

Before your clients
wire money **p. 24**

What to know about
housing testers **p. 8**

When transactions
fall apart **p. 28**

TEXAS REALTOR®

Succeed in Texas Real Estate

November 2023 \$3.50

IS IT WORTH IT?

Here's what staging brings to the table
(and living room...and bedroom...and porch...) **p.14**





Get Your License.
Learn to Use it.

The Real Estate Business School

The GTS Package and Payment Plans are now available!

GUARANTEED TO SUCCEED PACKAGE

\$895

PAYMENT PLANS NOW AVAILABLE.



INCLUDED:

- The only package of courses in Texas with Mentoring included!
- This program, written and recorded by two of Texas's most successful Top Producers, will get you up and running in 10 days.
- We guarantee you will learn how to list and sell, or we will refund your payment.
- All you have to do is be committed, coachable, and follow the formula.
- To get started today, go to: <https://www.buildmyrebusiness.com/getmylicense/>

ONLINE BUSINESS AND MARKETING COURSES YOU MIGHT LIKE:

30-hour Real Estate Marketing: Principles of Business #558

30-hour Marketing: The Number ONE Skill to Have #538

FIRE SALE

ALL 18-HOUR CE PACKAGES ARE \$39.60 USE CODE TXRE60

WWW.BUILDMYREBUSINESS.COM/CE/

ALL 98-HOUR SAE PACKAGES ARE \$160.00 USE CODE TXRE36

WWW.BUILDMYREBUSINESS.COM/SAE/

Call 800-624-5440 ask for Linda about discounts and payment plans.

Guarantee:

If participants follow the steps, complete all activities TREBS guarantees they will complete a transaction within 6 months of completion of the program or cost of program will be refunded.

The Real Estate Business School (f.k.a The Austin Institute of Real Estate) (Provider #701045/ #10071) | 1901 Ranch Road 620 N, Ste 105, Austin, TX 78734

Show Your REALTOR® Pride on Your Ride



Make a bold statement about who you are: a proud member of Texas REALTORS® working for buyers, sellers, and property owners.

Order at myplates.com/design/background/passenger/texas-realtors

All Texas drivers can display how great it is to live in the Lone Star State with this uniquely Texas illustration.

Order at myplates.com/design/background/passenger/texas-is-home

The specialty plates cost \$30 per year for a non-personalized version or \$70 per year for a personalized one. These fees are in addition to normal registration and other applicable fees. \$22 of each plate fee goes to support the Texas REALTORS® Housing Opportunity Foundation.



MARCUS PHIPPS Chairman of the Board
JEF CONN Chairman-Elect
CHRISTY GESSLER Secretary/Treasurer
RUSSELL BERRY Immediate Past Chairman
TRAVIS KESSLER CEO
ANGELA BRUTSCHÉ VP of Comm. & Mktg.
MARTY KRAMER Editor-in-Chief
WARD LOWE Assoc. Dir. of Communications
PATEE FRANKS Digital Marketing Specialist
JOE FISHER Marketing Specialist
JOEL MATHEWS Art Director
JOSHUA BANKS Graphic Design Manager
CHRIS NELSON Graphic Designer

CHANGE OF ADDRESS OR EMAIL
 Members should always send postal address or email changes to their local association.

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

ADVERTISING SALES
 Mohanna Sales Representatives
 214-291-3648
 texasrealtorsinfo@mohanna.com

Texas REALTOR® (ISSN 1068-1248) is published monthly except combined issues in January/February and September/October by Texas REALTORS®.

POSTMASTER
 Send address changes to:
 Texas REALTOR® magazine
 Attention: Membership
 P.O. Box 2246
 Austin, TX 78768-2246

Periodicals Postage Paid at Austin, TX, and at additional mailing office. Annual dues of members of the association include \$5 for a one-year subscription to Texas REALTOR®. Annual subscription rate to others: \$25. Single copy rate to others: \$3.50. Office of publication: 1115 San Jacinto Blvd., #200, Austin, TX 78701-1906; mailing address: P.O. Box 2246, Austin, TX 78768-2246; phone: 512-480-8200; fax: 512-370-2390.

All articles and paid advertising represent the opinions of the authors and advertisers, and do not necessarily represent the opinions of the editors of Texas REALTOR® or the association and should not be construed as a recommendation for any course of action regarding financial, legal, or accounting matters by the association or Texas REALTOR® and its authors.

Contributions are not deductible for federal income tax purposes. Contributions to the Texas REALTORS® Political Action Committee (TREPAC) and the Texas Association of REALTORS® Federal Political Action Committee (TAR FedPAC)—which makes contributions to the REALTORS® Political Action Committee (RPAC)—are voluntary and may be used for political purposes. The amount indicated is merely a guideline, and you may contribute more or less than the suggested amount. You may refuse to contribute without reprisal, and the National Association of REALTORS®, Texas REALTORS®, and its local associations will not favor or disadvantage anyone because of the amount contributed. Until the RPAC annual goal is met, 70% of an individual's contribution goes to TREPAC and may be used to support state and local candidates; the remaining 30% is sent to TAR FedPAC to support federal candidates and is charged against your limits under 52 U.S.C. 30116. (Exception: 100% of an individual's contribution goes to TREPAC if the individual is an employee of an affiliate member of Texas REALTORS®.) After the RPAC annual goal is met, 100% of an individual's contribution goes to TREPAC and may be used to support state and local candidates. You may contact the Texas REALTORS® political committee administrator at 800-873-9155 to obtain information about your contributions.

Federal law prohibits TREPAC and FedPAC from soliciting contributions from persons not included in the following groups: Members of the association, executive and administrative personnel of the association, and the families of both groups. Contributions received in relation to this publication from a person outside of these groups will be returned.

©2023
 Texas REALTORS®
 All rights reserved.



It's not a **RED** problem.
 It's not a **BLUE** problem.
 It's a **PURPLE** Solution.

Be part of the #PurpleSolution in 2023 by investing in TREPAC.

Visit trepac.com/purplesolution to help TREPAC turn Texas purple.



Federal law prohibits TREPAC and FedPAC from soliciting contributions from persons not included in the following groups: members of Texas REALTORS®, executive and administrative personnel of REALTOR® associations, and the family of both groups. Contributions received in relation to this publication from persons outside of these groups will be returned.

CONTENTS

INSIGHTS

- 4 Chairman's Message: Highlights from the year
Are you a REALTOR® to Watch?
- 5 New benefits partner offers device protection
Apply for the TACS Scholarship

BUSINESS

- 6 Military veteran continues to serve through real estate
What percentage of real estate firms publish reviews?
- 7 Changes to what happens when your license expires

LEGAL & ETHICS

- 8 Reduce your risk of a discrimination lawsuit
Your Forms: Request for Information From an Owners' Association (TXR 1405)
- 9 Fact or Fiction? Hydrostatic tests without seller consent

- 10 From the Hotline: Do business entities need a broker's license?

SHARE THIS

- 27 Smart steps to take before you buy or sell a home

TAKE 5

- 28 Help your clients keep it together when the transaction falls apart

FEATURE 12

Bring Your Commercial Real Estate to Social Media

by Patee Franks

Social media isn't just for residential real estate agents and brokers. Check out how commercial practitioners are generating leads and business, one post at a time.



20 FEATURE

Answers to Your Property Management Questions

Countless scenarios arise when managing rental properties. Here are responses to several frequently asked questions.



24 FEATURE

Before Your Clients Wire Money

by Joe Olivieri

Scammers are targeting your clients. If they succeed, your clients may be responsible for the money they agreed to pay in the transaction. Here are ways that you and title professionals can help keep your clients safe.



14 COVER STORY

Is Staging Worth It?

by Joe Olivieri

Why should your clients pay to rearrange their own furniture or bring in someone else's? Because more and higher offers are possible. Learn the ins and outs of staging from three staging pros.





“You took countless actions to advance our profession and serve Texas consumers this year.”

Chairman’s message

One thing comes into sharp focus when you have the honor of serving on the Texas REALTORS® Leadership Team: The scope of our association’s activities is truly astonishing!

I am so proud of the work of our Executive Board, Board of Directors, committee volunteers, staff, and the thousands of you who have made our many accomplishments possible this year. You showed up at events, responded to calls for action, volunteered in your communities, and took countless actions to advance our profession and serve Texas consumers.

You can draw a straight line from our amazing REALTOR® Day at the Texas Capitol to the biggest-ever property tax relief for Texans. In fact, REALTOR® involvement on tax relief stretches back many years, and the hard work continued during the unpredictable 88th Texas Legislature (currently in its third special session). Historic property-tax relief was by no means our only accomplishment at the state Capitol. With several constitutional amendments hopefully passed by the time this issue reaches you, Texas will also start work on important upgrades to our electric grid and water infrastructure and improve high-speed internet availability in the state. We also were instrumental in passing laws that benefit property managers, measures for accountability and transparency by HOAs and MUDs, and more.

We revised three Texas REALTORS® forms this year based on input from members and to comply with new laws. We also updated Spanish and Vietnamese translations of eight forms. Our Property Management Forms Task Force has been meeting this year to consider changes next year. The Texas REALTORS® Legal Hotline has fielded more than 13,000 calls from members through September.

