


TEXAS REALTOR®

September/October 2019 \$3.50



HOW TO **NAVIGATE**
COMPLEX CLIENT

RELATIONSHIPS

p. 16

NEW
TEXAS
LAWS
AFFECTING
REAL
ESTATE

p.20

The Latest
FORMS
CHANGES
p.8



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TEXAS REALTOR®

September/October 2019-Volume 72-Number 07

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2019 TEXAS REALTORS® CONFERENCE RECAP



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INSIGHTS

Chairman

“ Many people are looking toward the November 2020 election—REALTORS® certainly are.

We expect to see high voter turnout, and we're already actively engaged in supporting pro-real estate candidates.

But there's an election for Texans coming even sooner that deserves your attention first.

On November 5, 2019, you will have 10 State of Texas propositions on the ballot. That's 10 chances to change our state's constitution.

Texas REALTORS® has officially endorsed three of them—Props 2, 3, and 8—because they will directly benefit Texas real estate consumers.

The changes will provide more water infrastructure resources, help Texans whose property is damaged by disaster, and help flood-damaged communities get back on their feet.

As we've unfortunately seen in recent years, flooding in Texas isn't just a coastal issue—it can happen anywhere that it rains.

Lawmakers responded by proposing these constitutional amendments during this year's legislative session.

But changing the Texas Constitution requires voter approval, so now it's up to you.

Let your clients and prospects know that you advocate for real estate consumers beyond the transaction ... you also support them at the voting booth.

Early voting runs from



October 21 to November 1, and Election Day is November 5.

Turn to page 20 to read about the three constitutional amendments Texas REALTORS® is supporting and visit texasrealtorssupport.com to see all 10 amendments on the ballot.

 **Tray Bates**

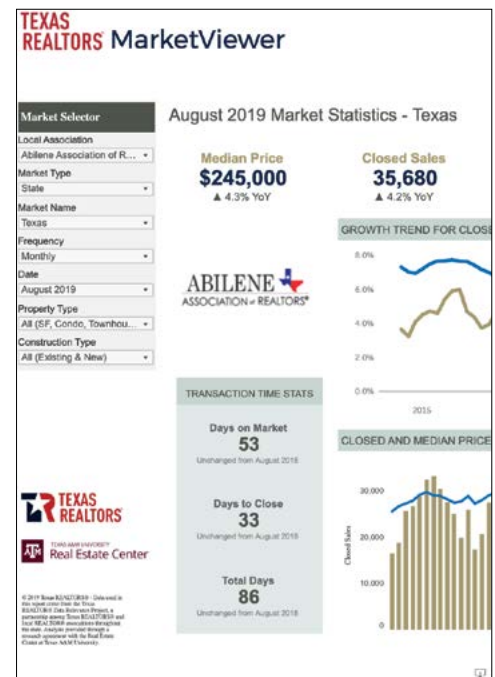
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REAL ESTATE
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YOU ALSO SUPPORT
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GET ACCURATE MARKET DATA SOONER

Monthly sales stats in MarketViewer—the real estate market-data tool exclusively for members of Texas REALTORS®—are now available to you even earlier. Data will be released on the 15th of each month. For example, sales figures for October will be released on November 15.

Other recent enhancements to MarketViewer include a new dashboard design with instant access to the most requested data; help text that defines how each statistic is calculated; new statistics for median price per square foot, median home size, median year built, and the ratio of the closing price to the original list price; categories to sort by single family, condo, townhouse, new construction, and existing construction; easily changed reporting periods (monthly, quarterly, or annually); and a new chart that displays the growth trend for closed sales and median price over the last 12 months.

By removing duplicate listings from MLSs and correcting common entry errors, MarketViewer provides the most accurate, comprehensive data available. Access MarketViewer at texasrealestate.com/marketviewer.



TEXANS NAMED ELIGIBLE CANDIDATES FOR NAR ELECTED OFFICE

The National Association of REALTORS® Credentials and Campaign Rules Committee recently presented a list of 2021 Eligible Candidates to campaign for NAR Elected Office. Texans on the list are:

- **Leslie Rouda Smith** as 2021 President-Elect
- **Vicki Fullerton** as Region 10 Regional Vice President

Former Texas REALTORS® Chairman Leslie Rouda Smith is NAR's 2020 First Vice President. Former Texas REALTORS® Chairman **Kaki Lybbert** is 2020 Region 10 Regional Vice President.

Texas REALTORS® also supports David McKey of Baton Rouge, Louisiana, as NAR's 2021 & 2022 Treasurer.

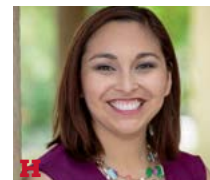
The election for 2021 NAR Elected Officers will be held during the NAR Board of Directors meeting at the 2020 REALTORS® Legislative Meetings & Trade Expo.



TEXANS APPOINTED TO NAR COMMITTEE LEADERSHIP

The following Texas REALTORS® members and staff have been appointed to National Association of REALTORS® committees. All terms begin December 1 and end November 1, 2020.

- **Mike Barnett**, Vice Chair, AEC-AE Institute **[A]**
- **Shad Bogany**, MLS & Data Management Liaison **[B]**
- **Mike Brodie**, Chair, Distinguished Service Award Council **[C]**
- **Cindi Bulla**, Vice Chair, State and Local Issues Mobilization Support Committee **[D]**
- **Cathy Coneway**, Chair, Mega Board Forum **[E]**
- **David Alan Cox**, Chair, RPAC Major Investor Council **[F]**
- **Bill Evans**, Vice Chair, Corporate Investor Council **[G]**
- **Sara Gerrish**, Vice Chair, Smart Growth Advisory Board **[H]**
- **Janet Kane**, Vice Chair, Associate Executives Committee **[I]**
- **Richard Miranda**, Chair, Global Alliances Board **[J]**
- **Julia Parenteau**, Chair, GAD Advisory Board **[K]**
- **Lorena Pena**, Chair, Residential Economic Issues & Trends Forum **[L]**
- **Ray Wade**, Vice Chair, Business Issues Policy Committee **[M]**
- **Leigh York**, Immediate Past Chair, Professional Standards Committee **[N]**



BUSINESS

CREATE A DIGITAL PRODUCT TO MARKET YOUR SERVICES AND GENERATE LEADS

E-books, checklists, guides, and other downloads or exclusive content can be used as digital products to supplement your marketing—and if you already have content to build on, without using much more of your time.

You can use digital products for lead generation, where the product is offered in exchange for prospects submitting contact information. Or, you can distribute them to clients to build goodwill and encourage referrals.

