

AUSTIN REALTOR®

We're Working For You
May/June 2010



**WHAT HEALTHCARE REFORM
MEANS FOR YOU**

INSIDE:

MLXchange System Upgrade in May | Make an Impact in Your Community

LEGAL TOPICS: Private Transfer Fee Covenants: The Good, the Bad and the Ugly

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AUSTIN REALTOR®

We're Working For You

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CHAIRMAN'S CORNER

In our business, it pays to cooperate!

Sales associates who get along with others can expect to have their listings shown early and often. When a transaction snag arises, they can count on their colleague's help to iron things out. On the flip side of this coin, agents who fail to cooperate in a courteous manner with others may fail to achieve the same level of success as their colleagues. In short, agents who regularly practice high-levels of professionalism will often find a wealth of good resources at their disposal.

The question then becomes how do you make yourself a REALTOR® that other REALTORS® want to work with?

It's simple—communicate. Good agents are good communicators, and they are good at solving problems. With the technology available today, transactions can be completed without agents ever talking to each other. However, a good agent will open the lines of communication early in the process, so that should an issue arise, they have the rapport with their fellow REALTORS® to arrive at a reasonable solution that pleases all parties.

As REALTORS®, we are required to put the needs and interests of our clients above our own. Working with REALTORS® who are committed to serving their clients can produce a smoother transaction, which may also be less risky.

Being Nice Saves Time

Aside from increasing sales, working well with others can help keep REALTORS® out of professional standards hearings—a time-consuming and often emotionally draining process. Many complaints that result in these hearings could have been resolved had the agents communicated more openly with one another during the transaction.

Foster a Culture of Kindness

To build a culture of cooperation, ABoR members must demonstrate that they value cooperation. You can do this by modeling a respectful, supportive attitude to others and expressing your appreciation when you receive the same treatment in return.



New agents are always coming into the business, often in need of experience. By showing them the REALTOR® spirit of cooperation from the beginning, and helping guide them, you are not only helping yourself, but all of your fellow REALTORS®.

Keep in mind, your fellow agents may not remember everything you said, but they will never forget how you made them feel.

John Horton, CRS
2010 Chairman of the Board

INDUSTRY NEWS

Date Changes for New Member Orientation and Lunch and Learn

Due to scheduling conflicts, some Lunch and Learn sessions and New Member Orientations have been rescheduled. The May Lunch and Learn session has been moved to **May 25** and will take place from 11:00 a.m. to 1:00 p.m. Additionally, the June New Member Orientation has been rescheduled to **June 3**. Make sure to mark your calendars if these date changes affect you.

Calling All Leaders!

Would you like to help guide our association in a direction that will best benefit our members? Consider submitting a director candidate application for your local or state association! Positions are available on both ABoR and the Texas Association of REALTORS® (TAR) Board of Directors. On ABoR's Board of Directors, there are five open positions for Directors. Those selected will serve a three-year term from 2011-2013. Additionally, the Secretary/Treasurer and Chairman-elect officer positions are available. Also needed are three TAR Directors, who will serve three-year terms from 2011-2013, and an individual for the role of TAR Regional Vice President, who is selected a year in advance and will serve a two-year term from 2012-2013.

The open call for these leadership positions will begin in May. Stay tuned for more information. If you have any questions, contact **Vicki Harris** in ABoR's Executive Department at 512-454-7636 or executive@abor.com.

Committee Sign Up Coming Soon

ABoR is preparing to launch our search for volunteers who are ready to get involved with the association by joining one of our many committees. Involvement on a committee is a great way to build valuable connections for your business and leave your mark on the real estate industry. Committee types range from Political Action to Professional Standards to Scholarship. With all of these choices, there is a niche available for anyone who wishes to volunteer. Most committee assignments do require a one-year commitment. For a list of committees, short descriptions and frequency of meetings, visit http://www.abor.com/about_abor/committees.cfm.