We had another busy year supporting and defeating local issues that could have statewide implications. Two notable successes were the campaign to defeat a proposed ordinance that would have imposed unrealistic and expensive policies on El Paso taxpayers, and a consumer outreach campaign in the San Angelo area in response to an out-of-state company injecting chaos into the Tom

Green County property appraisal process.

Our disaster relief funds helped Texans put their lives back together after being displaced from their homes by tornadoes and floods. The Texas REALTORS® Housing Opportunity Foundation awarded over \$32,000 in grants for projects that include Habitat for Humanity new-home builds, assistance with closing costs for first-time veteran and active-duty service members, and education and counseling programs for first-time homebuyers.

What else? The last scheduled Texas REALTORS® International Cruise was followed by a trade mission to Canada. TREPAC had another phenomenal year, raising more than \$6.4 million dollars. The REALTORS®-only MarketViewer online tool rolled out a comprehensive commercial real estate dashboard. We introduced a new healthcare benefit for members as well as discounts for device protection, hotels, and digital file management. New Texas REALTORS® signs now glow atop our building across from the Capitol, bringing even more awareness to our association and its members.

I assure you, there’s much more: strategic planning to address future opportunities and threats; risk-reduction articles, FAQs, and webinars to help you avoid trouble; online and in-person courses with some of the most respected instructors in the industry; coordination with industry partners to leverage our respective strengths; efforts to promote professional standards; and new research projects, to name a few.

Having spoken with members at Texas REALTORS® events across the state this year, I can tell you that our association is brimming with dynamic and hardworking people, and I look forward to all the accomplishments we will achieve in the future!

Marcus Phipps

KEEP YOUR ELECTRONIC DEVICES PROTECTED WITH AKKO

Your technological devices make your business run smoother. But sometimes accidents happen. Maybe you drop your phone or spill a beverage onto your laptop or technology just fails you. It happens. Where do you go to fix your device?

Worry no more with Akko, a Texas REALTORS® benefits partner.

Akko is a device protection service that delivers exceptional coverage and customer service. Akko provides fast claims, same-day local repairs and reimbursements, and no-hassle replacements.

Rated highest in the industry—above even AppleCare and Geek Squad—by gadgetreview.com, Akko offers bundled protection for up to 25 items for \$15 a month.

Akko services new, used, refurbished, any make, model, or carrier.

Let Akko help keep your technology going by choosing a plan today. Sign up today at texasrealestate.com/akko to receive a 20% discount.



ARE YOU A REALTOR® TO WATCH?

The REALTORS® to Watch award recognizes excellence in leadership, community involvement, and everything else that makes a well-rounded young professional successful in real estate. All REALTORS® in Texas under 40 can apply. If you or someone you know deserves recognition, submit a nomination at texasrealestate.com/awards. The application deadline is December 1.



SCHOLARSHIP OPEN FOR COMMERCIAL REAL ESTATE CERTIFICATION



Texas REALTORS® has opened scholarship applications for the Texas Accredited Commercial Specialist (TACS), a certification that gives practitioners a thorough understanding of commercial real estate.

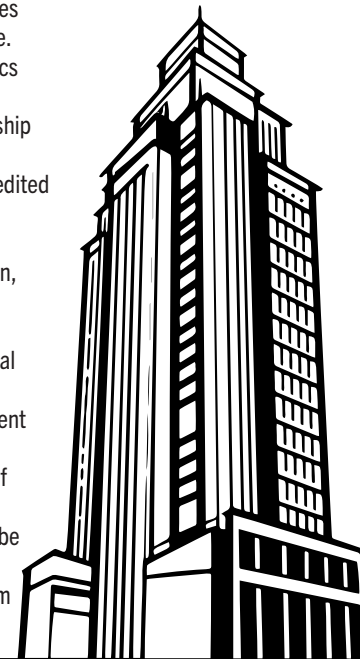
When comparing Texas REALTORS® membership demographics as a whole to the demographics of the association’s commercial members, significant disparities in diversity emerge. The scholarship aims to increase diversity in commercial real estate services by funding the scholarship recipient’s completion of the Texas Accredited Commercial Specialist (TACS) program.

The scholarship is for members with less than five years of experience in real estate who have faced discrimination, exclusion, or hardship in their entry into commercial real estate based on their status in a protected class. Protected classes include race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity.

The scholarship is valued at approximately \$1,000 per recipient and covers costs associated with earning the TACS certification. Recipients may also be eligible for reimbursement for one night of hotel accommodation at a Texas REALTORS® annual meeting.

Applications must be submitted by December 4. Results will be announced in late January 2024.

Scan the QR code to learn more. For questions, email Program Manager Marcus Coleman at mcoleman@texasrealtors.com.



A WAY TO CONTINUE SERVING

San Antonio agent connects with service members, veterans, and clients with disabilities.



There's always this moment of recognition when Jeff Caroon's clients realize he knows what they're going through. He can hear their comfort level in their voices and see it in their body language.

The San Antonio-based agent with Coldwell Banker D'Ann Harper, REALTORS® works with many military families. As a retired Air Force master sergeant, he understands the unique circumstances active duty and veteran families face in real estate.

Summer is a busy time in the San Antonio market because that's when the military transfers personnel between bases, called a permanent change of station. Caroon helps clients find new homes near their base or connect with property management to rent out their homes if they have to leave before closing.

"It's its own tight-knit community. There's definitely a connection, a common denominator that breaks the ice," he says. "Even if they're from a different branch of the service. They know we'll get through this and find them the right spot. I know how to do the paperwork. I know about the benefits and the VA loan processes."

Caroon's experience as a double amputee informs how he works with clients with disabilities. Clients appreciate that he can spot potential accessibility issues, such as bathrooms and kitchens that are too narrow for wheelchairs. "They might be self-conscious about what they've got going on. I'm not looking down at them," he says. "They know I've been there. I deal with this myself."

Caroon and his wife, Holly, moved to San Antonio six years ago. After retiring from the military, he followed her into real estate. "My wife is the outgoing, bubbly, talk-to-everybody type of person. I'm more reserved, especially after my injury. Real estate helped me come out of my shell."

Now he loves talking with clients, hearing their stories, and sharing his own. Caroon likes showing people that recovery and giving back are possible.

He found community and inspiration in sports following his injury. "I got into the pool and thought, 'How am I going to swim without legs?' I was petrified. I wasn't a great swimmer to begin with, but I still floated. I realized I could swim better than I thought I could."

He started seriously training. In December 2022, Caroon was named among the 59 athletes to represent the United States at the Invictus Games, an international competition for wounded, injured, and sick servicemen and service-women. In September he traveled to Germany to compete in swimming, archery, rowing, and track and field. He won two silver and two bronze medals.

Caroon loved being there in Düsseldorf, surrounded by military athletes who could relate to his story. People with similar experiences had supported him in his most difficult moments. "In the military, we help each other out," he says. "It's a family."

Back home, Caroon is still training and competing. He's better managing his time now and can focus more on real estate, especially earning his Military Relocation Professional certification. "It's my way to continue to serve," he says. "I want to help out as much as I can with my background."

Know a member we should consider for a future profile? Tell us or send us other article ideas at texasrealestate.com/magazinesubmission.

IF YOUR LICENSE EXPIRES, IT ALSO GOES INACTIVE

by Summer Mandell, TREC Director of Communications

The Texas Real Estate Commission adopted changes earlier this year that affect agents and brokers who don't renew their licenses by the expiration date. Effective October 1, active license holders whose licenses expired are being set to inactive status as of the expiration date, and any license relationships to sales agents and/or brokers are terminated.

Previously, some license holders depended on having their brokers certify that they were being supervised while their license was expired. This is no longer an option. If you don't want an interruption in your ability to work, make sure to renew your license well before the expiration date.

Avoid Trouble

If you renew your license after the expiration date but within six months after your license expired, your license will be renewed on inactive status.

License holders on inactive status cannot conduct brokerage activities. Doing so would be considered unlicensed activity and can result in disciplinary actions from TREC, including a minimum fine of \$1,000. In addition, the gap in your active time will be reflected in your license record.

How to Return to Active Status

License holders now go through fewer steps to renew an inactive license. You must complete all required continuing education and submit a request to activate your license.

What This Means for Brokers

If you go inactive, any sales agents you sponsor will be set to inactive status. If you are a designated broker for a business entity broker license, that business entity and any agents sponsored by it will also be set to inactive status. Brokers returning to active status will have to re-establish all of their terminated relationships to sales agents and as designated brokers for business entity brokers after activation.

What This Means for Sales Agents

Sales agents who want to return to active status will need to request sponsorship by a broker using TREC's Online Licensing Services portal.

What Happens After Six Months?

After six months and up to two years past the expiration date, you may apply for reinstatement of your license. After two years past the expiration date, you will have to reapply and pass the licensing exam.



63% of residential real estate firms and **36%** of commercial real estate firms publish customer reviews or testimonials on their websites.