Here are some examples of digital products as a starting place for your own brainstorming:

- Neighborhood guides
- E-books on the buying or selling process specific to a region or property type
- Glossary of local resources for downpayment assistance and programs to help buyers
- Step-by-step relocation guides
- Workbooks for first-time buyers on preparing to own a home
- Checklists for moving or home maintenance essentials
- New homeowner guides with lessons from past clients.

TEXAS COMMERCIAL PROPERTY SEARCH NOW ON

TEXASREALESTATE.COM 

Your commercial properties for sale or lease now have their own search, accessible on the homepage and menu of texasrealestate.com. The new Texas REALTORS® Commercial Property Search enables site visitors to filter properties in many ways:

- Search by keyword or location
- Draw a boundary shape on a map
- Filter by properties for sale or for lease

- Select retail, office, industrial, life science, land, farm/ranch, hospitality, specialty, or multifamily properties.

The results display on an interactive map, color-coded by property category, with linked photos and other information. The search is made possible through a partnership with Catylist and will display all commercial properties in Texas on the Catylist platform.

WHAT CAN YOU AFFORD TO OUTSOURCE?



Outsourcing certain tasks can free up time that would be better spent on revenue-generating activities like showings, presentations, meetings, and negotiations. Although you may feel like you can't afford to outsource, there are options with lower up-front costs or less commitment, such as software solutions for scheduling or virtual assistants for data entry.

Outsourcing tasks doesn't mean you should forget about them. Instead, treat outsourcing as an opportunity to take a big-picture view of how the activity is serving your goals and how to improve. For example, time not spent updating individual client records can be put toward analyzing and improving your lead funnel, which can boost your bottom line by converting more prospects.

If you need more time for revenue-generating activities, here are some examples of tasks to consider outsourcing:

- Installing signs
- Taking listing photos
- Scheduling appointments
- Maintaining customer records and updating your CRM
- Staging listings
- Creating and scheduling marketing messages
- Bookkeeping.

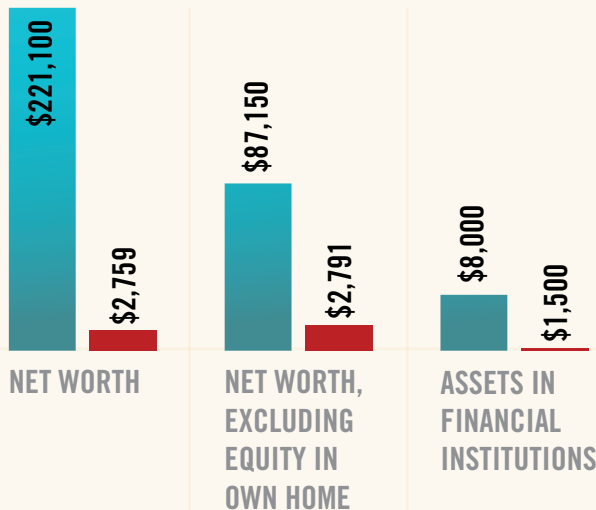
Look for repeated, straightforward tasks that you can quickly train someone to do or tasks you can easily hire an outside expert to handle.

HOMEOWNERS' MEDIAN NET WORTH IS 80 TIMES LARGER THAN RENTERS

A U.S. Census Bureau report released in August detailing household wealth in 2015 shows 37% of households did not own a home. The Census Bureau defines a:

- **HOUSEHOLD** as a group of people occupying a housing unit together
- **NET WORTH/WEALTH** as the value of assets owned minus liabilities/debts owed
- **MEDIAN HOUSEHOLD NET WORTH** as the dollar amount that divides households into two equal groups—one having net worth less than that amount and the other having net worth above that amount.

2015 MEDIAN VALUE OF ASSETS FOR HOUSEHOLDS



Here are a few other stats from the report detailing 2015 data.

- Median home equity was \$95,800 among households with equity, while the median value of assets at financial institutions was \$4,600.
- Home equity accounted for the largest portion of net worth in 2015 and 2014 despite being the third most commonly held asset.

SPEAKING OF MONEY...

MEDIAN GROSS INCOME IN 2018 FOR ALL TEXAS REALTORS®

\$35,000

SALES AGENTS
\$28,330

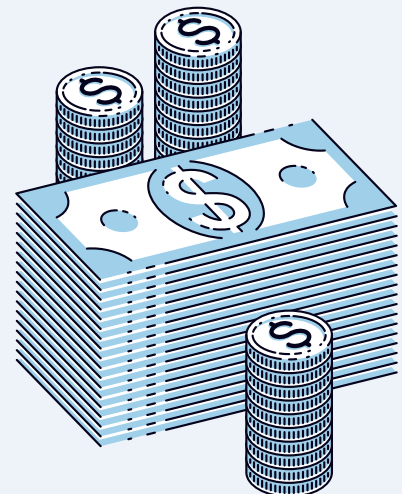
BROKERS
\$84,090

27%

of Texas REALTORS® made less than \$10,000

19%

made at least \$100,000



SOURCE: 2019 Profile of Texas REALTORS® Members. Check out the full report at texasrealestate.com/members/research/profiles/texas-realtors.

LEGAL & ETHICS

FORM CHANGES EFFECTIVE NOW

Revisions were made to the *Seller's Disclosure Notice*, *Residential Lease*, and *Residential Lease for a Multi-Family Property Unit* due to actions during the 86th Texas Legislature.



REVISED RESIDENTIAL LEASE (TXR 2001) AND RESIDENTIAL LEASE FOR A MULTI-FAMILY PROPERTY UNIT (TXR 2011)

Senate Bill 1414, which Texas REALTORS® supported in the 2019 legislative session, amended the section in Chapter 92 of the Texas Property Code regulating fees for the late payment of rent.

Collection of late fees is prohibited until any portion of the rent has remained unpaid for two full days after the original due date. Previously, late fees were allowed after one day.

There is now a safe harbor where if late fees do not exceed a certain percentage, the fee is automatically considered reasonable under the law.

Any late fee is still required to be reasonable. Under the safe harbor, for a rental dwelling located in a structure with no more than four dwelling units, a late fee is considered reasonable if the fee is not more than 12% of the amount of rent for the rental period under the lease.

For example: The tenant's monthly rent is \$1,000, and the tenant fails to timely pay rent. To fall under the safe harbor,

the total amount of late fees the landlord collects for that late rent payment should be no more than \$120.

For a rental dwelling located in a structure that contains more than four dwelling units, a late fee is considered reasonable if the fee is not more than 10% of the amount of rent for the rental period under the lease.

A late fee that does not fall under the safe harbor can still be considered reasonable.

Staying under the safe harbor limits automatically makes those fees reasonable. But even a late fee exceeding those limits can be considered reasonable, as long as the fee is in line with the damages to the landlord that might reasonably result from the late payment of rent. For example, those damages could include the cost associated with the collection of a late payment.

A tenant may request a written statement of his late fee.

