways you can help the association is to complete the surveys that we send. Please!



PRESIDENT/CEO
TRAVIS KESSLER RCE, CAE, AHWD, C2EX

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Kessler has chaired the Strategic Planning Committees at NAR and Texas REALTORS®. He was previously CEO of the Greater Fort Worth Association of REALTORS® and the San Antonio Board of REALTORS®. Kessler has twice received the Tom D. Morton Award honoring the Texas REALTORS® local association executive of the year. In 2009, he received the William R. Magel Award, NAR's highest honor for a REALTOR® association executive. He has also been named for nine consecutive years to the Swanepool Power 200 list, which includes the most powerful and influential leaders in the residential real estate brokerage industry.

- The most impactful real estate challenge ahead of us this year is a lawsuit that names Texas REALTORS® for supposedly suppressing competition that inflates fees paid by real estate consumers. Nothing could be further from the truth. Eighty-six percent of all real estate transactions utilized the expertise and knowledge of a real estate agent. Consumers see value in the use of this market knowledge and the work REALTORS® do in guiding consumers through the many decisions that need to be made in a real estate transaction. Texas REALTORS® promotes transparency in service, the negotiability of fees, and will vigorously defend our pro-consumer, pro-competition positions.
- What inspires me the most about our organization is the care and commitment that REALTORS® have to serve, not only the association, but the way they give back to their own communities. It inspires me to see the devotion of our volunteer leaders, the involvement of our members, and the dedication and talent of our staff at Texas REALTORS®.
- I have been involved in the development and implementation of the Texas REALTORS® Leadership Program since its inception in 2005. Every year, I see how personal and professional growth can be achieved through this program.
- My first job at Texas REALTORS® was right out of college, working in the professional development department with the GRI program. I learned so much about the industry, the profession, and the value of what a REALTOR® provides to the homebuying/selling consumer. Working with REALTORS® piqued a keen interest for me to want to make this a lifelong career.
- When we visit REALTORS® in their hometowns, I am always impressed with how respected they are in the business community and the pride they have to make their city a wonderful place to live.
- I equate the skill set of professionalism with delivering service through being empathic, resourceful, and respectful. Learning from others and watching someone you admire and respect and how they set and maintain high standards of excellence is a great way to improve this skill set.

Photos: Justin Brown

2024 REGIONAL VICE PRESIDENTS

The regional vice presidents are your representatives for policy decisions at the association. Their role is to gather feedback from their regions and provide it to the Texas REALTORS® Executive Board so it can make informed decisions about association policies. If you ever want to provide feedback or have questions about how these policy decisions are made, contact your regional vice president.

Regional vice presidents are also available for board or office presentations and can share the latest information about the industry and your association, including how Texas REALTORS® advocates on your behalf or the value of membership.

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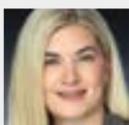