The open call for committee assignments is expected to begin on **June 1** with a **July 15** deadline to sign up. Look to future additions of ABoR publications and [Abor.com](http://www.abor.com) for more information on when the applications will be available.

For more information, contact **Vicki Harris** in ABoR's Executive Department by phone at 512-454-7636 or by e-mail at executive@abor.com.

Bring Your Appetite: Foundation to Host Crawfish Boil and Property Tour

Get ready for the ABoR Foundation's next fundraising event—the Crawfish Boil and Property Tour. Prepare for crawfish, drinks, live music and door prizes on **June 10** from 5:00 to 8:00 p.m. at the Barton Place Condominiums located at 1608 Barton Springs Road.

Tickets will go on sale in May for \$10 each. For more information, contact **Alisa LeBlanc** at 512-968-5246 or aleblanc@nat.com.

Update Your Contact Information to Ensure You Receive Important TREC Information

The Texas Real Estate Commission (TREC) is decreasing the number of printed pieces sent to REALTORS® through traditional postal mail delivery. The agency will begin using e-mail as a means of delivery for most official documents, starting with their license certificates. In light of this change, TREC asks REALTORS® to update their primary e-mail address in order to continue receiving these important communications.

Update your primary e-mail address with TREC today by visiting <http://www.trec.state.tx.us/permanaddress.asp>.

Ready-Made Marketing Materials on HouseLogic.com



In February, the National Association of REALTORS® (NAR) launched [HouseLogic.com](http://www.houselogic.com), a website that provides consumers with a multitude of insights and data regarding homeownership. Additionally, NAR introduced the members-only REALTOR® Content Resource (RCR). As a part of HouseLogic.com, RCR aids REALTORS® with their marketing efforts by providing them content for various communication mediums such as websites and blogs. RCR also offers several marketing slicks, which are ready-to-use promotional flyers that can be used to discuss and promote the benefits of HouseLogic.com to your current and potential clients.

RCR's Consumer Marketing Slick details the benefits of HouseLogic.com from the viewpoint of the consumer. This content is available in both PDF and Microsoft Word versions. The PDF version is ready for REALTORS® to print and distribute and there are

no additional personalization options. The Word version offers the same features as the PDF version; however, it also allows you to add your specific branding to the flyer.

These marketing slicks, along with a PowerPoint and other reference materials on HouseLogic.com, can be downloaded from the "Help Spread the Word" section of RCR by visiting www.houselogic.com/members.

TREC Warns Public About Real Estate Scams

TREC's Standards and Enforcement Services Division has issued a warning to the public regarding recent reports of real estate brokerage scams in the Dallas/Fort Worth area. Those behind these scams are groups of individuals and companies claiming to be real estate agents and brokerage companies. However, these individuals are not licensed agents. REALTORS® should inform homeowners, tenants, buyers, investors and other consumers to be aware of such scams.

According to TREC, victims of these schemes have been lured through www.craigslist.com. Common complaints filed by victims assert that scam artists are mismanaging money, while conducting property management services that they are not authorized to handle. Other alleged complaints have come from unknowing individuals who have been employed by this group, under false pretences, to perform various brokerage services. Like the consumer victims, these "employees" have also reportedly been acquired through Craigslist.

Scams like this shed light on the importance and value of using a licensed REALTOR®, who is bound to uphold the professional REALTOR® Code of Ethics. Contact TREC at 512-465-3962 for more information regarding these scams. Victims can download a TREC complaint form and learn the steps to filing a complaint by visiting TREC online at <http://www.trec.state.tx.us> and clicking on the "Complaints, Consumer Info" tab at the top of the Web page.