The tenant can ask for a written statement of whether he owes a late fee and, if so, the amount of that fee. The landlord must provide the statement to the tenant through a means regularly used for written communication between the landlord and the tenant. For example, if the landlord and tenant usually communicate by email, that would be the way to deliver the written statement. A landlord's failure to respond, however, doesn't affect the tenant's liability for any late fee owed to the landlord.

The amendments apply to leases entered into or renewed on or after September 1, 2019.

Changes have been made to the *Residential Lease* (TXR 2001) and the *Residential Lease for a Multi-Family Property Unit* (TXR 2011) to reflect the increase in the number of days that the rent must remain unpaid before collecting a late fee. You can view the redline changes on the Adopted Forms page of texasrealestate.com. Other minor changes have been made as a result of additional legislation.

REVISED SELLER'S DISCLOSURE NOTICE (TXR 1406)

Questions were added to the *Seller's Disclosure Notice* (TXR 1406) due to bills supported by Texas REALTORS® and passed during the 86th Texas Legislature. These questions concern flooding, such as whether the seller's property is located wholly or partly in a 100-year or 500-year floodplain, whether the seller has ever filed a claim for flood damage, whether the property has sustained water damage not due to flooding, if the property has present flood coverage, if there was previous flooding due to a failure/breach of a reservoir, and if there has been previous water penetration into a structure on the property due to a natural flood event.

The revised version of the *Seller's Disclosure Notice* must be used in transactions when the sales contract is executed after September 1, 2019. You can see a redlined version of the *Seller's Disclosure Notice* in the Adopted Forms page on texasrealestate.com.

Legal Q&A

Is the owner of a duplex required to provide a seller's disclosure notice when listing his property for sale?

NO. The seller's disclosure-notice requirements in Section 5.008 of the Texas Property Code only apply to sellers of residential real property composed of "not more than one dwelling unit." Although not required to provide the statutory notice, a seller must still disclose known material defects concerning the property, making it a good idea for the owner of a duplex to provide the notice for each side of the duplex.

Any seller should review the seller's disclosure notice and consider the advantages of disclosing information about the property's condition before an offer is made. The notice can be a significant risk-reduction tool.



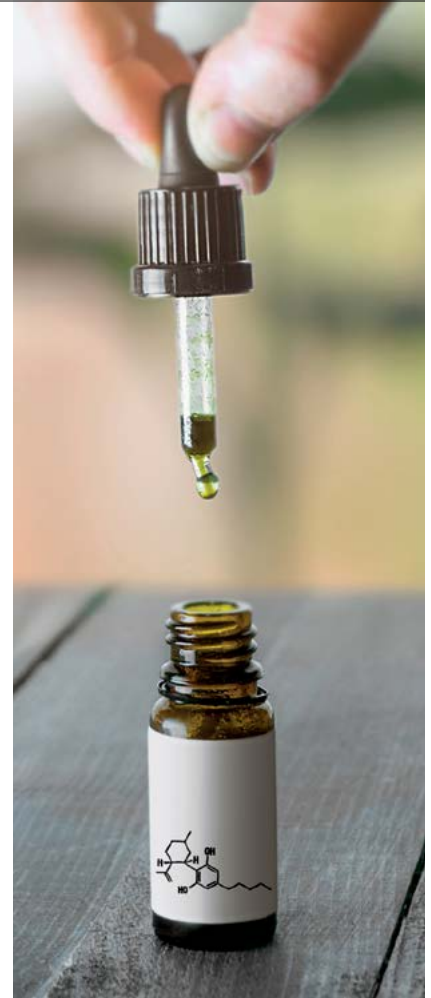
CAN A LANDLORD BAN CBD FROM A PROPERTY?

You may have noticed a recent uptick in CBD products being sold in Texas. That's because a state law that went into effect June 10 allows the sale and possession of CBD products that contain less than 0.3% of THC, the psychoactive part of the cannabis plant.

Now that CBD products are legal, can a landlord ban them from his properties? The answer is yes, in the same way that a landlord could ban alcohol from his properties. As the owner, the landlord has the right to exclude activities, products, or even certain animals from his property.

The one caveat to this right is the Fair Housing Act. If the tenant has a disability that requires the use of legal CBD products, then the landlord would be required to make a reasonable accommodation unless he could show that the requested accommodation is unduly burdensome, a fundamental alteration of the landlord's typical business practices, or that the requested accommodation poses health or safety risks to other tenants or substantial damage to property.

When making the decision to deny reasonable accommodation requests, landlords should seek the advice of a lawyer to understand the risks associated and to make an informed decision.



Legal Hotline

800-873-9155

Members have called regarding situations where a contract is signed with an attached *Addendum for Sale of Other Property by Buyer* (TXR 1908) and the buyer will not obtain proceeds from the sale of her other home by the contingency date stated in Paragraph A. Callers ask if extending the closing date on the sales contract will also extend the contingency date in Paragraph A, thereby giving the buyer the additional time she needs to obtain her proceeds. No. An amendment extending the closing date does not automatically extend the contingency date in Paragraph A. Paragraph A of the *Addendum for Sale of Other Property by Buyer* states that if the contingency is not satisfied or waived by the contingency date then the contract will terminate automatically. A buyer wishing to continue in a transaction past the contingency date without having obtained her proceeds would have to waive the contingency. Alternatively, if the parties want to change the contingency date in Paragraph A, then that change must be specifically addressed in an amendment.

—Ryan Bauman, staff attorney





Actions from **TREC's** August Meeting

Adopted rules, proposed form revisions, and more from the Texas Real Estate Commission.

The August 12 Texas Real Estate Commission meeting covered 45 agenda items spread over 472 pages of meeting materials. You can review all the meeting materials at trec.texas.gov. Read on for highlights relevant to your business.

Adopted Rules

Eliminated consideration of student loan default. Emergency amendments were adopted to Section 535.91, Renewal of a Real Estate License, which removed references to student loan default. This change was due to Senate Bill 37, passed by the 86th Texas Legislature and signed by the governor, and removes consider-

ation of a student loan default as grounds to deny a license or license renewal.

Added geographic and property-type competency. TREC rule Section 531.3 was amended to make clear that license holders must be knowledgeable about local market issues in the geographic area in which they work and the characteristics involved in the specific type of property being sold or leased. Penalties for violating this requirement were added to Section 535.191, with a range of \$500 to \$3,000.

Education providers now approve instructors. The Texas Legislature removed TREC's authority to approve instructors. Therefore, the commission adopted amendments to the rules to

reflect this change. TREC will still determine qualifications that an instructor of a TREC-approved course must meet, but the instructor will be approved by the education provider. These amendments affect Sections 535.63, 535.65, 535.74, and 535.75. The commission also eliminated the eight-hour adult education instructor training course required within four years of an application to teach qualifying or non-elective continuing education courses.