Source: NAR 2023 Profile of Real Estate Firms

STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

1. Publication Title: Texas Association of REALTORS/Texas REALTOR
2. Publication Number: 616860; ISSN: 10681248
3. Filing Date: 10/5/2023
4. Issue Frequency: Monthly except Jan/Feb & Sept/Oct
5. No. of Issues Published Annually: 10
6. Annual Subscription Price: \$5
7. Complete Mailing Address of Known Office of Publication: 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994
8. Complete Mailing Address of Headquarters or General Business Office of Publisher: 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor: Publisher: Texas Association of REALTORS, 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994; Editor: Martin Kramer, 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994; Managing Editor: Martin Kramer, 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994
10. Owner: Full Name: Texas Association of REALTORS; Complete Mailing Address: 1115 San Jacinto Blvd., Ste. 200, Austin, Travis County, Texas 78701-1994
11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities: None
13. Publication Title: Texas Association of REALTORS/Texas REALTOR
14. Issue Date for Circulation Data Below: 09/01/2023

	Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
--	--	---

15. Extent and Nature of Circulation
 - a. Total Number of Copies (Net press run) 134,633 137,398
 - b. Paid Circulation (By Mail and Outside the Mail)
 - (1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies) 133,496 136,682
 - (2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies) 0 0
 - (3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS 0 0
 - (4) Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-Class Mail) 0 0
 - c. Total Paid Distribution (Sum of 15b(1), (2), (3) and (4)) 133,496 136,682
 - d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)
 - (1) Free or Nominal Rate Outside-County Copies Included on PS Form 3541 484 472
 - (2) Free or Nominal Rate In-County Copies Included on PS Form 3541 0 0
 - (3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS (e.g., First-Class Mail) 0 0
 - (4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means) 20 20
 - e. Total Free or Nominal Rate Distribution (Sum of 15d(1), (2), (3) and (4)) 504 492
 - f. Total Distribution (Sum of 15c and 15e) 134,000 137,174
 - g. Copies Not Distributed (See Instructions to Publishers #4 (page #3)) 633 224
 - h. Total (Sum of 15f and g) 134,633 137,398
 - i. Percent Paid (15c divided by 15f times 100) 99.62% 99.64%
17. Publication of Statement of Ownership: Publication required. Will be printed in the 11/01/2023 issue of this publication.
18. Signature and Title of Editor, Publisher, Business Manager, or Owner: Martin Kramer, Editor-in-Chief; Date: 10/5/2023

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).



PASS THESE HOUSING TESTS

Reduce your risk of discrimination lawsuits with these steps.

Not everyone who contacts you is a potential customer or client. Housing testers are people or organizations who check for compliance with anti-discrimination laws.

Some groups, like nonprofits and governmental agencies, are testing to ensure fair treatment for consumers.

More often in Texas, lawyers employ testers to scan MLS listings, advertising, and print media to look for potential violations of the law that could lead to a monetary settlement.

Regardless of who's testing, you and your firm need to ensure you're complying with the law. Consider the following advice from representatives from The Herbert H. Landy Insurance Agency, a Texas REALTORS® risk management partner, and Great American Insurance Group.

When a Tester Calls

Housing testers will act just like a typical customer or client. "It starts with a phone call," says

Avoiding discrimination

Housing testing often focuses on advertising and MLS listings. But it can also attempt to uncover discriminatory actions during the real estate transaction.

Monahan suggests these actions to protect yourself and your clients:

Know the law. Texas REALTORS® offers several courses on this subject. Visit texasrealestate.com/findacourse to see upcoming sessions.

Tell people you follow the law. This can include posting fair housing signs from HUD in your office.

Provide equal service to all. State law and the REALTOR® Code of Ethics require this.

Don't assume you know a buyer's preferences. You may be trying to be helpful, but assumptions can lead to accusations of steering.

Never work with discriminatory sellers. If sellers have let you know they want to exclude certain groups or individuals, do not take their business. It is not worth the risk.

Rick Monahan, Divisional Assistant Vice President at Great American Insurance Group. "They may ask very pointed questions. Some may even go to the property and meet with the agent. After that, the law firm sends the letter threatening legal action."

"Typically, the housing tester calls about one property and does not want to see any others. Then they'll turn around and say 'I was discriminated against' if they find a potential violation on that one specific property," adds Matt Ehmann, Divisional Vice President, Professional Liability Division, at Great American Insurance Group.

One firm hired people with vision impairments to flip through real estate websites, Ehmann says. "If they weren't able to look at the listings or the tools were not there to guide them through the pages, the brokerages would get sued for discriminating against the visually impaired."

You should share letters threatening legal action regarding fair housing with your broker and E&O provider immediately. Once informed of the letter, your E&O provider will likely reach out to you to gather any emails, text messages, or relevant records related to the interaction, Monahan says. Your provider may also contact an attorney on your behalf.

Most E&O policies have a generous limit for discrimination claims and legal expenses, Ehmann says. Coverage focuses on violations of the Fair Housing Act or similar state statutes.

It's worth noting that E&O policies and defenses pertain to unintentional discrimination. Intentional discrimination is criminal and not covered by your policy, Ehmann explains.

Education is key

Brokers can reduce their risk by educating themselves and their agents about discriminatory practices.

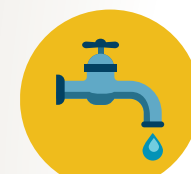
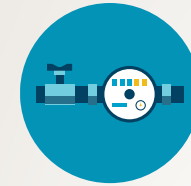
Once you know what is discriminatory, keeping that top of mind is key. Always look at your ads and double check them for violations, according to The Herbert H. Landy Insurance Agency. Make sure your legal guidance is up to date; things can change and mistakes can be made.

Brokerages can consider adopting guidelines and templates for consistency.

Brokers may want to review the ads with fair housing in mind as another layer of protection even if someone else in the brokerage has screened them, Monahan says.

If a landlord or seller wants to do something that discriminates against a protected class, you should explain what the protected classes are in the Fair Housing Act and why you can't include certain restrictions.

Discrimination claims can also show up in other lawsuits and complaints. All the more reason to safeguard against it. "If there was a problem in the transaction, parties may be much quicker to say the deck was stacked against them," Ehmann says.



Fact or fiction?

A buyer may not arrange for a hydrostatic test of a property without written consent by the seller.

FACT. The Property Condition Paragraph of the *One to Four Family Residential Contract (Resale)* (TXR 1601, TREC 20-17) and the *Residential Condominium Contract (Resale)* (TXR 1605, TREC 30-16) states that hydrostatic testing must be separately authorized in writing. You should provide the parties *Addendum for Authorizing Hydrostatic Testing* (TXR 1949, TREC 48-1) to provide this written authorization and specify whether the buyer or seller will pay for any damage caused by a hydrostatic test.



Your Forms

Your buyer and seller clients can use the *Request for Information From an Owners' Association* (TXR 1405) form to ask for copies of a subdivision's restrictions, bylaws and rules, and resale certificate. Only sellers may ask condominium associations for copies of the condominium declaration, bylaws and rules, and a resale certificate. The form includes space to include a delivery address. *Request for Information From an Owners' Association* can be used with residential properties and is one of more than 150 forms exclusively available to members of Texas REALTORS®.

From the Hotline

512-480-8200

DO BUSINESS ENTITIES NEED A BROKER'S LICENSE?

We've been hearing from members asking about whether a business entity needs a broker's license to receive compensation for real estate brokerage activity. For example, some brokers choose to operate their business as a corporation, and some sales agents want to receive commissions through a limited liability company (LLC) or S corporation for tax purposes. Currently the answer is yes, a business entity needs a broker's license in both examples. However, starting on January 1, 2024, a new law will go into effect that creates an exception to the rule for certain business entities in the second example.

Under the new law, an LLC or S corporation that receives compensation on behalf of a license holder for work performed as a broker or sales agent is not required to be licensed under The Real Estate License Act as long as all these requirements are met:

- 1) The entity is at least 51% owned by the license holder who earned the compensation
- 2) The entity is registered with the Texas Real Estate Commission
- 3) The entity does not engage in any other real estate brokerage activity.

TREC has proposed rules to implement the registration process, which are up for adoption on November 6, 2023. It is important to note that to qualify under the third requirement, the entity's only role in any real estate transaction is to accept payment for brokerage services. If an entity is engaged in any other form of real estate brokerage activity, such as a broker or sales agent using the entity name in advertising or listing the entity name as the brokerage name on a listing agreement, that entity must be licensed by TREC.

-Ryan Bauman, Staff Attorney



The Texas REALTORS® Legal Hotline is your link to an attorney who can provide information about real estate law and related matters. It is available 9 a.m. to 4 p.m. Central Time Monday through Friday, excluding holidays.



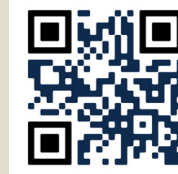
THE DATA YOU WANT, THE WAY YOU WANT IT

MarketViewer gives you the market statistics you define and infographics you can share with clients and prospects. And as a member of Texas REALTORS®, you already have exclusive access to this powerful tool.