EDUCATIONAL COURSES

and Upcoming Events

MAY

3	3	10-15	25	31
New Member Orientation 8:45 – 11:00 a.m. ABoR Auditorium Note: This orientation has been moved from its original date of May 7.	TREPAC Golf Tournament at Avery Ranch Golf Club For more information, visit http://www.abor.com/events/golf.cfm	NAR Mid-Year Meeting & Trade Expo For more information, visit http://www.realtor.org/midyear.nsf	Lunch and Learn 11:00 a.m. – 1:00 p.m. ABoR Auditorium Note: This Lunch and Learn has been moved from its original date of May 28.	ABoR Office Closed Memorial Day



JUNE

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
		1	2 TREC Ethics MCE 8:30 a.m. – 12:00 p.m. TREC Legal Update MCE 1:00 – 4:30 p.m.	3 New Member Orientation 8:45 – 11:00 a.m. ABoR Auditorium Arrange Your Listing for Success: Real Estate Feng Shui 8:30 a.m. – 5:30 p.m.	4 Code of Ethics: Your Promise of Professionalism 1:00 – 4:00 p.m.	5
6	7 GRI1: Real Estate Finance 8:30 a.m. – 5:30 p.m.	8 GRI1: Real Estate Finance 8:30 a.m. – 5:30 p.m.	9 GRI1: Real Estate Finance 8:30 a.m. – 5:30 p.m.	10 GRI1: Real Estate Finance 8:30 a.m. – 5:30 p.m.	11 GRI1: Exam Option 8:30 a.m. – 12:30 p.m.	12
13	14 Fight the Texas Tax Appraisal and Win 8:30 a.m. – 12:30 p.m.	15	16 Mediate, Arbitrate, Litigate 8:30 a.m. – 12:30 p.m. Truth in Advertising 1:30 – 5:30 p.m.	17 Real Estate Reality: Leasing 8:30 – 11:30 a.m. Real Estate Reality: Property Management 12:30 – 3:30 p.m.	18	19
20	21	22	23	24	25 Lunch and Learn 11:00 a.m. – 1:00 p.m. ABoR Auditorium	26
27	28	29	30			

REGISTRATION INFORMATION

Register for courses at <http://www.abor.com/education>, by contacting **Rita Barousse** at rbarousse@abor.com or by phone at 512-454-7636, ext. 1602. Members who require special assistance should allow five days advance notice.



Follow ABoR Education (@ABoR_Education) on Twitter for the latest MCE news and updates.

The Clock is Ticking: Purchase Your Academy Card Today

Sales of the ABoR Academy's new Academy Card are in full swing. The new \$99 cards offer a cost-effective way for you to enhance your REALTOR® knowledge by allowing you to attend as many mandatory continuing education (MCE) courses as you want. A limited number of cards, only 500 total, will be sold. Once these cards sell out, they will be gone for good.

short sales, foreclosures, sales skills, water rights, technology, green real estate and more. A full listing of MCE courses can be found online by visiting www.abor.com/education and selecting Course Catalog from the left toolbar.

The vast array of MCE courses offered by the ABoR Academy allows you to increase your real estate knowledge on specialized topics including tax appraisals,

Ready to purchase your Academy Card? Visit www.abor.com/acard today for more information and to reserve your card! Contact ABoR's Education Department by phone at 512-454-7636 or by e-mail at education@abor.com for questions.

JULY

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
				1	2 New Member Orientation 8:45 – 11:00 a.m. ABoR Auditorium Code of Ethics: Your Promise of Professionalism 1:00 – 4:00 p.m.	3
			Course Descriptions can be found online at www.abor.com/courses/mce_coursecatalog.cfm			
				4	5 ABoR Offices Closed Fourth of July Holiday	6
				7	8 NEW COURSE Real Estate Reality: Property Management – Beyond the Basics 8:30 a.m. – 3:30 p.m.	9 Texas Promulgated Contract Forms 8:30 a.m. – 5:30 p.m.
				11	12 GRI2: Real Estate Marketing 8:30 a.m. – 5:30 p.m.	13
				14	15 GRI2: Real Estate Marketing 8:30 a.m. – 5:30 p.m.	16 GRI2: Exam Option 8:30 a.m. – 12:30 p.m.
				18	19	20
				21	22 Seller Representative Specialist (SRS) Designation Course 8:30 a.m. – 5:30 p.m.	23 Seller Representative Specialist (SRS) Designation Course 8:30 a.m. – 5:30 p.m.
				25	26	27
				28	29	30 Lunch and Learn 11:00 a.m. – 1:00 p.m. ABoR Auditorium
						31