Undisclosed commission or rebate updates. TREC rule Section 535.148, Receiving an Undisclosed Commission or Rebate, was amended to conform with the federal Real Estate Settlement and

Procedures Act (RESPA) and a similar provision in the rules applying to inspectors.

Proposed Rules Changes

Here are some of the changes proposed, many of which were necessitated by action during the 2019 legislative session. You can see all proposals in the meeting materials at trec.texas.gov. These proposals will be discussed again at the November TREC meeting.

- **Section 535.112, Branch Office:** As a result of Senate Bill 624, a branch office license is no longer required. Therefore, proposed changes were made to TREC rules to remove references to a branch office license.
- **Section 535.101, Fees:** The proposed amendments eliminate fees for a branch office license, establishing or changing a relationship with a sponsoring broker, change of address or name, an active license certificate, instructor approval, submitting paper application or forms, and certified copies. The fee for dishonored checks is also removed; however, the proposed rule would create a process for requesting payment and allowing the commission to place a license on inactive status if payment isn't received.
- **Section 535.51, General Requirements for a Real Estate License:** The Texas Legislature removed the residency requirement for real estate license eligibility. The proposed amendment removes that requirement from the rule and removes references to service members to incorporate them in a new section, Section 535.58, License for Military Service Members, Veterans, or Military Spouses.

Proposed Forms Changes

The commission proposed changes to its contract forms.

Language was added to Paragraph 4 to address leases to which the seller is a party and requires the seller to acknowledge that the buyer has received a copy of all leases or will receive a copy within three days after the effective date. The buyer may terminate the contract after receipt of the leases within a period of

days set in the contract. Paragraph 4 also prohibits the seller from executing any new lease or amending any lease without buyer's written consent after the effective date of the contract. The language of existing Paragraph 4 was moved to the end of Paragraph 8.

Language was deleted from the Broker Information page of all contracts except the *Farm and Ranch Contract*: "Listing Broker has agreed to pay Other Broker ___ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing."

These proposed changes affect the following forms:

- *Unimproved Property Contract*
- *One to Four Family Residential Contract (Resale)*
- *New Home Contract (Incomplete Construction)*
- *New Home Contract (Completed Construction)*
- *Farm and Ranch Contract*
- *Residential Condominium Contract (Resale)*

Changes were proposed to the *Addendum for Property Subject to Mandatory Membership in a Property Owners Association*. It was amended to add deposits and reserves to the list of payments the buyer will make in association with the transfer of the property.

Changes were proposed to the *Third Party Financing Addendum*. It was amended to clarify that the three-day notice requirement in Paragraph 2B does not apply to Paragraph 4.

Changes were proposed to the *Addendum for Authorizing Hydrostatic Testing*. It was amended to include a reference to the scope of hydrostatic testing in the top sentence.

The earliest the form changes could be adopted is November.

Oldmixon to Retire

After 10 years leading the Texas Real Estate Commission, Executive Director Douglas Oldmixon announced his retirement. During Oldmixon's tenure at the commission, the agency improved broker responsibility, raised education standards, modernized rules, enhanced consumer protections, and improved its service to license holders. Texas REALTORS® thanks the executive director for his leadership.



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Real Estate Brokerage Succession Planning



Even if you don't intend to move on from your brokerage anytime soon, succession planning should be part of your strategic plan. Here are practical and legal considerations for creating yours.

by Rick M. Albers

Real estate brokers do not live forever. Most do not want to work forever. As a result, they need to give some consideration to whether their brokerage will continue to exist once they stop working. They might stop working through retirement or experience an unexpected death, incapacity, or a suspension or revocation of their license.

PLANNED SALE OF BROKERAGE

Selling a real estate brokerage is not an easy undertaking. If the selling broker wants to generate the highest price, the broker should address many considerations in preparation for a sale.

What Are Buyers Looking For?

Buyers are looking for an asset that will generate a return on their investment. Buyers want a secure cash flow and growth opportunities. As a result, in preparation for a sale the broker must first consider what generates the cash flow for the brokerage. Is the selling broker the business generator? Do the agents generate their own business and thus the brokerage income? Is there income generation from a variety of activities?

Once the selling broker has honestly defined the sources of the cash flow, the selling broker needs to determine whether the brokerage system and structure can easily be implemented by a prospective buyer. The selling broker will need to demonstrate that the system and structure will not fall apart once the selling broker is no longer present. One of the main issues is to be able to demonstrate that the existing agents will remain once the selling broker is no longer a part of the brokerage.

Prepare a Sales Information Package

A sales information package should be assembled that describes what the broker is selling. It should include extensive information including the following:

- Historical financial data.
- Information about the office space, including whether it is leased or owned.
- Information about office equipment and other assets, including whether they are leased or owned.
- The number of agents, their performance and longevity with the office.
- Information about the office/management staff.
- How long the selling broker will remain after the sale.

Initial Documentation and Considerations

The selling broker should consider asking the prospective buyer to enter into a confidentiality agreement early in the process. The selling broker will not want the brokerage's financial information shared with third parties. The selling broker will also want to control how and when the existing agents learn about the proposed sale and the proposed buyer. In most instances, it is best if the agents learn of the potential sale from their broker, not from the buyer or from some third party.

It is helpful for the selling broker and the prospective buyer to enter into a letter of intent that outlines the major deal points. Once the letter of intent has been negotiated the parties will have the transaction structure negotiated so that a sales contract or asset purchase agreement can be prepared.

During the initial negotiations, the selling broker may want to evaluate the prospective buyer to determine if the buyer is the type of person that the selling broker is comfortable with running the broker's business. The selling broker will also want to verify the prospective buyer's availability of funds and sources of capital.

Due Diligence

Depending upon the size of the brokerage, there may be a due diligence period (option period) contained in the sales contract or asset purchase agreement. The due diligence period will allow the prospective buyer the opportunity to more fully investigate the brokerage operations and do more in-depth research concerning the agents, their performance, and whether they will remain after the purchase. The prospective buyer will want to review the financial records and verify the existence and condition of the other assets being purchased.

Closing Documents

The closing of the sale of a business can often involve a variety of documents. In addition to a bill of sale, there may need to be an assignment of lease or a sale of the office building. The buyer may sign a promissory note for a portion of the purchase price. There also may be a guaranty agreement, consulting

agreement, and a noncompetition, confidentiality, and non-solicitation agreement. If the brokerage is part of a franchise, the applicable franchise documents will need to be executed.

STRUCTURED TURNOVER

Instead of a sale to an unrelated third party, there may be a structured turnover plan with a long-time associate or partner. The lead broker may plan to step out of management (sometimes over a long term) as the associate/partner takes on more responsibility. In such a case, it is wise to have a written agreement stating how and when the ownership interest transfers are made and what conditions must be fulfilled. Consideration must be given as to how and when there is a change of the sponsoring broker so as to always have a licensed broker available to sponsor the sales agents.