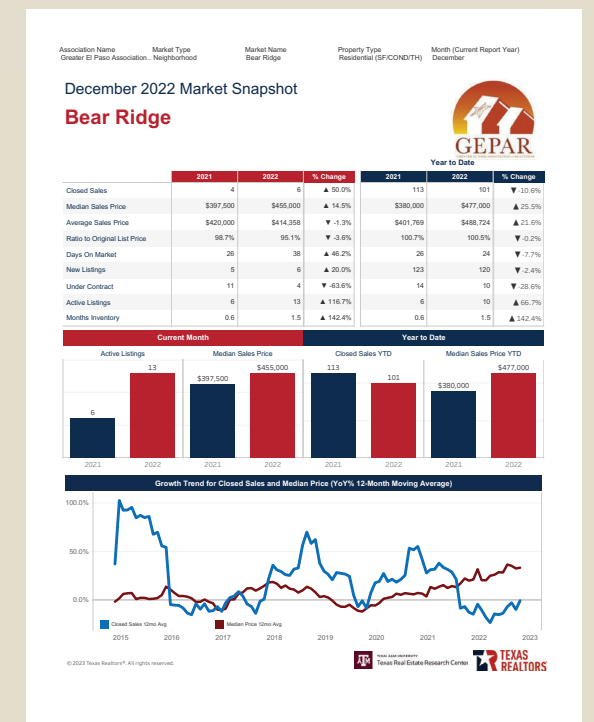
Select a city, county, ZIP code, neighborhood, school district, or other geography. You can then download stats and trends for sales, listings, median price, days on market, days to close, home sizes, year built, and other key real estate metrics.

You'll also find data on mortgage rates, apartment stats, and new construction.

MarketViewer's residential market analytics are brought to you through a partnership between Texas REALTORS® and MLSs across the state, while commercial data is provided by REIS/Moody's Analytics. Residential data is corrected for errors and duplicate listings, so you get the most accurate data available.



Visit texasrealestate.com/marketviewer or scan this code to get the data you want today!



COMMERCIAL MEMBERS— CHECK OUT MARKETVIEWER'S NEW COMMERCIAL DATA!

Click the red Report Menu button and look for the Commercial Dashboard to get market stats on 11 commercial property classes.

#Commercial Influencing

Social Media Strategies for Promoting Your Commercial Real Estate Business.

by Patee Franks



Have you considered using Instagram to promote a new commercial development or Facebook to find a buyer for a retail center? While social media is a marketing tool used by many residential agents and brokers, it's not exclusive to them. Three commercial real estate brokers shared with *Texas REALTOR*® magazine how they use social media to grow their business.

Answers have been edited for space and clarity.

Engagement and Relationships

Staying top of mind is how Quenton Rockwell, Principal of Rockwell Commercial Group, Houston, cultivates a commercial following. Not only does Rockwell make a point to respond to all comments, he regularly posts humorous and real estate activity-based content. When he changed brokerages, his wife took short videos of him updating his logo and signage. They used the video for Instagram and Facebook Reels and generated over 500 views. "It was a great way to remind people that I'm in commercial real estate." It worked: One of his connections reached out, leading to a new business opportunity.

Rockwell also highlights his buyers' and sellers' businesses. He creates social posts that include pictures, a brief description of their business, a link or a tag to their business page, and what it was like to work with them. "We are happy to help them and be a part of their story," he adds.

The Power of Attraction

Libby Mitchell, Broker/Owner of Regency Real Estate Professionals, Beaumont, had a client who purposely deferred maintenance and stopped adding new leases on a large office complex. He planned to demo it and build his headquarters there; however, after Covid hit, he changed his plans.

"I had to market the property at around 60% occupancy and in need of repairs, without any signage," Mitchell says. Using a pro forma and nearby comps, she focused her marketing on the potential. She then created a Facebook advertising campaign directed toward investors within 100 miles of the location.

A local developer/investor who had seen the ad agreed the potential was there and bought the property for cash. On the day of closing, the buyer already had contractors there to update the property inside and out. "He quickly filled the vacancies and renamed the center after his firstborn son."

Besides creating ads, Mitchell advises to post listings as soon as possible, since a new listing always prompts urgency. She also suggests creating an album of professional photos including the interior and exterior, along with aerial maps to help attract more commercial prospects.

It's About Having a Presence

Russell Webb, Owner of Silver Oak Commercial Realty, Southlake, sees LinkedIn and Facebook as powerful tools. "In today's world, the MLS is not enough," he says. "You need to have a social presence to compete."

If you are new to social media, don't let that stop you—you don't need to be an expert and you don't need to handle it all yourself. For instance, Webb uses a PR/social media vendor to help him write well-crafted listing descriptions and social posts about his completed sales and leases. Through their guidance, Webb has learned to focus on posting earlier in the week when his followers are most active and uses bullet points instead of paragraphs in the caption section to make his key information stand out. ★



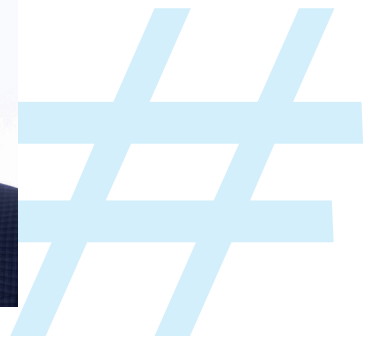
Quenton Rockwell



Libby Mitchell



Russell Webb



Additional Tips

- Learn about the different channels and start with the one you are most comfortable with.
- Remember, your social media presence is your business card. Update your bio and the Messenger feature to make it easy for people to contact you.
- Use automation and scheduling tools like Sprout Social, Agorapulse, and Hootsuite to help you save time.
- You don't need to post multiple times a day, but you should stick to a consistent schedule so that your followers will know when to expect content from you. It's a great way to build trust.
- Build your referral network by joining Facebook and LinkedIn groups to connect with others in commercial real estate and related industries.
- Follow Texas REALTORS® social pages to share and retweet content relevant to your followers.
- Make sure your advertisements comply with relevant parts of TREC rules, The Real Estate License Act, NAR Code of Ethics, RESPA, and Regulation Z Truth in Lending. More information about these rules can be found at [texasrealestate.com/faq](https://www.texasrealestate.com/faq) under the Advertising heading.
- Always check if the social channel has specific requirements or prohibitions regarding posting a listing.

PATEE FRANKS Digital Marketing Specialist for Texas REALTORS®.

IS IT WORTH IT?

Why should your clients pay to rearrange their own furniture or bring in someone else's? Because more and higher offers are possible. Learn the ins and outs of staging from three staging pros.

by Joe Olivieri



Annette Baker could tell the home had potential. It just needed a little warmth. The Harlingen-based agent could envision that staging would make a world of difference, and she knew just the person to do it: herself. In addition to advising her seller clients on the steps needed to market and sell homes, she also offers staging services through her business, Set to Sale.

This particular home was the residence of a single father, his two adult sons, and their seven pets. "Their decorating was very streamlined," Baker says. "They had a sectional, a table, and a TV."

The father was enthusiastic about staging, inviting Baker to do whatever she needed to sell the home. Baker got to work.

"I wanted to give the home some softness," she says. "I brought in plants and lamps, some bedspreads and props; I showed him these are things that could help him sell the house."

Baker's work on that house highlights one of the keys of successful staging: assessing each property individually to make it as attractive to buyers as possible. A well-staged property invites potential buyers to imagine living there. Staging can show buyers what's possible with the space. It can result in better offers, making it worth the expense. Even a home in a hot market can benefit from staging by attracting higher and more offers.

The more you learn about working with stagers, the better you can explain their services—and advantages—to your clients.

Connect with local stagers before your clients need assistance

Your seller clients will likely rely on your recommendation when selecting a stager. Cultivating relationships with stagers in your market will help you

WHAT ABOUT LICENSING AND CREDENTIALS FOR STAGERS?

Stagers aren't licensed, though some have specialized designations. You can ask if your stager is a member of an industry association, such as the Real Estate Staging Association or the International Association of Home Staging Professionals. These associations offer accredited courses.

understand the options as well as the strengths and costs of the staging providers. Ask other agents in your brokerage who they recommend. If you visit a well-staged home, ask the listing agent who did the work. Referrals and word of mouth are essential to a stager's business, says Kyndra Outlaw of Atmospheric Home Staging.



ANNETTE BAKER is a Harlingen-based real estate agent and stager with 19 years of experience. She is an Accredited Staging Professional and offers staging services through her business, Set to Sale.

settosalellc.com



KYNDRA OUTLAW is the owner of Atmospheric Home Staging in the greater Dallas-Fort Worth area. The former adjunct professor has taught in The University of North Texas's College of Merchandising, Hospitality & Tourism and is a member of the Real Estate Staging Association (RESA).

atmospherichome.com



MINOL SHAMREEN is the founder and creative director of Studio M Designs in the greater Austin area. She serves as a director on the RESA national board and is a former president of RESA's Texas and Austin-Central chapters. She has more than 15 years in the interior design industry.

studiom-designs.com

“81% of buyer’s agents surveyed told NAR that staging made it easier for buyers to visualize a property as a future home.”