FEATURED COURSE

Real Estate Reality: Property Management—Beyond the Basics

The third component of the *Real Estate Reality Series*, this course dives deeper into the property management process. Set around a single-family dwelling, this course examines how to handle the property, from marketing the property to the application process and verification to the leasing, signing and occupancy of the home. (TREC #06-00-062-8981; 6 hrs MCE; Instructor: Bill Evans)



GOVERNMENT AFFAIRS

Make an Impact in Your Community by Participating at the City Level

Every year, the Austin City Council appoints Austin residents to serve on various public boards and commissions. Individuals who take on these roles have a unique opportunity to help shape and influence public policy. With a multitude of boards and commissions, the areas of interest are abundant. From the Community Development Commission to the Parks and Recreation Board, there are a variety of places you can serve. Those who participate with these groups study and make recommendations to the City Council based on their respective issues.

A number of boards and commissions currently have vacancies, and your participation could benefit these groups in accomplishing their goals. As a REALTOR®, you have a unique perspective on the Austin community and your perceptions can add to the collective wisdom of these boards and commissions. Furthermore, your service to these groups could lead to future opportunities to participate on boards that handle more complex public issues. Members of City Council have served on these boards and commissions.

Interested in helping serve the City of Austin? Visit http://www.ci.austin.tx.us/cityclerk/bc_info_center.htm to learn more. On this website, you will find a list of boards and commissions, including detailed information about the group's role, current participants and meeting details. The website also contains information regarding vacant positions, the application process, meeting agendas and more.

If you're considering serving on one of the city's boards or commissions, contact ABoR's Government Affairs Department. We can help you understand the process and what it entails. Give us a call at 512-454-7636 or send an e-mail to government@abor.com. We'd be happy to discuss the potential opportunities with you.

Additional information can also be found by contacting **Candy Parham**, Boards and Commissions Coordinator for the City of Austin, at 512-974-2210.

What Happened to the Proposed Residential Rental Registration Program?

Last July, the City Council passed a resolution directing City of Austin staff to work with interested stakeholders on developing a registration program for rental properties. At the heart of working through this issue is allowing stakeholders a chance to voice their input, so that their opinions and unique perspectives may be considered as the ordinance is developed.

ABoR's Government Affairs Rental Registration Subcommittee is continuing to meet with city stakeholders and interested groups to discuss alternatives to residential rental registration in Austin. ABoR is against any proposal that imposes fees, whether assessed annually or based on the number of tenants, on landlords and property managers. Our subcommittee continues to recommend to the City that any fees collected should come from those who have violated city codes and the penalties they incur because of the said violations. The original observation cited by our subcommittee was that the resolution specifically identified a rental registration program as a cure-all for code violations in specific parts of the city. However, the resolution actually restricts city staff and stakeholders from conducting a true analysis of the city's code enforcement issues.

Ready for more? Visit <http://www.ci.austin.tx.us/code/compliance/> for information about the City of Austin's Code Compliance Department and the meetings to discuss the proposed rental registration program.



Join the discussion on *Rental Registration in Austin* by visiting the Property Management and Leasing Community in ABoR's Learning Communities.

Photo © 123rf.com/David Gilder

Fight to Preserve Property Rights: Step it Up 110 Percent in 2010

Prepare to give the Texas Real Estate Political Action Committee (TREPAC) 110 percent of your support! This year, TREPAC is encouraging REALTORS® to invest at least \$110 and help protect the real estate industry. If you usually invest more than this in TREPAC, they are asking you to increase your normal contribution by \$110. Investing this money now can help save REALTORS® from losing thousands of dollars to new real estate taxes in the future. Your investment will aid tremendously in the fight to preserve private property rights and protect your industry from harmful legislation. Give TREPAC your all—be \$110 in 2010!