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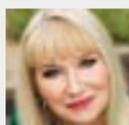
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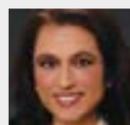
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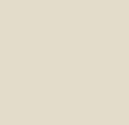
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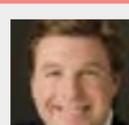
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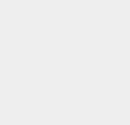
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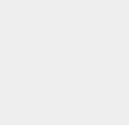
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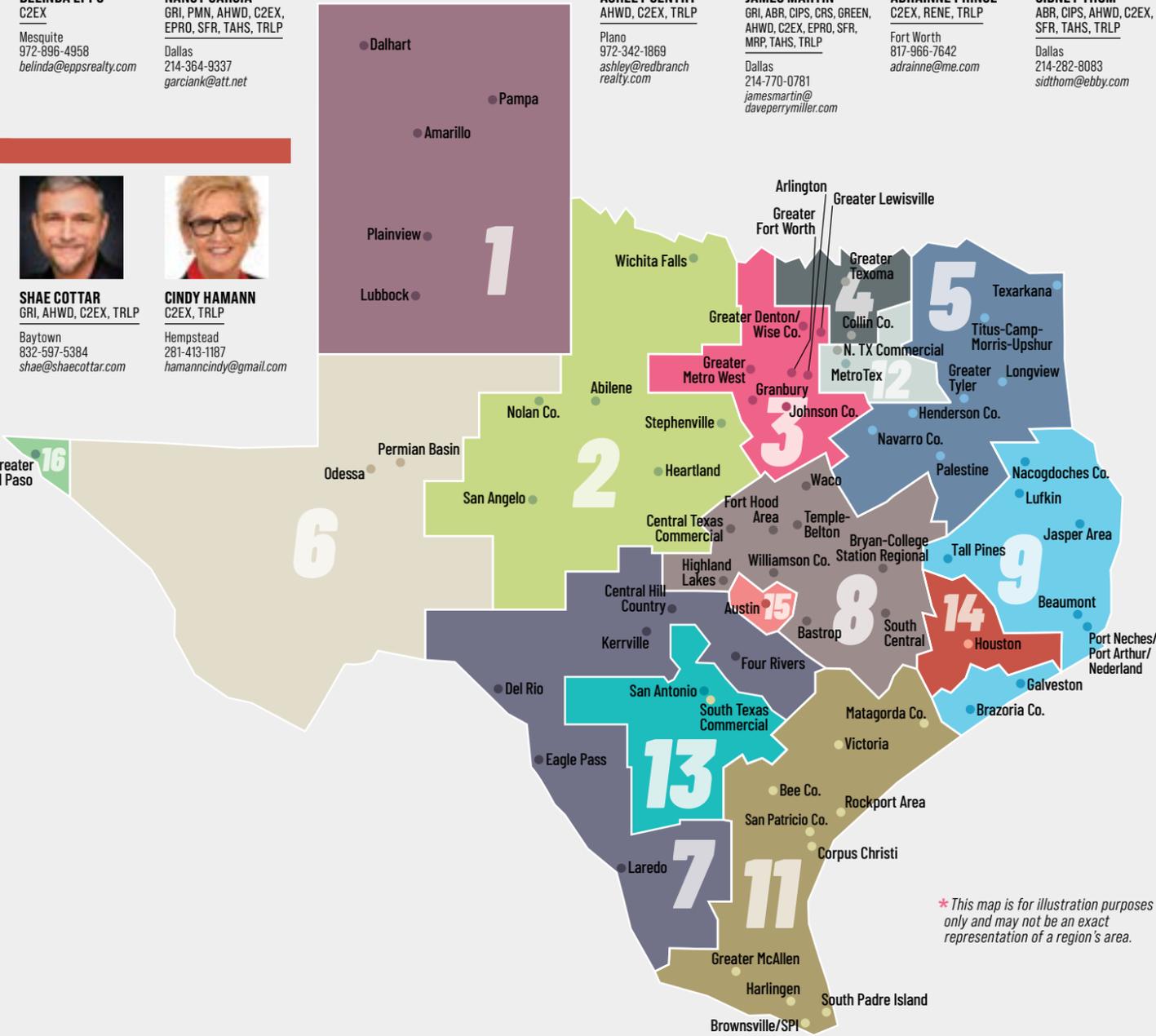
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* This map is for illustration purposes only and may not be an exact representation of a region's area.

2024 COMMITTEE CHAIRS

Learn more about what these committees do at texasrealestate.com/committees, and look for the volunteer signup in May.

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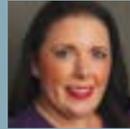
PROFESSIONAL DEVELOPMENT	PROFESSIONAL STANDARDS	PUBLIC POLICY BUSINESS ISSUES	PUBLIC POLICY INFRASTRUCTURE	PUBLIC POLICY LAND USE	PUBLIC POLICY OVERSIGHT	PUBLIC POLICY TAXATION	RISK REDUCTION
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2024 EXECUTIVE BOARD APPOINTEES

These appointees join the Leadership Team and regional vice presidents to constitute the 2023 Executive Board.