Image: © Pixel-Shot - stock.adobe.com

WHAT ABOUT VIRTUAL STAGING?

Virtual staging has become an option as technology has improved over the years. While it may be useful in some scenarios, Baker and Outlaw caution that it may at times be considered false advertising. It could potentially be a violation of TREC and/or Code of Ethics advertising rules which provide that advertisements cannot be false, misleading, be likely to deceive the public, and should present a true picture of the property. Even with disclaimers about what virtual staging is (and isn't), the technology has other limitations and could give a misleading representation of the property. Agents need to avoid adding or removing actual fixtures of the property in any sort of virtual staging photos. They should also be careful not to misrepresent room dimensions or perspective. Outlaw says buyers will see a beautiful rendering and then get a vastly different impression when arriving to tour the home. “They’re left touring an empty property and wondering how the space would feel with furniture in it. In a virtually staged space, buyers try to imagine their lifestyle there and imagine themselves in a room with furnishings. Buyers want to move around furniture and see the layout relationships in the home, which is easier to visualize in a staged space instead of an empty space. Digital images from virtually staged spaces may not be accurate in showing what can fit within a room’s dimensions or can incorrectly show the scale of furniture.”

You can network with stagers at industry events; stagers may join some REALTOR® associations as affiliate members. You also can view stagers’ work through online portfolios and social media channels. Contact those stagers whose work you admire; a conversation could lead to a future collaboration, Outlaw says.

A great working relationship benefits agents and stagers. Agents can coordinate with stagers to ensure a property can be staged on the seller’s timetable.

Minol Shamreen of Studio M Designs operates her business as being part of the real estate agent’s team, committed to the agent’s goal of helping the client get top dollar for their property.

“When I work with agents, the clients are already vetted,” she says. “We know that the agents trust our work and process. It’s seamless.” Agents typically hire Studio M Designs, but sometimes homeowners work with the business directly.

Staging fixes the paradox of vacant homes

Sellers might think a vacant property is the perfect scenario. Buyers won’t be distracted as they picture themselves and their belongings in the home. But an empty house can make it difficult to see how rooms could be used, where furniture might go, and what style brings out the best in the property.

Outlaw’s businesses specialize in vacant properties, especially homes that have been flipped by investors, new construction, and homeowners who have already vacated.

She enjoys the challenge of smaller homes. “It’s harder for prospective homebuyers to visualize the space. They’ll think it’s way too small. I can show buyers that, yes, you can have a full-sized sofa in that room. You can have accent chairs in that living space. It’s especially important in open-concept spaces.”

Occupied homes present their own challenges

A more common scenario than vacant properties is when the home is occupied, Baker says. Occupied homes—even those with nice furniture and décor—often benefit from professional staging to present the home in the best possible light. Sometimes stagers will use the sellers’ possessions, and other times will remove some items to bring in pieces that make the home more attractive to buyers.

The stager will almost certainly reiterate what you have already told the sellers: that the most important thing your clients can do is to clean it and detail the home. Beyond that, even small staging touches can have a big impact.

“As soon as buyers get out of the car, they will make up their mind about the home in the first four minutes,” Baker says. “Curb appeal matters. The front door, the living room, the master bedroom, and the kitchen are going to be looked at.”

“If you are the perfect seller—your home is immaculate and well maintained—staging takes me about a half a day. We do a consultation for about an hour or two. We’ll fine-tune it and reposition the furniture.” The goal is to make the home feel spacious. For homes that need more work, Baker may bring in plants and decorations, swap out bedding, suggest new paint and trendy accents, and advise how and where to clean.

Baker helps to load, move, and stage each job herself. “It is so satisfying to see the before and after,” she says.

Where do stagers get their furnishings?

Some stagers own their own inventory of furniture and artwork. Other stagers rent their supplies from furniture companies or establish a relationship with a furniture store.

There are tradeoffs with each approach. Stagers who

WHAT TO DO ABOUT YOUR CLIENTS’ STUFF

Potential buyers will have a hard time picturing themselves in your clients’ home if it looks like your clients are still living there. Buyers cannot see past clutter, Baker says. They get distracted by your clients’ photos and belongings and cannot imagine their own instead.

“A lot of clients struggle to depersonalize their homes,” Outlaw says. “Some clients have lived in their homes for a very long time. They have their own personal style, family photos on the walls, diplomas, and knickknacks. We work with them to detach and take away those personal items. Maybe let go of that purple wall and paint it white. The goal is to appeal to the highest number of people.”

Staging often starts with advice about how to declutter and organize. It’s the clients’ responsibility to store any possessions they don’t want to be part of the showing, whether in the garage or a rented space in a self-storage facility.

Careful staging can also direct buyers’ attention and minimize weaknesses. Baker recalls a home in which buyers were put off by the kitchen counters. “Once staging furniture was put in, buyers saw the potential, and the counters didn’t bother them as much.”

THE VALUE OF STAGING, ACCORDING TO REAL ESTATE AGENTS

Among buyer's agent respondents to the NAR 2023 Profile of Home Staging:

58% said staging has an effect on most buyers most of the time

81% said staging made it easier for a buyer to visualize the property as a future home

20% said staging increased the offer by 1-5% compared to similar homes that weren't staged

MOST IMPORTANT ROOM TO STAGE

39% Living room

36% Primary bedroom

30% Kitchen

AMONG SELLER AGENT RESPONDENTS:

\$600 Median price when using a staging service

\$400 Median price when the agent staged the home

24% Used a staging service

24% Depends on the situation

22% Offered to stage the home themselves

23% Staged every home before listing

10% Only staged difficult-to-sell homes

MOST COMMONLY STAGED ROOMS

91% Living room

81% Primary bedroom

81% Kitchen

69% Dining room

own their inventory must maintain a warehouse and handle delivery themselves, but they can have more flexible schedules and don't have to rely on partners. They can also sell their furniture if the buyers want to keep the pieces, says Baker. Baker's, Outlaw's, and Minol's companies all own their own inventory.

Stagers who rent do not need to maintain a large inventory but must coordinate closely with outside vendors. Stagers will typically rent furniture from local companies, Minol says, adding that almost all stagers start out renting.

Outlaw draws from her design and merchandising background when staging a home. She selects each piece based on the architectural details of the home and follows current design trends to know exactly which colors and finishes to use. "Most of our staging contracts are for 60 days," she says. "We stage, photos are taken the next day, and the home is ready for an open house."

Minol often stages high-rise condos. "We stage to complement the property. If I was staging a ranch home, I wouldn't include contemporary furniture better suited to downtown. That's where the design background helps. I have a degree in architecture and interior design."

Minol schedules stagings with real estate agents. Movers and an assistant help her stage the home. "We'll come out and take measurements. We'll curate the furniture for that particular home. The furniture is packed and loaded by our logistics team. For a 2,000 square foot house, it may be 10 hours of total work."

Explaining cost and benefits

Your clients will want to know: How much does all this cost? One rule of thumb for staging an entire house is 0.5% to 1% of the sale price, Baker says.

But each property is different, Outlaw explains. The price will vary if your clients are only staging a few rooms. The number of rooms and the price point influence the cost. "I will bring in a different level of furniture for a \$3 million home than for a \$500,000 home," she says.

Stagers look at variables such as the scope of work and square footage, Minol adds.

Your clients should consider staging before the home goes on the market, according to Baker. They can save money and avoid hassle by staging upfront compared to staging after the home has sat on the market and had its price reduced to entice buyers.

Fortunately for stagers, many agents already see the value in staging, Outlaw says. "They

“ Staged homes sold for an average \$40,000 over list price, according to the Real Estate Staging Association in 2021. Among properties surveyed, staged homes sold nine days faster than the average days on market in 2021.

educate their clients. Some homeowners say, 'It's an expense I can avoid,' or 'I've blown my budget on the remodel.' Agents teach their clients about the power of staging. They also have access to comp sales and can show clients how much homes sell for."

If your clients decide not to stage their home, you can recommend they get a few consultations. This way they know what to work on themselves, Outlaw says. "You may just need new textiles or a refreshed bathroom," she says. "It could be just touchups or small improvements." Some stagers will offer a free consultation. Even paying a fee for a consultation can be worth it to learn the most important or easiest steps a seller can take. "The stager will go room by room explaining what needs to be done and how to best prepare and showcase the property," Minol says.

Baker says a stager also can point out cosmetic repairs that could make a big difference when selling.

"Even if you know the home isn't going to stay on the market for more than a weekend, the property can still benefit from staging," Minol says. She has seen properties at every price point and in all conditions that have achieved excellent results from staging. It can transform the look and feel of a home, and your clients—and buyers—will notice.

Minol remembers a client who couldn't close on an out-of-state home until their Austin property sold. "We had a week to plan and prep everything. It was during the summer, our busiest season," she says. "When you stage a high-rise building downtown, you have to reserve the elevator to move all the furniture. You book a two- or three-hour time slot. It was the last minute and the elevators were all booked. We jumped through all the hoops and got it done." The effort paid off with multiple offers over the asking price, she says. "When the results are great, they're so thankful. We still get cards from them. I think it's rewarding to help somebody so much."