Are you ready to go beyond your monetary contribution to TREPAC? Help spread the word about TREPAC and key issues impacting the real estate community by visiting www.texasrealtors.com/spreadtheword/. This website is a valuable resource that contains helpful tools, including flyers on TREPAC initiatives and how you can make a difference. There is also a TREPAC calculator tool which helps you determine how much money TREPAC has saved you.

The detailed information contained on the site can help you learn more about the issues impacting REALTORS®—mixed-use vehicle taxes, appraisal reform, taxation on services and more. Do you have a Facebook or Twitter account? Spread the word about these vital issues with the click of a button. When you visit www.texasrealtors.com/spreadtheword/, simply click on one of the mes-



"Since becoming involved on the Government Affairs and Political Action Committees, I have learned the importance of staying current on key issues and educating legislators on the subjects that affect property owners and the real estate profession. By contributing to TREPAC, I know I am saving not only myself, but private-property owners and my colleagues in the real estate world, from legislation that could have a potentially negative impact on our industry and community. Protect yourself by taking a stand and make your investment in TREPAC today!"

Michelle Murphy, \$99 Club TREPAC Investor

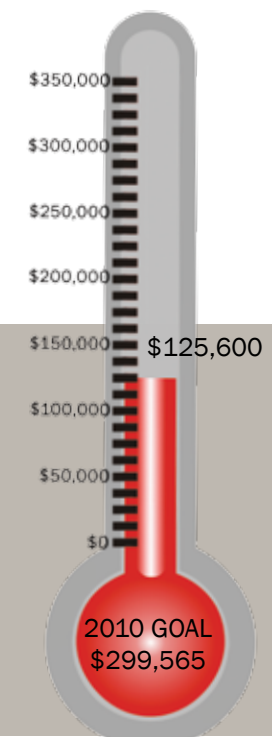
sages displayed, and you'll find the popular social media icons below the detailed information. Click on your preferred social media outlet, and you'll be able to spread the word to your social network. It's that simple.

Raise a Glass to TREPAC at Annual Wine Tasting

When ABoR hosted its first TREPAC wine tasting in 2002, we didn't know the event would grow to become one of the most well-attended REALTOR® fundraisers of the year. This year's wine tasting and silent auction is sure to live up to its reputation of bringing proactive real estate professionals together for a good cause. The event is set for **August 19** from 6:00 to 8:00 p.m. at Central Market, located at 4001 North Lamar Boulevard.

Sample Central Market's fine wines and enjoy hors d'oeuvres, all while browsing and bidding on some exciting silent auction items. Each \$35 ticket includes four samples of palette-pleasing wine, appetizers and desserts. This event is also an excellent opportunity to network with your fellow real estate professionals and show your support for TREPAC, while enjoying good food and a smooth libation.

For more information about the event, contact **Christina Ortiz** at 512-454-7636, ext. 1501 or cortiz@abor.com. Stay tuned to future ABoR publications for more information as the event approaches.





MLS UPDATE

MLXchange System Upgrade to Launch in May

MarketLinx is expected to roll-out the upgraded version of our MLS—MLXchange 5.1—this May. This new version will bring numerous enhancements that provide members with access to new features and increase the functionality of the system. Watch the Message of the Day in MLXchange for more information as the date draws closer to the release.

ABoR does not anticipate any downtime to occur when the system is upgraded. However, MarketLinx has informed ABoR that some users may experience difficulty installing their ActiveX controls in Internet Explorer 8. Instructions on how to combat this issue, should it arise, can be found at <http://www.abor.com/mls/InstallActiveX.pdf>. Your normal daily use of MLXchange will not change, but you will notice the new features that are added to the system.

Below, preview some of the new features that will be made available with MLXchange 5.1.