The Executive Board manages all the association's affairs except the following, which require approval of the Texas REALTORS® Board of Directors:

- Amending the association's bylaws
- Electing officers
- Approving expenditures more than 10% of the annual budget
- Approving the strategic plan
- Approving increases in membership dues
- Defining regional boundaries.

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“EVERYBODY’S SOMEBODY AT TEXAS REALTORS®”

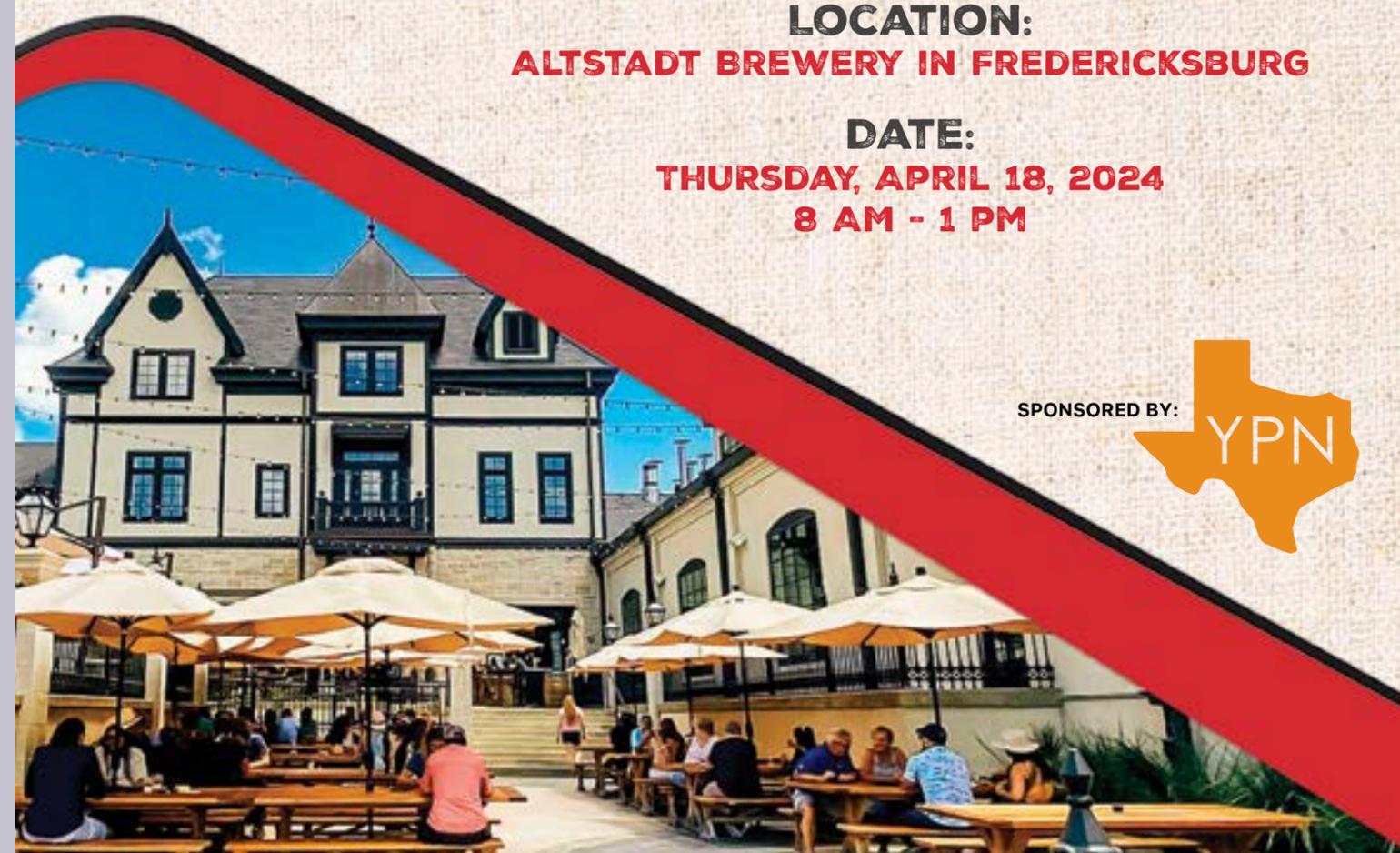


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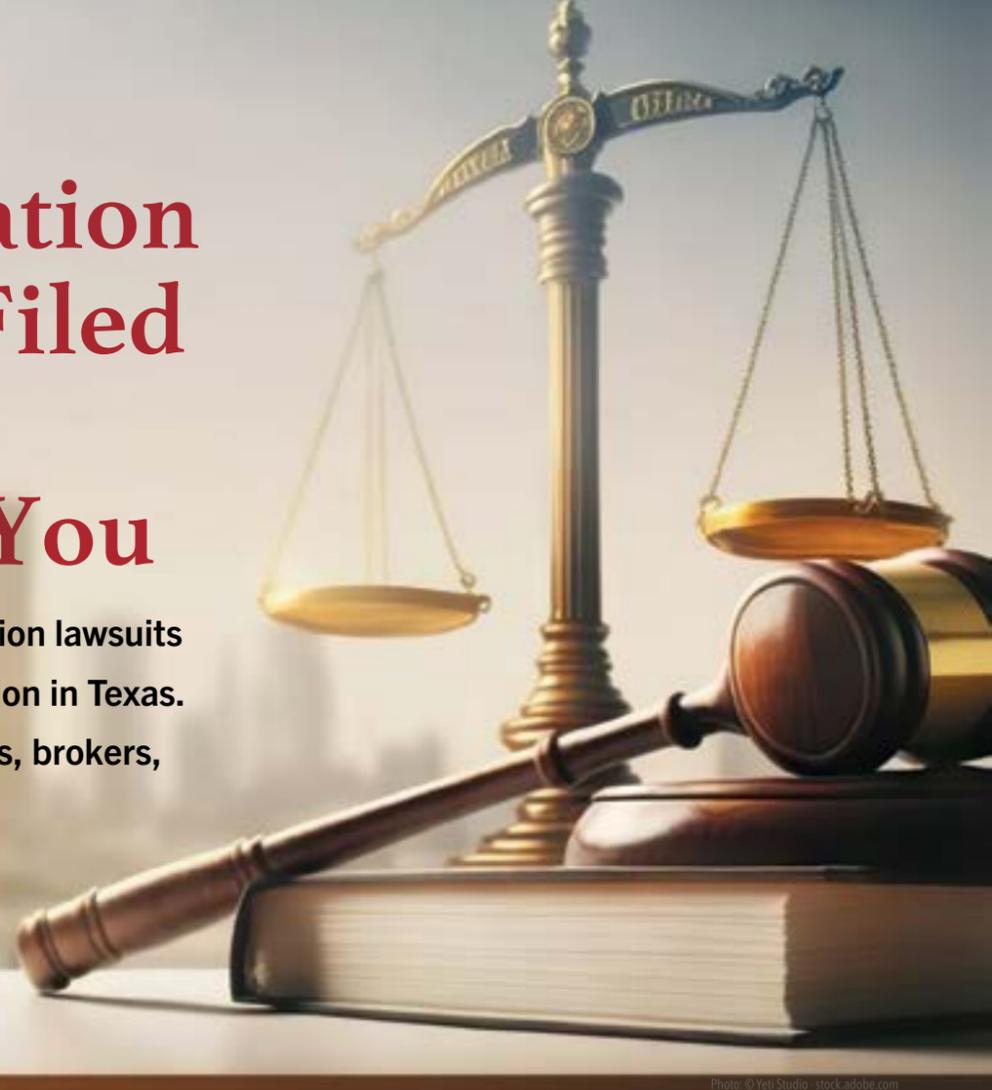
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What the Compensation Lawsuits Filed in Texas Mean for You

Plaintiffs have filed class-action lawsuits related to broker compensation in Texas. Here's how they affect agents, brokers, and REALTOR® associations.