UNEXPECTED SUCCESSION

Unplanned events often cause an immediate and unexpected succession. If the broker dies or if the broker's license is suspended or revoked, all licensed activity stops. All sales agents' licenses are suspended by TREC immediately upon the death of their sponsoring broker or if their sponsoring broker's license is suspended. No sales or brokerage activities can be performed until such time as a replacement sponsoring broker is in place.

Before the sales agents can perform any activity requiring a license, there must be a new sponsoring broker. If the original sponsoring broker was an individual, the agents must change their sponsorship to be with a new broker. If the original broker was an entity whose designated broker now has a suspended license, a replacement designated broker must be put in place with TREC before the sales agents may engage in any licensed activities. It would be wise for all business entity brokerages to have a successor designated broker pre-identified so the business is not shut down longer than necessary while the replacement designated broker is put in place.

BE PREPARED

Brokerage succession planning is more complicated than it may first appear. Even the smallest brokerage should give advanced thought to succession issues, especially the issues that arise when there is an unexpected death, incapacity, or loss of license by the sponsoring broker.

RICK M. ALBERS is an experienced real estate attorney and partner at Kuperman, Orr & Albers, P.C., in Austin. Contact him at ralbers@koalaw.com.

No sales or brokerage activities can be performed without a sponsoring broker in place.

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No, Direct Mail Isn't Dead

Industry Experts Dispel 5 Direct Mail Myths

By Krystal Beers Miller

We live in a digital world of instant gratification, so it's easy to believe direct mail might be dead. But is it? We dispelled some myths and found that direct mail marketing is, indeed, alive and well.

Myth: Direct Mail Is Junk Mail

"The direct mail of today is no longer unsolicited advertising, but rather it allows the user the ability to utilize relevant data and analytics combined with digital technology to truly 'speak' to prospective customers," says Bob Gill, Vice President of Strategic Sourcing for the global marketing execution firm InnerWorkings.

"However, the critics do exist and seem to most often fall back on the worn-out paradigm which classifies marketing pieces as 'junk mail,'" he adds. "The truth is that mail is seen as being more personal (some studies as high as 70%) than other means of marketing channels."

Myth: Direct Mail Has No Business In Real Estate

Becky Burnett, a Keller Williams Professionals REALTOR®, says she's found success using American Lifestyle Magazine, which allows for customized branding and contact information.

"The publication has different home and lifestyle articles that appeal to a wide audience," she says. Burnett adds that while she was skeptical at first, she has found it to be a great way for her to keep in touch with clients she has worked with in the past. "Once a quarter, I give all my past clients a call when I know the magazine has been mailed. I use it as a conversation starter and then check in on their real estate needs or if they know anyone looking to buy or sell."

Jill Tokarsky, a Real Estate One Associate Broker, uses personalized notepads as part of her direct mail strategy. "About every four months, I mail refrigerator notepads to clients, friends and family," she says. She adds that it's so effective, she's had people call and ask her for more.

"In a world where everything is online, a unique piece of direct mail can help you stand out," says Burnett. "Everyone sends out email blasts, blogs and websites, but having an actual physical thing they can hold on to is something different in today's society."

Myth: Direct Mail Can't Be Measured

Direct mail's success can be measured by the response rate and the revenue it generates. To track each campaign's success, Quicken Loans adds identifiers so it can determine which marketing piece made the client take action.

"As an online lender, we are always looking for ways the business can be improved with the help of technology," says Casey Hurbis, Chief Marketing Officer of Quicken Loans. "Each one of our direct-response marketing campaigns – including direct mail – uses unique phone numbers or web URLs so we know which marketing piece led them to reach out to us. We then curate that data to help us fine-tune our message so it's suited exactly to the audience that's receiving it."

Brett Lyon, a broker and partner of Lyon Stahl Investment Real Estate in California, also measures direct mail's success. "In the past, we have found the greatest ROI on simple letters that offer value to our clients," he says. "Whether this is describing a recent ordinance that could affect property values or offering a free rent survey, our clients seem to appreciate the inside-industry information." He adds that "not only do these letters generate the greatest response, but they also are the most cost-effective."

"Direct mail is one of the most effective means of reaching customers with the right offer at the right time."

-Bob Gill

Myth: Direct Mail Is Bland, Boring And Basic

Gill suggests personalizing the piece for maximum results. "The most successful direct mail piece involves the utilization of the appropriate level of personalized information that is careful to target but not invade or encroach," he says. "While the design of the piece is important, the offer and the specific call to action remains as important today as it has been in the past." He adds, "The good news is that given the increased availability of behavioral and financial data, the call to action can be customized to the recipient, increasing the potential for response."

Austin Hale, the Chief Technology Officer at Realeflow, a software platform that real estate professionals use to track their deals and manage their marketing, agrees that personalization is key. "The majority of the volume that we see is typically one of two things: 4x6 postcards or personally penned letters," says Hale. "The penned letters are written by machines holding a real pen, giving the letter the appearance that it was handwritten by someone. They are more expensive to send but they have a higher open rate."

Myth: Direct Mail Is Dead

"While there have been ups and downs in the industry, direct mail may still be the most cost-effective way to market across many verticals and it has a proven track record," says Gill. "Email, texts and other mediums fight for and demand the attention of the audience, where mail allows the user to review the content provided on their terms," he adds. "Direct mail is one of the most effective means of reaching customers with the right offer at the right time. Any news of its demise is greatly exaggerated!"

If you have any questions or would like more information on how the Quicken Loans Agent Relations team can help you grow your business, email AgentRelations@QuickenLoans.com or call (888) 980-2891. You can also visit RealEstate.QuickenLoans.com.

Quicken Loans

NAVIGATING COMPLICATED CLIENT RELATIONSHIPS

How to keep your stress level low and preserve your worth to benefit your business.

by Mandy Ellis

It may seem like clinging to clients and meeting their every whim will do the most for your bottom line. But if the behavior of a difficult client is starting to interfere with the rest of your business or life, it may be time to end the relationship. Absorbing an outsized amount of your mental space, difficult clients rob you of your ability to serve other clients, grow your business, and stay within your standards.



PS

“Every consumer deserves our most professional foot forward and our best effort,” says Kristen Correa, a REALTOR® in Keller. That means providing as much information as possible to help consumers make good decisions, but if they’re not listening to you or being reasonable, walk away, Correa says.

Moving on from clients who don’t value your expertise helps you avoid referrals to similar clients. It also frees up time for clients who value you, alleviates stress, and provides the time to prospect for new leads.