That kind of feedback is common, according to Minol. Agents will follow up to share how many offers were received. "Their clients call me and say, 'I don't want to sell! It looks so good now!' They say, 'The layout looks so different. I love it. I want to move back in.'" Though that's not the goal, it shows what a dramatic effect staging can have on a home for sale. ★

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



Property management questions?

EVEN EXPERIENCED PROPERTY MANAGERS COME ACROSS SCENARIOS THEY'VE NEVER FACED. READ THESE ANSWERS TO QUESTIONS ABOUT LANDLORD-TENANT ISSUES, LISTING AGREEMENTS, REPAIRS, AND MORE.



I represented a tenant, and I would like a copy of the lease agreement the tenant signed. The landlord's agent refused to give me a copy. As the tenant's agent, am I entitled to receive a copy of the lease agreement?

Nothing prohibits you from receiving a copy of the lease agreement. The lease does not contain personal identifying information that would prohibit the landlord's agent from providing a copy, so the landlord's agent may not use this as a justification.

However, nothing requires the landlord or the landlord's agent to give you one. You were right to ask the landlord's agent first for a copy of the lease agreement. Because he refused, you could ask the tenant directly, because the tenant is required to receive a copy. Chapter 1101.652 (b)(28) of The Real Estate License Act allows TREC to take disciplinary action against a broker or salesperson who refuses to provide a copy of a document related to a transaction to a person who signed the document.

A tenant called me complaining that his roof was leaking. I checked with the owner, who gave the go-ahead for me to hire someone to fix the roof. The contractor fixed the roof and gave me a bill. The terms of the bill stated that if I pay the bill in full within two weeks, I would get a discount. If I pay the bill within two weeks, but the owner can't pay me until after two weeks, can I get a discount for paying early but then charge the owner the regular price, keeping the difference for myself?

You may do this only with the informed consent of your client. The Real Estate License Act Section 1101.652(b)(13) provides that a licensee's license may be suspended or revoked if the license holder accepts, receives, or charges an undisclosed commission, rebate, or direct profit on expenditures made for a principal. Also, Article 6 of the Code of Ethics prohibits REALTORS® from accepting any commission, rebate, or profit on expenditures made for their principal without the principal's knowledge and consent.

A tenant moved in and now says that the house is haunted. She wants to vacate. What is the best way to address the issue?

Inform her that she may be in breach of the lease if she vacates. Tell her that the landlord may exercise his default remedies under the lease. (The landlord must employ reasonable measures to mitigate any loss.) You might try to determine why she believes the house is haunted and see if there is a reasonable explanation for any mysterious circumstances. Also, ask the tenant to provide

written explanations and requests for your records.

I'm the listing agent for an owner leasing his single-family home. We both signed the *Residential Real Estate Listing Agreement, Exclusive Right to Lease* (TXR 1102). A prospective tenant called me to ask questions about the property and request a rental application. If I provide the rental application to the prospect, will this trigger an intermediary relationship?

No. Merely discussing the listing and providing the rental application will not trigger an intermediary relationship. However, if the prospective tenant requests that you represent her in the lease negotiation process, you will need to obtain her written consent for your broker to act as an intermediary. You can use the *Residential Buyer/Tenant Representation Agreement* (TXR 1501) for this purpose. Then you'll need to comply with the steps required for an intermediary relationship, which apply to both sales and leasing transactions.

A tenant who is three months into his lease contacted me because he's interested in purchasing the property, which I manage. The tenant requested that I represent him in the purchase of the property. How do I represent the tenant if I already represent the owner? Can my broker be appointed to represent the tenant?

These facts will trigger an intermediary relationship. Since you represent the seller, you need to verify that the listing agreement permits your broker to act as an intermediary. If so, the tenant will also need to give written consent for an intermediary relationship. The *Residential Buyer/Tenant Representation Agreement* (TXR 1501) is sufficient for obtaining written consent.

Next, you will need to determine whether it's the policy of the brokerage firm to appoint license holders to each side. If so, the broker is prohibited from appointing himself to represent the tenant. The broker will need to appoint another agent within the brokerage firm to represent the tenant. If appointments are made, the owner and the tenant will need to be provided with written notice of the appointment. The *Intermediary Relationship Notice* (TXR 1409) serves this purpose. Appointments are not mandatory, but they allow license holders to provide advice and opinions to the parties.

What's the difference between Paragraphs 4A and 4B in the Texas REALTORS® *Residential Lease* (TXR 2001)?

Paragraph 4A applies to the initial term of the lease. Paragraph

The questions in this article are some of the 450-plus Legal FAQs available on texasrealestate.com. View additional answers about property management and topics such as contracts, advertising, commissions, and others at texasrealestate.com/faq.

4B applies if the lease is on a month-to-month basis.

For example, a tenant has a one-year lease with a January 31 expiration date of the initial term. Paragraph 4A(2) is checked, which requires a 60-day notice of termination before the expiration date. If the landlord or tenant doesn't provide the necessary written notice of termination on or before December 3, a time period of 60 days, the lease will automatically renew on a month-to-month basis.

Paragraph 4B will now apply for notice of termination. The period for giving notice now will depend on whether 4B(1) or 4B(2) is checked.

Both paragraphs require written notice of termination, not verbal notice. If the landlord does not intend to renew, he should provide the *Notice of Landlord's Intent Not to Renew* (TXR 2217) within the necessary time frame required under the lease.

A tenant and landlord executed a Residential Lease (TXR 2001). In Paragraph 4A, Box 2 was checked requiring either party to give 60 days' notice to terminate the lease. In Paragraph 4B, Box 2 was checked requiring at least 30 days' notice if the lease renewed on a month-to-month basis. The lease automatically renewed on a month-to-month basis because neither party provided 60 days' notice of termination as required by Paragraph 4A. The tenant now wants to terminate the lease, but the landlord is requiring the tenant to give 60 days' notice to terminate. Can the landlord require the tenant to give 60 days' notice now that the lease is on a month-to-month basis?

No. Under Paragraph 4B(2), the tenant is only required to provide 30 days' notice.

An agent at my brokerage wants to begin a full-service property-management practice. Can she have her own trust account to collect and disburse security deposits, rents, and other funds?

No. TREC rules make it clear that salespeople cannot have their own trust accounts. A broker may only authorize another license holder to withdraw or transfer funds from a trust account, but the broker remains responsible for all deposits to and disbursements from the broker's trust account. Remember, a broker is responsible for all authorized acts of sponsored salespeople. You and your agent should review TREC Rule Section 535.146 before she begins her practice.

A friend of mine gets paid to manage other friends' properties.

He says he doesn't need a real estate license to do this. Is this true?

It depends on what services your friend is providing in his property management. Under The Real Estate License Act, a license is required when a person handles the leasing of someone else's property. Additionally, someone who controls the acceptance or deposit of rent for a single-family residential property on behalf of another person must be licensed.

A person controls the acceptance or deposit of rent in either of these scenarios:

- 1) The person has the authority to use the rent to pay for services related to management of the property
- 2) The person has the authority to deposit the rent into a trust or bank account and sign checks or withdraw money from the account.

The tenant for a property I manage has asked the landlord to replace the carpet in one room because she says it looks worn and needs repair. Does the landlord have to fulfill this request?

No. Neither the Texas Property Code nor the Texas REALTORS® *Residential Lease* (TXR 2001) would require a landlord to replace or repair something like this.

While Paragraph 18D(1) of the Texas REALTORS® *Residential Lease* states that the "landlord will pay to repair or remedy conditions in the property in need of repair if the tenant complies with the procedures for requesting repairs," this does not mean that the landlord has the obligation to make every requested repair. Paragraph 18D(2) of the *Residential Lease* states that a landlord will not pay to repair "items that are cosmetic in nature with no impact on the functionality or use of the item," and a landlord could argue that worn carpet falls under this category. Additionally, Paragraph 18C(1) states that all decisions regarding repair will be at the landlord's sole discretion.

A tenant notified me yesterday that his water heater stopped working. A repairman came to the property today, but the water heater requires a part that won't arrive until tomorrow. The tenant is upset and wants the landlord to pay for a hotel room for tonight. Is the landlord obligated to do this?

No. Nothing in the Texas Property Code or Texas REALTORS® *Residential Lease* (TXR 2001) requires the landlord to put the tenant in a hotel while repairs are being made. A landlord isn't

obligated to provide alternative housing for a tenant based on a needed repair, even if that repair relates to a condition that could be construed as materially affecting the physical health and safety of the ordinary tenant.

If the landlord fails to make a diligent effort to remedy a condition that materially affects the physical health and safety of an ordinary tenant, the tenant's remedies are found in Section 92.056 of the Texas Property Code.

I was managing a property, and the owner terminated the management agreement effective today. A tenant in the property previously notified us that he will not renew the lease. The lease ends 30 days from today. I have the security deposit in my trust account. What do I do with the security deposit?