Texas REALTORS® has been named in two lawsuits, *QJ Team et al v Texas Association of Realtors et al* and *Martin et al v Texas Association of Realtors et al*. Several local associations of REALTORS® and real estate brokerages in Texas have been named as co-defendants. These lawsuits are two of several copycat lawsuits across the country that have been filed in the wake of a verdict against NAR and other corporate defendants in the case of *Burnett v. NAR et al*. Texas REALTORS® expected claims like this to be filed after the verdict was returned in *Burnett*. NAR has taken steps to overturn the decision in the *Burnett* lawsuit.

Texas REALTORS® stands by the value of the professional expertise that you provide to your clients.

The association has hired the law firm of Husch Blackwell to bring legal expertise to these matters. Husch Blackwell is a national law firm with extensive experience in antitrust litigation. Texas REALTORS® management, legal staff, and elected leadership are working with Husch Blackwell to review the filings and mount effective responses.

Though there are aspects of this litigation that Texas REALTORS® is unable to discuss, the association will provide information and updates to members as soon as possible. Here are details of the lawsuits as of press time, as well as answers to questions you may have. For the latest information, visit texasrealestate.com/lawsuit.

Texas REALTORS® maintains that the practice of cooperative compensation makes efficient, transparent, and accessible marketplaces possible. Sellers can sell their home for more and have their home seen by more buyers, while buyers have more choice of homes and can afford representation.

Texas REALTORS® disagrees with the assertions made in these lawsuits.

The lawsuits allege an antitrust conspiracy that suppresses competition and inflates fees paid by real estate consumers. Texas REALTORS® fundamentally disagrees with those assertions.

Texans have numerous choices when it comes to how they choose to buy and sell properties:

- Buyers and sellers can choose to buy or sell homes without any assistance from a licensed broker.
- They can hire licensed brokers who are not members of Texas REALTORS®.
- They can hire licensed brokers who are members of Texas REALTORS®.

Broker compensation is negotiable.

There is no association rule or policy that sets compensation amounts or requires brokers to use any specific compensation structure. Brokers may negotiate with clients on their specific fees and services. There are many different compensation models that brokers may utilize, including commission, flat fee, hourly fee, and fees for specific tasks, which give consumers many choices of brokerage models, fees, and services.

Texas REALTORS® forms and agreements between brokers and clients clearly and effectively outline compensation.

These forms create more transparency so that all parties know who is being compensated, how they are being compensated, and how the compensation is determined.

(continued on next page.)

FAQs

Is there anything REALTORS®, brokers, local associations, or MLSs need to do differently because of the *Burnett* verdict or these lawsuits?

These suits don't change how you do business. The bottom line is that compensation will continue to be negotiable and set between brokers and their respective clients, as it always has been. REALTORS® will always be there to guide clients through the financial, legal, and other complexities of buying and selling a home.

Brokers should continue to use written listing and buyer agreements, whether from Texas REALTORS® or their own, to help clients understand exactly what services and value they are providing and how much they charge.

What can REALTORS® tell clients about these suits?

As a REALTOR®, you can continue expressing to clients, friends, and family that compensation arrangements (including commissions) are, and have always been, negotiable and set between brokers and their respective clients. Explain to clients the value you bring to the transaction and why you charge the fees that you do.

Can listing brokers still offer cooperating compensation?

Yes. No court ruling or NAR policy change prohibits listing brokers from offering compensation to cooperating brokers. Listing brokers in consultation with their clients decide if compensation will be offered to serve the seller's best interest.