Parting ways with a client can be a liberating experience, says Cheryl Bailey, a REALTOR® in Corpus Christi. It can also earn you respect. “When you’re willing to say, ‘I’m not the agent for you,’ what you do is prove that you’re not all about making the sale but you’re truly about making the best real estate transaction for all parties,” Bailey says.

Holding on and hoping for the best isn’t always a good strategy, especially when letting a client go could benefit your business. Here’s how to set standards for your business, recognize the benefits of ending a relationship, and part ways with a client professionally.

Be Willing—and Expect—to Part Ways With Clients

As an agent, you should not only be willing to end a client relationship but be ready to, according to Jody Lockshin, a REALTOR® in Austin. And there’s no shame in doing so, she says. Buyers and sellers hire agents for their expertise, but if they’re unwilling to embrace your professional opinion and waste your time with unrealistic expectations, you might be better off letting them go.

New agents in particular may be hesitant to miss out on any business. But creating the habit that you’ll drop anything for clients can work against your career, says Matt Menard, a REALTOR® in Austin. “If clients show a wanton indifference to the standards and expectations you set, you’ll be better served using the time you would’ve spent with them prospecting for another client, even as a new agent,” Menard says.

Set Standards and Follow Through

“Establishing standards and expectations makes us look more professional, and the more professional we look, the more likely our clients are going to refer us,” says Menard. Developing expectations for how

you want to be treated, what behaviors you’ll tolerate, how you allow your time to be used, and what interactions or requests you’ll accept are part of being a professional.

If you’ve gone above and beyond for a client, communicated well, treated them with respect, and a client continues to violate your standards, it’s best to end the relationship, Bailey says.

Common warning signs of a problem client include:

- Abuse
- Mistrust
- Profanity
- Hostility
- Disrespect
- Badgering
- Unrealistic expectations
- Not valuing your expertise or time
- Missing appointments
- Failing to communicate.

Persistent disagreements on pricing or marketing, demanding far more of your time and mental energy than typical clients, and choosing not to participate in the process you’ve agreed upon are also signs a client relationship should be ended.

The more agents set and uphold standards, the better they feel about themselves, and that’s reflected in their work, Menard says. “If we set standards for how our time will be used, then we have more time available to balance our workload, balance our lives, and create a better experience for everyone,” he says.

How Parting Ways With a Client Can Benefit Your Business

Ending the relationship can free you from the burden and liability of working with a client who’s beyond help, Lockshin says. “It’ll free you up to be able to focus on the people who are viable and realistic and justify your time, effort, and energy.”

Just like any relationship, a toxic experience can spill over into other areas, affecting other clients, your bottom line, and your wellbeing. Continuing to work with problem clients can be a bigger risk than ending the relationship, Correa says.

“Clients who consume your hours and energy affect your attitudes and your checkbook,” Menard says. “If your attitude’s not right and you’re on the phone with someone, you could not come across at your best.” You’ll have a much better financial outcome getting rid of an emotionally draining client, he says.

“Our best gift we can give them is to continue to be professional even in their time of stress, misunderstanding, and not

listening to us,” Correa says, “Let them have their dignity and let’s have our professionalism, respect, and reputation.”

How to Professionally End Client Relationships

If saving the relationship isn’t feasible, end it as delicately and professionally as possible. Refer to the signed agreement, educate the client on what you’re obligated to do, what you can’t do by law, why you’re not able to help them with what they’re asking for, and have a conversation, Correa says.

Failing to end the relationship on a positive note can open up the possibility of negative word-of-mouth or online reviews, which Menard says can carry the same weight as referrals but in a negative way. “We have to guard our reputation, so even if we’re upset or disappointed, we have to find a professional way to handle it,” he says.

“More and more, we live in a time where reviews, and negative reviews in particular, seem to take on a life of their own,” Menard says. “And people who leave negative reviews are often very passionate about it, so it’s important that you find a diplomatic way to separate ties.”

Menard uses the following script to help cut ties smoothly: “Despite my best efforts, it seems like what you’re looking for doesn’t line up real well with the service that I provide. I really want you guys to find something. I’d be happy to give you a list of other agents that you might be able to talk to.”

What if Clients Ask You to Take Them Back?

Bailey and Menard have both taken clients back—but only after sticking to their standards and enforcing their boundaries.

Being willing to walk away showed her client she wasn’t only interested in the sale, and the client stopped second-guessing her expertise, Bailey says. “You always do the right thing, then the money will follow,” she says. “It was a wake up call for them to understand that I truly was about them and not the commission.”

During Menard’s transaction, his client lost her cool and made disrespectful comments. After explaining he doesn’t tolerate that behavior, he ended the relationship and recommended she find another agent. She called back, apologized, and Menard took her back. He has since helped her buy another home.

“Everybody gets a mulligan unless they’re really nasty and mean, and then, it can be too much,” he says, “But there was a big, big apology. I believed it to be sincere, and we were able to work through it.”

Whether you take clients back or not, it’s up to you to set standards for your business and stick to them in the face of disruptive clients. No one client is worth sacrificing your self-respect, wellbeing, and the energy you need to grow your business. If you decide your business is better off without a difficult client, part ways in a compassionate, respectful way that protects your principles and everyone’s dignity.

MANDY ELLIS is an Austin-based freelance writer focusing on real estate, food, travel, and health. She has written for REALTOR® Magazine, US News & World Report, and more.



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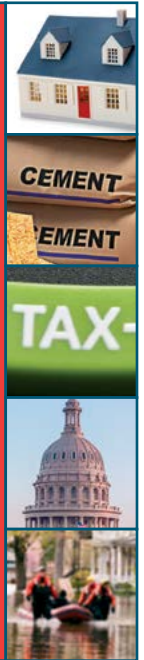
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New real estate-related laws you should know about

Texans will benefit from legislation concerning taxes, building materials, disaster relief, and more.

by Jaime Lee



Thanks to support from Texas REALTORS®, several new laws that went into effect September 1, 2019 will help protect Texas real estate consumers.



Decrease Excessive Taxes

When a property's use classification is changed from agricultural to non-agricultural, county appraisers previously could assess the owners five years of retroactive taxes based on the new classification. Appraisers also could charge 7% interest on the retroactive taxes.

A new law reduces the lookback period from five years to three years and reduces the interest charged from 7% to 5%, saving property owners money.



3 AMENDMENTS ON THE NOVEMBER BALLOT WORTH VOTING FOR

Every Texas voter will have 10 opportunities to change the state's constitution on November 5.

Texas REALTORS® has officially endorsed the following three propositions because of their benefits for real estate consumers and property owners. The association has not taken a position on the other seven proposed amendments.

**SEE ALL 10 CONSTITUTIONAL AMENDMENTS AT
TEXASREALTORSSUPPORT.COM.**

State of Texas Proposition 2: Assistance with water infrastructure

This proposition gives the Texas Water Development Board authorization to issue general obligation bonds for the development of water supply and sewer service projects in economically distressed areas of the state.