The security deposit is a deposit given by the tenant to the landlord as security for the tenant's performance under the lease. The landlord must account to the tenant for the deposit at the end of the lease. Under most property-management agreements, the property manager holds the security deposit during the lease term on behalf of the landlord and accounts to the tenant for the landlord at the end of the lease term. Since you are no longer the landlord's agent, you should forward the security deposit to the landlord and remind him he has a duty to account for the deposit when the tenant vacates the property.

You should send written notice to the tenant advising him that you are no longer the agent for the landlord, that you tendered the security deposit to the landlord, and that the landlord is now responsible to account to the tenant for the security deposit.

Alternatively, you and the landlord may agree that you will continue to hold the money and account for the security deposit, but such an arrangement should be stated in writing and be specific as to the parties' responsibilities, such as who will inspect the property for damage upon move-out and who will make determinations about any deductions.

I manage rental properties for a client who doesn't want people smoking on his property. If we deny potential tenants' applications because they smoke, will this violate any federal fair-housing laws?

No. Federal fair-housing laws make it illegal for the landlord to choose tenants based on their race, color, sex, national origin, religion, disability, or familial status. However, people who smoke are not a protected class. A landlord can refuse to lease to potential tenants who smoke as long as the landlord consistently enforces such prohibition. ✪



Is re-keying required for a temporary lease?

My seller-client accepted an offer on his property from buyers who asked to move in 30 days before closing. My client agreed, and the parties used the Buyer's Temporary Residential Lease (TXR 1911, TREC 16-6) as part of the contract. Will my client have to re-key the exterior doors before the buyers move in since he will be acting as their landlord for that period?

No. Paragraph 22 of the *Buyer's Temporary Residential Lease* explains that the requirements of Section 92.152 of the Texas Property Code relating to security devices, including re-keying of exterior doors, do not apply to a residential lease for a term of 90 days or less.

Boost your property-management knowledge with two Texas REALTORS® certifications

The **Texas Residential Leasing Specialist** is an introductory-level certification program that includes 12 hours of CE courses related to the fundamentals and forms used in residential leasing.

The **Texas Residential Property Manager** certification requires completion of six 3-hour courses and verification of 200 unit-years of residential management experience (a unit-year equals management of one unit for one year).

Learn more at texasrealestate.com/designations.

CAN'T FIND THE ANSWER TO YOUR QUESTION?

As a member of Texas REALTORS®, you get exclusive access to the association's Legal Hotline. Staffed by attorneys experienced in real estate laws, the hotline provides answers about real estate brokerage, property management, license law, trust accounts, and more.

Note that you do not have an attorney-client relationship with the Texas REALTORS® Legal Hotline attorney, and the attorney cannot provide legal advice. Texas REALTORS® attorneys can only discuss legal and ethical questions from a general perspective. Texas REALTORS® attorneys cannot give legal advice regarding specific transactions or factual situations.

The hotline is available from 9 a.m. to 4 p.m. Central, Monday through Friday, excluding holidays.

Call 512-480-8200 to speak with a hotline attorney.



GET THE GUIDE

WHETHER YOU SPECIALIZE IN PROPERTY MANAGEMENT OR IT IS JUST ONE OF THE SERVICES YOU PROVIDE, THE TEXAS REALTORS® RESIDENTIAL PROPERTY MANAGEMENT RESOURCE IS MADE FOR YOU. THIS DIGITAL REFERENCE INCLUDES EIGHT CHAPTERS ON TOPICS LIKE SECURITY DEPOSITS, APPLICATIONS, FAIR HOUSING, REPAIRS, AND MORE. MEMBERS OF TEXAS REALTORS® CAN PURCHASE THE GUIDE FOR \$149.99 PLUS TAX.

BEFORE YOUR CLIENTS WIRE MONEY

YOUR BUYER CLIENTS ARE AT RISK OF LOSING A LOT OF CASH.

by Joe Olivieri



Scammers are targeting your clients. They know homebuyers are distracted by all the details of closing and are about to send tens or even hundreds of thousands of dollars through an unfamiliar system. These criminals have all sorts of ways to trick your clients into wiring the money into fraudulent accounts.

If the scammers succeed, your clients are still responsible for the money they agreed to pay in the transaction, says Texas National Title CEO David Tandy. “The sale goes through more times than I would have expected. But if the amount is large enough, then it’s unlikely the buyer could replace those funds.”

Wire fraud is very common, Tandy says. It’s not unusual for a title company to see several attempts a day. Title companies take steps to try to protect against these criminal attacks, but they need your help. Here’s what he recommends:

Warn And Repeat

Talk about wire fraud at your first meeting with clients and then again as they get closer to signing a contract.

Repetition is key to protecting your clients. Your frequent warnings may be what stops them from sending money to scammers. Homebuyers have told Tandy they were seconds away from authorizing the transfer before they remembered the risks.

“A buyer may get an email the day before closing telling them to wire the money early,” Tandy says. “So many people go on autopilot trusting their email, and they wire the funds.”

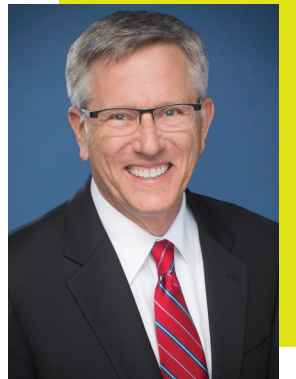
Get On the Same Page With Title Professionals

One of the best ways you can help is to reinforce what the title company tells your clients, Tandy says. Agents and title companies should talk and coordinate.

Some title companies send wiring instructions by email with the understanding buyers should call to confirm before wiring funds. Encourage your clients to confirm the title company’s phone number and save it in their phone. Then tell them to only trust information received from that number.

Other title companies may use a secure portal to send and receive messages including delivery of wiring instructions. Remind your clients to only trust messages received in the portal, not from email.

Regardless of what process a title company uses, your clients should never rely solely on an email from the title company or anyone else involved in the transaction, Tandy emphasizes. Your clients should always call a verified title company phone number and confirm.



David Tandy

THE FBI AND THE SECRET SERVICE SAY THAT IF YOU CALL WITHIN HOURS OF WIRING THE MONEY, THE BANK MAY BE ABLE TO STOP EVERYTHING.



“ SO MANY PEOPLE GO ON AUTOPILOT TRUSTING THEIR EMAIL, AND THEY WIRE THE FUNDS.”

Teach Buyers to Be Suspicious

Scammers have ways to know the perfect time to send a fraudulent email. “Think of everyone who’s involved in those email threads toward the end of the transaction,” Tandy says. “It might be 10 or 20 people. If just one email account has been breached, the scammers can follow along and know exactly when to strike.”

Modern scams are sophisticated, he cautions. A fraudulent email may look just like the real thing, with email signatures, pictures, and logos.

Tell your clients to confirm the authenticity of any message they don’t recognize. “One buyer told us he didn’t trust the phone or email and asked if he could drive down to the office to pick up the wiring instructions. We said absolutely!”

Stop Fraud Quickly

Most of the time, your clients’ money cannot be recovered if they wired funds to a fraudulent account, Tandy warns. There are a few protections in place, but your clients should not rely on them. The sooner your clients report wire fraud, the better the chances of recovering the funds. They should immediately notify law enforcement, their lender, title company, and agent.

Banks sometimes hold up transfers they consider suspicious. “The FBI and the Secret Service say that if you call within hours of wiring the money, the bank may be able to stop everything,” says Tandy. “That’s called a kill chain.”

Risks for Sellers

On occasion, your seller clients may also be a victim of wire fraud scams if they have to bring money to the closing table, Tandy says.

“If sellers wire those funds, then they are as much a target as the buyer,” he adds. “In that case, they would need all of the fraud warnings and wiring instructions that were provided to the buyer.” It’s important that your seller clients give the title company the correct wiring information.

Tandy cautions against trends toward faster and more convenient title processes. Unless your clients are investors trying to flip a home quickly, there is no need for such quick turnarounds, he says.

Even the title company could be a wire fraud victim where they are tricked into sending the seller’s proceeds to a fraudster instead of the seller, Tandy notes. “If a title company is the defrauded party, then it would have to replace the funds that it lost to the fraud.

“There was one time, two hours after a closing, we got a call from someone pretending to be the seller’s agent. The person said, ‘I’m here with the seller and they just realized they gave you the wrong wire information. We can give you the correct information now.’ And we said, ‘That’s great. The seller needs to come back to the office and provide the new wiring instructions to us personally and we will make the change.’ And they didn’t.” ★

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



Image © Mila Supinskaya - stock.adobe.com

WIRE FRAUD WARNING

You can use the *Wire Fraud Warning* (TXR 2517) notice to educate clients about the dangers of wire fraud. The form describes common scams and how clients can protect themselves.

You can share the *Wire Fraud Warning* with clients before they need to deliver earnest money or close on the property. There is a space for clients to acknowledge they’ve received, read, and understood the information. If the client refuses to sign the warning, you should note in the transaction file that you delivered the form on that date and the client declined to sign it.

Wire Fraud Warning is one of more than 150 forms exclusively available to members of Texas REALTORS®.