What should listing brokers discuss with sellers about cooperating compensation?

Sellers need to understand that offering cooperative compensation is not required. But listing brokers should also discuss the benefits of cooperative compensation. Many buyers don't have the ability to pay their broker out-of-pocket on top of the down payment and other closing costs. By offering cooperative compensation, sellers expand the pool of potential buyers interested in their property, which can often lead to more offers with terms favorable to the sellers.

Can sellers and listing brokers refuse to offer cooperating compensation?

Yes. There is no association or MLS policy that requires any set amount of compensation in order to put a listing in the MLS. The MLS policy requires the listing broker to specify the amount of compensation being offered. If the seller and listing broker decide that no compensation will be offered, that's what should be specified in the MLS. Some MLSs allow you to enter \$0. Other MLSs require a nominal, positive amount to be entered of at least one dollar or one cent, which is effectively \$0. Check with your local MLS about which option it has adopted.

How can I ensure I am fairly compensated as a buyer's broker?

You can use a written buyer representation agreement. The *Residential Buyer/Tenant Representation Agreement* (TXR 1501) spells out to your buyer how much you will be compensated. That compensation may come from the seller, listing broker, or your buyer client. And remember, buyer's agents can contact the listing broker to negotiate cooperative compensation listed in an MLS. Whatever the results of the negotiation, whether there is a change in compensation or not, the buyer's agent must discuss the situation with the buyers and let the buyers decide what they want to do.

Will Texas REALTORS® create new forms or revise existing forms to address these issues?

Association legal staff is reviewing existing forms to determine the potential need for new or revised forms.



What Brokerages Must Know

The following requirements are not new requirements based on the lawsuits but are important reminders of how brokerages must operate.

Firms must set their fees independently.

While some competing firms might charge the same amounts, they must independently arrive at their fees. Firms should never discuss setting fees with competitors; it is a violation of antitrust laws.

Be completely transparent about fees with clients.

Discuss fees with clients up front and get compensation details in writing. If you are representing sellers, you can use *Residential Real Estate Listing Agreement, Exclusive Right to Sell* (TXR 1101). When representing a landlord, you can use *Residential Real Estate Listing Agreement, Exclusive Right to Lease* (TXR 1102). Members representing buyers or tenants can use *Residential Buyer/Tenant Representation Agreement* (TXR 1501). ★

Demonstrate your value.

Prospects and clients won't know the extent of the work you do on their behalf unless you tell them. Create lists, marketing materials, and presentations that detail all the services and benefits you provide. Scan this QR code for NAR's list of nearly 300 ways REALTORS® bring value to clients.



What Should Local Associations Do?

Local associations must continue to comply with antitrust rules through their policies and during meetings and gatherings. NAR provides the following guidance:

- Provide annual training to staff and volunteer leaders on how to spot and respond to potential issues.
- Create clear policies that prohibit antitrust violations.
- Empower staff and leaders to stop potential antitrust discussions in person and on social media.
- Maintain clear and accurate records.
- Seek legal counsel for advice on any association activities that may impact competition.
- Encourage members to report antitrust violations or concerns to association leadership or legal counsel.

For more information relating to local associations and antitrust, visit nar.realtor/ae/aexperience/antitrust-for-associations.

What Happens Next?

Class-action lawsuits often take several years before going to a courtroom—if they get to a courtroom. During this time, the parties and their attorneys file various motions and conduct the discovery process to collect information and evidence.

At the end of last year, plaintiffs' attorneys filed a brief requesting that nine of the copycat compensations lawsuits—including the two filed in Texas—be consolidated into one case. Even if that request or other similar consolidation or venue-change requests are successful, the basic information and guidance in this article remains sound. Texas REALTORS® will continue to update members on the progress of the case and important information members need to know. You can find the latest information at texasrealestate.com/lawsuit.

SHARE THIS

Help clients better understand real estate transactions by giving them this information. Download a PDF of this page at texasrealestate.com/sharethis.