This amendment will help infrastructure development in disadvantaged areas of Texas, especially in border counties where development has been a challenge.

What you'll see on the ballot:

The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$200 million to provide financial assistance for the development of certain projects in economically distressed areas.

Ending Restrictive Regulations on Building Materials

Starting September 1, cities and counties are no longer able to require or prohibit the use of certain building products, methods, or materials—such as brick or stone masonry—in the construction of a residential or commercial structure for non-safety reasons, preserving property owners' right to choose.



Updates to Seller's Disclosure Requirements

The seller's disclosure notice must now include new questions regarding flooding. Texas REALTORS® supported the legislation to ensure buyers receive thorough information about a

property's flooding history. See page 8 for details about updates to the seller's disclosure.

Clarifying Tenant Late Fees

Property managers will have clearer parameters around fees that may be assessed on tenants for the late payment of rent, thanks to a new law that applies to leases entered into or renewed on or after September 1. Texas REALTORS® supported this legislation because it provides landlords with clarity and protections while providing tenants with predictability and access to information.

The new law clarifies what types of costs and considerations may be included in the calculation of late fees. The new law also provides a safe harbor for reasonable late fees. See page 8 for more information. The Texas REALTORS® *Residential Lease* and *Residential Lease for a Multi-Family Property Unit* have been updated with these changes.

More Disaster Relief and Recovery Resources

Lawmakers passed several bills effective September 1 to increase resources for property owners and create disaster recovery and prevention plans.

New laws will create a

catastrophic debris management plan and training for cities and counties, a disaster recovery task force to assist with long-term recovery plans, and a disaster recovery plan to be enacted by state agencies as needed.

In addition, the state will have a disaster response plan for local officials, a new Flood Infrastructure Fund to finance flood mitigation projects, and a statewide flood plan.

JAIME LEE is governmental affairs communications manager for Texas REALTORS®.



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You will make a difference

In constitutional amendment elections, Texas REALTORS® are more than twice as likely to vote than other Texas voters.

✓ State of Texas Proposition 3: Property tax exemption

This amendment provides a temporary property tax exemption for property owners in areas declared disasters by the governor.

Texas REALTORS® strongly supported the legislation that created this ballot measure because it will give property owners a tax break if their properties are damaged in a disaster.

What you'll see on the ballot:

The constitutional amendment authorizing the legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

✓ State of Texas Proposition 8: Flood protection funding

This proposition creates a standing fund for important flood mitigation infrastructure development, which will help position Texas communities to better withstand future flood events.

HJR 4 and its enabling legislation were part of a broad package of disaster mitigation and planning efforts that were supported by Texas REALTORS® from the beginning of the 86th session.

What you'll see on the ballot:

The constitutional amendment providing for the creation of the flood infrastructure fund to assist in the financing of drainage, flood mitigation, and flood control projects.

ELECTION DAY
November 5

EARLY VOTING
October 21 - November 1

1



TEXAS REALTORS® TAKE ON FORT WORTH

The 2019 Texas REALTORS® Conference had a record attendance, with more than 2,000 members showing up for four days of networking, continuing education, and committee meetings.

The Opening Session was headlined by former NBA player **Walter Bond** [1], who delivered the message that mastering the fundamentals of the business is key to success in real estate. **Betsy Price** [2], the mayor of Fort Worth, also spoke to attendees and welcomed them to the city.

As part of a program to encourage cooperation between Texas REALTORS® and Mexican Association of Real Estate Professionals (AMPI), two memorandums of understanding were signed during the event. The Greater El Paso Association of REALTORS® signed one with AMPI Juarez, and Texas REALTORS® signed one with AMPI [3].

During Texas REALTORS® Night Out, the Texas REALTORS® Young Professionals Network (YPN) presented six members under 40 with the 2019 REALTORS® to Watch award for their excellence in leadership, community involvement, and sales: **Nick Cantu, Kristin Smith, Kat Robinson, Sara Gerrish, Jessica Holmes, and Rogers Healy** [4].

2



4



The Public Policy Forum featured a panel discussion with state Sen. Kelly Hancock and state Rep. Craig Goldman. The lawmakers shared their insight into the 86th Texas Legislature, including the passage of property tax reform, school finance reform, and the end of forced annexation.

Rep. Goldman [5, center] received a certificate proclaiming his inclusion in the Texas REALTORS® 86th Texas Legislature Hall of Fame for his efforts on behalf of Texas real estate consumers.

Members recognized **Sen. Hancock [6, left]** with the Texas REALTORS® Legacy Award for his commitment to protecting private property rights during his tenure in the Texas Legislature.

At the Governmental Affairs Forum, attendees learned about Texas history and culture from the keynote speaker, Pulitzer Prize-winning author **Lawrence Wright [7]**, and heard 2020 election predictions from **Scott Braddock of Quorum Report, Bud Kennedy of the Fort Worth Star-Telegram, and Christopher Connelly of KERA [8]**.

Retiring Vice President of Governmental Affairs **Mark Lehman [9, pictured with 2017 Texas REALTORS® Chairman Vicki Fullerton]** received the Texas REALTORS® Legacy Award for his 21 years of service to the organization. An award for political affairs work at the local level will be named the Lehman Local Board Governmental Affairs Achievement Award in his honor. Lehman also received a Congressional Record from U.S. Congressman Kevin Brady.



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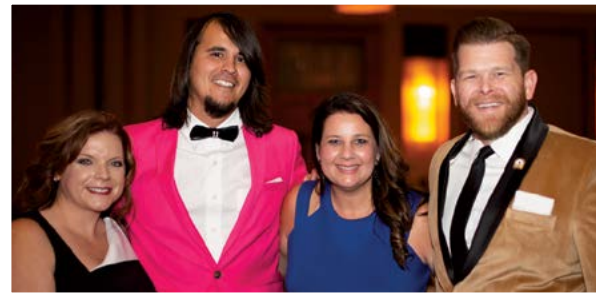


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The Chairman's Installation was an evening filled not only with official ceremonies but also entertainment, as talented REALTORS® sang and played instruments to the delight of those in attendance [10-17]. **Cindi Bulla** from Amarillo, [18, pictured in blue with friends and family] was installed as chairman of the board for the association's centennial year in 2020. The 2020 Leadership Team is [19, pictured from left] President/CEO **Travis Kessler**, Chairman-elect **Marvin Jolly**, Chairman **Cindi Bulla**, Secretary/Treasurer **Russell Berry**, and Immediate Past Chairman **Tray Bates**. The event also featured the installation of the incoming regional vice presidents for Texas REALTORS® [20].