- **Period Comparison Reports:** New reports will allow agents to compare their personal statistics from the last year. You will be able to view the number of properties sold, sold price, and the average and median sales price for your transactions. The reports will allow you to compare your current numbers to the previous month and three, six or 12 months back.
- **Listing Maintenance:** Members will be able to edit individual records directly from the listing details screen, which will save them an extra step when making changes to a listing.
- **Agent Web pages:** Currently under the “My listings” section on an agent’s personal website, only the listings in which the individual is the primary agent are displayed. With the system update, both

listings where the agent is shown as the primary or secondary agent will be displayed, allowing agents to showcase more of the inventory they have available.

- **New Website Templates:** Two new website templates have been designed with Austin in mind, carrying the themes of wildflowers and the Texas Hill Country.
- **Inventory Watch:** “Temporarily off market” will be added to the Inventory Watch section, allowing agents to see these additional listings on the home page of MLXchange.

Get the Inside Scoop on the MLS

As an added benefit and convenience to members, ABoR welcomes the opportunity to meet with you and your colleagues at your office. Office visits offer a great opportunity to increase your MLS knowledge by learning new MLXchange tips and tricks, which can help increase your proficiency with the system. You can also learn more about the products and services ABoR offers to MLS subscribers, including ListHub, Property Panorama and other third party partners. Ultimately, ABoR can cover any topic in our knowledge base that you’d like to hear more about. We are flexible and open to delivering insight that meets your areas of interest.

Sign up for an office visit and allow ABoR to bring our resources directly to you at your office. Each office visit is tailored to meet your needs, so that you receive the answers to the questions that impact your daily business activities.

ABoR has received feedback on recent office visits and our staff members who conducted them, touting them as “absolutely magnificent,” “extremely knowledgeable

and professional,” “delightful” and “informative.” These words have come directly from your fellow agents. Are you ready to sign your office up for a visit? Give **Josie Morin** a call at 512-454-7636, ext. 1118 or send her an e-mail at jmorin@abor.com. She can assist you in scheduling your office visit today!

SupraWEB Log-in System Requires New Username, Password

SupraWEB received its latest update in late March. In addition to enhanced showing report features and new feedback options, the upgrade also implemented a new log-in system for SupraWEB. ABoR has received numerous questions about the new system and wanted to extend a friendly reminder on what’s changed.

With the update now in place, you will be required to create a new user ID and password before you are able to log in to SupraWEB. Your new login credentials will only need to be created once, and then you’ll be good to go. User IDs are required to be at least three characters, one of which must be a letter. Your password must be eight characters long.

To further assist you with creating your new login information, SupraWEB has made a tutorial available. Visit <http://www.ekeyprofessional.com/sso.html> for step-by-step instructions. Additional assistance is available by contacting Supra directly at 1-866-421-0308 or ABoR’s Membership Department at 512-454-7636.

Gracious Thanks to MLS Survey Participants

ABoR would like to extend our appreciation to everyone who participated in our most recent MLS survey. This year, we surpassed the number of completed surveys by more than 200 when compared to 2009, representing an overall participation rate of 15 percent. We are excited to hear what you had to say and look forward to the results so we may continue improving the MLS services we offer.

Our congratulations are extended to the lucky survey

respondents who won the \$100 Visa gift card drawings—**Shawn Rooker** of Century 21 HSK & Associates and **Eric Hunke** of Private Label Realty. Thank you again to everyone who participated in the survey.

IDS System Upgraded for Apple Users

The Informix Dynamic Server (IDS) application was designed to provide Mac users with direct access to the MLS from their Macintosh computers. On April 14, the IDS servers were upgraded to help improve the IDS service offered to Mac users. As part of the upgrade, MarketLinx added new hardware to the IDS infrastructure. In doing so, they helped distribute balance across the servers, which helps avoid overloading and increases performance. You may be wondering what all of this means for you. The bottom line is IDS should run faster and more efficiently.

The IDS application works by placing a shortcut a Mac user’s desktop, which allows direct access to the MLXchange system. Once IDS is opened, a Windows-based screen will appear, allowing you to access MLXchange as you would on a Windows-based computer. Instructions for downloading IDS can be found in the MLS Subscribers online Learning Community by visiting <http://communities.abor.com/COP/MLSSubscribers>.