GUIDE TO BROKER COMMISSIONS IN REAL ESTATE TRANSACTIONS

Many people hire a real estate professional to represent them through the complicated process of buying or selling a home. This guide will help you understand how real estate brokers get paid.



Photos & Images: © Vectorburn- stock.adobe.com

IS THERE A STANDARD COMMISSION FOR REAL ESTATE BROKERS?

- No. The amount of commission you agree to pay your broker is negotiable. There are no rules or policies that set the amount brokers charge.
- There are many different compensation models brokers may use, including commission, flat fee, hourly fee, and fees for specific tasks. The term commission is used here for simplicity.
- Consumers can shop for various compensation models and services when choosing their broker.

WHAT CONTROLS THE AMOUNT OF COMMISSION BROKERS CHARGE FOR THEIR SERVICES?

- Each brokerage independently determines the services it will provide and the commission it will charge for those services based on their own business decisions and market forces such as supply and demand.
- Commission amounts have fluctuated over the years due to changes in market conditions.

WHAT IS COOPERATIVE COMPENSATION?

- When a homeseller hires a listing broker, the listing broker will typically include the property on a multiple listing service (MLS). An MLS is a database of homes for sale in an area.
- Brokers that represent buyers can search the MLS for homes that meet the buyers' criteria.
- This cooperation between the listing broker and buyer's brokers helps to market the seller's property to as wide an audience as possible.
- The listing broker has the option to share a portion of the listing broker's commission with the buyer's broker in exchange for bringing a buyer who ultimately buys the home.

IS COOPERATIVE COMPENSATION REQUIRED?

- No. Listing brokers are not required to share their commission with the buyer's broker.
- The seller and listing broker work together to decide if cooperative compensation will be offered and how much that compensation will be.

WHY WOULD THE LISTING BROKER CONSIDER PAYING THE BUYER'S BROKER?

- The cooperative compensation arrangement has proven to be an efficient method for brokers to be paid in a way that benefits both buyers and sellers.
- Most mortgage lenders don't allow commissions to be added to home loans, and many buyers do not have the financial ability to pay real estate compensation out-of-pocket on top of the down payment and other closing costs.
- When the listing broker pays the buyer's broker, more homebuyers can afford a home.
- Sellers benefit because their property will be more attractive to a wider pool of potential buyers, often resulting in the seller's home being sold for a higher price.



Talk to your REALTOR® about how to make your move as smooth as possible. Your REALTOR® has the knowledge and skills to help you make informed decisions.

TAKE 5

Help Clients Avoid Buyer's Remorse

A lot of time, money, and effort goes into buying a home. You never want your clients walking away from the experience with buyer's remorse. Here are five ways to help them prevent it.



TALK BUDGET

Overspending on a house can be a mistake homebuyers regret for years to come. Make sure clients talk about budget and whether they have a strict ceiling. It can help your buyers avoid remorse and remain in a secure financial position for the future.

FIND OUT NEEDS VS. WANTS

Ask clients to distinguish what they absolutely need from what they would like in their future home. Getting clarity on which items are necessary will help buyers avoid issues after the transaction is complete.

EXPLAIN ADDITIONAL BUYING COSTS

Discuss closing costs, especially when working with first-time homebuyers. These expenses can be a surprise and can affect how your clients perceive the overall value of their new home.

ENCOURAGE BUYERS TO REMAIN FLEXIBLE

Your clients may be searching for the perfect home, but they may need to make compromises. Encourage your clients to stay open-minded on their journey to finding a home. This attitude, along with the list of needs vs. wants, can help your clients avoid unnecessarily eliminating good choices and can head off regrets.

CONSIDER ELEMENTS OUTSIDE THE HOUSE

Make sure to point out the external factors that could affect the homeowning experience. Advise buyers to research the surrounding neighborhood, schools, traffic, shopping, recreation, and other factors that will go into their overall enjoyment of a new home.

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