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At the Board of Directors meeting, **Judy Jones** of the MetroTex Association of REALTORS® [21] and **Howard Smith** of the Amarillo Association of REALTORS® [22] were presented with the association's Distinguished Service Award. **Monica Peña** [23], CEO of the Greater McAllen Association of REALTORS®, was recognized for earning the REALTOR® Association Certified Executive (RCE) designation.

The Board of Directors voted to continue the \$5 annual Legal Fund Assessment and the \$30 annual Issues Mobilization/Political Advocacy Fund Assessment. The collection of the Issues Mobilization/Political Advocacy Fund Assessment was temporary suspended in 2019. The association's annual member dues, not inclusive of assessments, remained at \$117.





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WHAT'S THE POINT OF MORTGAGE POINTS?

If you're financing a property purchase, you've probably come across the term *points* or *discount points*. Although there are other meanings, most often these terms refer to prepaid interest, with one point equal to 1% of your mortgage loan.

Lenders offer borrowers the opportunity to purchase points on their mortgage, which means you're paying up front to lower the interest rate of your loan. Here are some questions to ask when deciding whether you should buy points.

HOW LONG WILL YOU LIVE IN THE HOUSE?

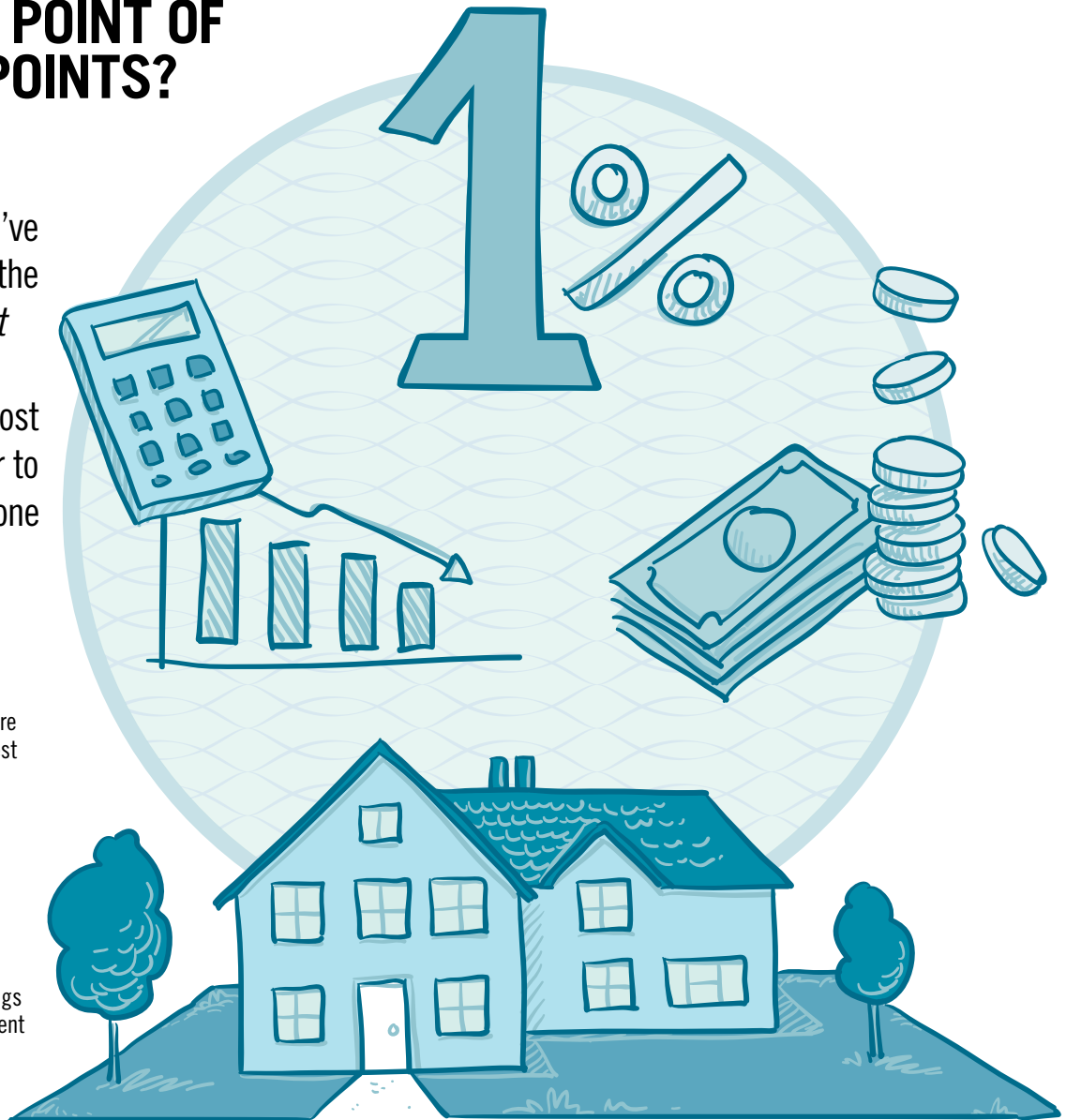
You usually benefit more from points the longer you stay in the property. That's because the savings you realize on each monthly payment will accumulate and eventually offset—hopefully exceed—your points payment.

CAN YOU AFFORD POINTS?

You need to provide a downpayment and cover the closing costs to secure a mortgage. Do you also want to pay for points?

HOW MUCH WILL THE RATE COME DOWN?

Each point costs 1% of the loan amount, but the interest-rate reduction you receive varies from lender to lender.



NEED MORE INFORMATION?
Your Texas REALTOR® can help you find experts on the topic.

TAKE 5

WHAT UNLICENSED ASSISTANTS CAN AND CAN'T DO

Texas Real Estate Commission rules govern the activities of your unlicensed assistants. Here are five areas where your unlicensed assistants can get in trouble.

SHOWING PROPERTY

A license is required to show property for sale or lease. An unlicensed assistant isn't allowed to host an open house or unlock the door for a client if you're running late.

SOLICITING BUSINESS

An unlicensed person may call a seller client to schedule showings; however, he or she cannot call prospects to solicit business, such as finding tenants or buyers for a property.

ACCEPTING RENT

A license is required for any person who controls the acceptance or deposit of rent from a resident of a single-family residential property.

SUGGESTING PROPERTIES

You can hire an unlicensed person to answer phones for your brokerage. After first identifying himself or herself as being unlicensed, that person may then confirm advertised details about a listing, such as whether a specific property is still available. For example, if a potential buyer calls about a property that's no longer on the market, the unlicensed assistant must refer the caller to you, the license holder, to discuss other properties that might meet his criteria.

ADVISING AGENTS

An unlicensed office manager may train and motivate agents. But that person can't supervise or direct agents in their work on real estate matters.



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