SMART STEPS TO TAKE BEFORE YOU BUY OR SELL A HOME

When thinking of buying or selling a home, you can take actions ahead of time that will pay off even if you’re not quite ready to view homes or put yours on the market. These steps may help you avoid surprises, reduce your stress, and maybe even save a bunch of money.



ASSEMBLE YOUR TEAM

You will need several experts to complete any real estate transaction, and the best place to start is with your REALTOR®. No one has a more complete picture of real estate transactions than REALTORS®—the professionals who are involved from start to finish.

You also may need to work with lenders, title agents, appraisers, inspectors, surveyors, attorneys, stagers, repair professionals, and others. Your REALTOR® can explain these people’s roles and how they fit into the overall transaction. You may also be able to ask your REALTOR® for referrals to trusted specialists who provide these services.



MAKE A LIST

Whether buying a home, selling, or both, you’ll face plenty of decisions. Prioritizing your goals helps you narrow down your choices so you can focus on the most productive actions. When selling, you might decide that a quick transaction is more important than maximizing your sales price. As a buyer, weighing the relative importance of price, location, and features will help guide your decisions.

Your REALTOR® is invaluable here, too, identifying factors to consider and discussing pros and cons of the options you’ll likely face.



TAKE ACTION

When is the right time to start working on your home purchase or sale? Earlier than you may think! If you’re buying, you can work on financing, boosting your credit score, and researching neighborhoods and properties. If you’re selling, you may benefit from decluttering, repairs, and remodeling. Once again, your REALTOR® can provide a wealth of information and resources to start you on a path to success.

Whether buying or selling, your REALTOR® is your trusted guide to help you achieve your real estate dreams.

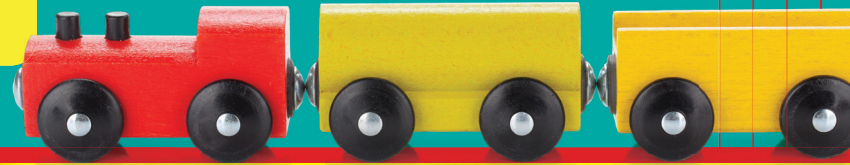
SHARE THIS

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

Photos & Images: © Vectorwonderland, © Vector Juice - stock.adobe.com

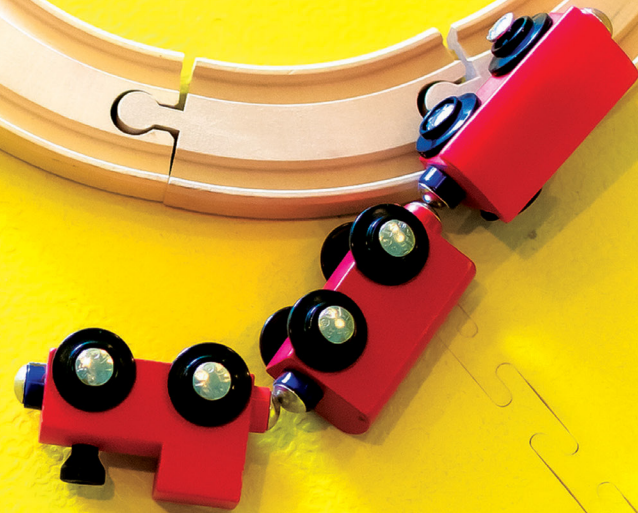


TAKE 5



Help Your Clients Keep It Together When the Transaction Falls Apart

Real estate transactions are complicated, with many points where the deal can fall through. Buyers can exercise termination options or fail to secure financing. Surprises can pop up during title searches, surveys, and inspections. Here are five ways to prepare your clients for a transaction *not* to close and point them toward ultimate success.



SET EXPECTATIONS

Your sellers may be elated because they accepted a great offer for their property. Or your buyers might be ready to pick out furniture after signing a contract on their dream home. Gently remind clients on either side about all the steps that need to happen between contract and closing.

KEEP ON SCHEDULE

If a transaction doesn't close, make sure it's not because of something your clients did not do. Use checklists, calendar reminders, text messages—whatever works best for you and them—to help clients stay on top of deadlines and performance measures. That way, they won't be the cause of a deal falling apart.

REMEMBER THE GOAL

Early in your relationship, you likely talked to clients about their goals. Maybe they want a bigger house, a house closer to work, or a quick sale. Reminding them about their top priorities can help clients navigate a deal's twists and turns and keep their best interests top of mind.

COMMUNICATE, COMMUNICATE, COMMUNICATE

Know how your clients want to hear from you. Also find out if you should use a different type of communication for quick responses. Because when you get information about a potential problem with the transaction, you'll need to reach out ASAP and ensure they are not caught off guard.

BE READY WITH ALTERNATIVES

Clients will be disappointed if a deal falls through. You need to prepare them for the next steps to reach their goal. Providing data and examples of the latest market activity can drive decisions, such as a new marketing plan for sellers or new listings for your buyers.

Yes, our technology does make a difference.

The best technology makes for the best agents. The Weichert® technology offering is designed to maximize engagement, generate leads, and increase productivity. Imagine a beautifully designed, customized website backed by a powerful CRM, AI-driven automated follow-ups, and an easy-to-use technology package so advanced that it can run your entire business. Weichert makes it all happen, and more. It's real, robust and ready-to-go technology that helps agents succeed like never before. The best technology really makes a big difference. Learn more. Give your local Weichert office a call today or visit jobs.Weichert.com



Weichert®

Each Weichert® franchised office is independently owned and operated. ©2021 Weichert Real Estate Affiliates, Inc. Weichert is a federally registered trademark owned by Weichert Co. All other trademarks are the property of their respective owners.

MY ASSOCIATION MY BENEFITS



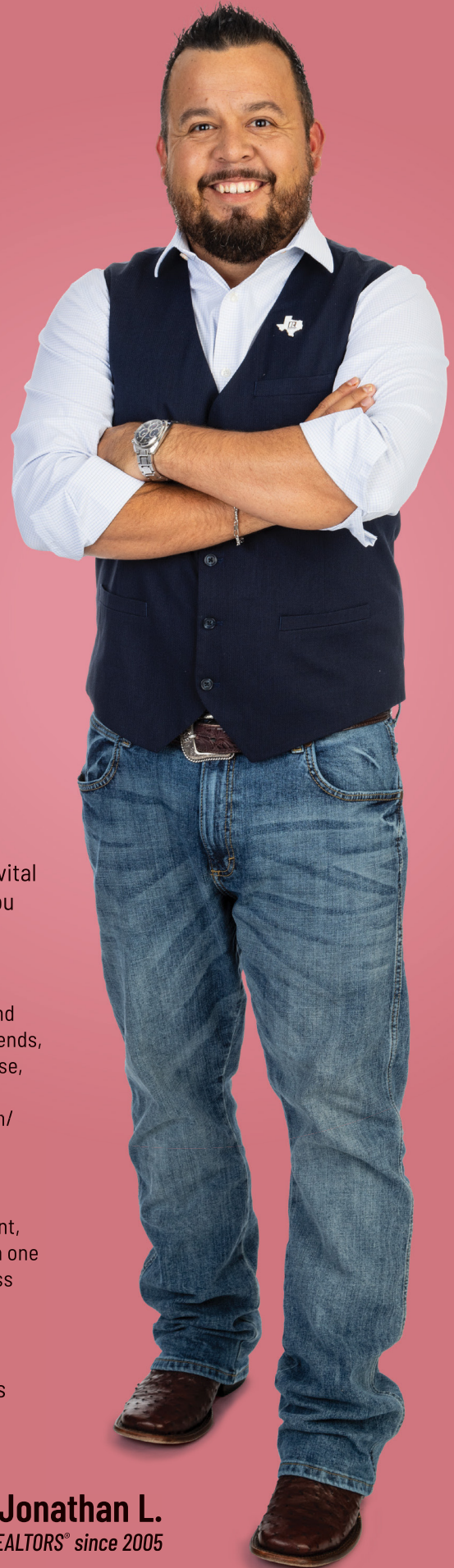
DATA AND BUSINESS SOLUTIONS AT YOUR FINGERTIPS

Up-to-date data and keeping track of your clients' transactions are vital to your business. Luckily, your Texas REALTORS® benefits provide you solutions that let you work smarter, not harder.

- **Provide market stats to your clients in a clean, easy-to-understand format with MarketViewer.** You choose the geographic boundaries and MarketViewer gives you powerful data about listings, sales, prices, trends, and more. Create residential reports in English, Spanish, or Vietnamese, or check out the extensive new commercial reports. Become a data expert today. Learn more about this great tool at texasrealestate.com/marketviewer.
- **Keep track of your important tasks and your clients' transactions with Wise Agent.** Wise Agent offers solutions for contact management, transaction management, lead automation, and marketing tools, all in one place. With a Wise Agent account, you can stay on top of your business and keep your clients' activities on track. Visit texasrealestate.com/wiseagent to learn more.

In addition, the REALTOR® Code of Ethics and professional standards are what set you apart from license holders who don't belong to the REALTOR® association.

Learn more at texasrealestate.com/benefits.



Jonathan L.

Member of Texas REALTORS® since 2005