For those of you already using IDS, you know that you usually aren’t required to enter your login credentials every time you use the application. They are stored after your first login. However, due to the server upgrade, you may need to re-enter the username and password to get back into the system. IDS login credentials are the same for all users. The username is Actris and the password is bRu3rase, both of which are case-sensitive. Upon logging into the system, you will be able to retrieve the MLXchange login screen.



Join the discussion on *MLXchange with a Mac* by visiting the MLS Subscribers Community in ABoR’s Learning Communities.

MLS Updates continue on [page 17](#)

WHAT HEALTHCARE REFORM MEANS FOR YOU

The month of March concluded a long period of debate over how to reform the health insurance markets in the United States. Congress passed, and President Obama signed into law, H.R. 3590: *The Patient Protection and Affordable Care Act* and H.R. 4872: *The Reconciliation Act of 2010*, which amends H.R. 3590. New measures, deemed “common-sense reforms” by the White House, strive to provide incentives for small businesses, make health insurance more affordable for consumers and improve the quality of health care.

REALTORS® and Health Insurance

According to a survey conducted by the National Association of REALTORS® (NAR), 28 percent of REALTORS® lack health insurance. This equates to more than one in every four individuals. Of the participants who said they did not have health insurance, 73 percent noted cost as the factor behind not having coverage. Additionally, 66 percent said health insurance was not offered by their firm. Through a competitive market exchange, tax credits and incentives, the new reform measures aim to help combat the challenges small businesses and individuals face in obtaining health insurance.

Small Business Gets a Break

REALTORS® can relate to the difficulty of obtaining coverage and affording health insurance, particularly as small business owners and independent contractors. According to NAR, of the 46 million people in America who do not have insurance, more than half are self-employed, work for or own small businesses.

The new legislation attempts to offer relief for those that fall into the above categories. The new Small Business Health Care Tax Credit “can cover up to 35 percent of the premiums a small business pays to cover its workers,” according to the White House’s website. This portion of the credit is available in 2010 and will rise up to 50 percent in 2014. An estimate by the Congressional Budget Office notes a potential savings for small businesses of \$40 billion by 2019 because of this tax credit. The number of employees and their wages can impact how much of a credit the business is eligible to receive.

The new insurance exchange, set to start in 2014, will also widen the options individuals and business owners have in terms of plan choices, cost and ability to bargain. The White House notes, “for small business owners, the exchange will level the playing field with big businesses and lower their costs.” This new market will allow for comparison shopping and information gathering on insurance plans. Small businesses, individuals and those who are self-employed would have access to purchase policies in the exchanges and some in the Small Business Health Options Program (SHOP). Self-employed, independent contractors would be able to purchase in either program. Purchasing through the exchange would allow businesses with 100 or less employees to “pool their buying power and reduce administrative costs,” says the White House.

Additionally, in 2014, the new insurance system rules will eliminate the ability of insurance companies to increase rates for businesses that have sick workers on their plans or spiking rates if a plan member becomes ill. Pre-existing conditions will no longer be a factor in determining whether children can be denied coverage. This begins six months after the bill’s enactment and will expand to include all individuals in 2014. The uninsured who do not have insurance because of a pre-existing condition will have access to insurance by being placed in a high-risk group. These individuals will have access to healthcare through a temporary subsidy until the insurance exchange becomes available in 2014.

Purchasers of Individual Insurance

Are you an individual who purchases your own health insurance? The White House estimates premiums will fall 14 to 20 percent, if you purchase the same coverage you currently have under the new reform bill. Tax credits that reduce the cost of premiums will also be available for qualifying individuals who purchase their plans individually. The insurance exchange is set to provide individuals with “new affordable choices of private insurance plans that have to compete for their business based on cost and quality,” according to the White House’s website.

Impact on Homeowners

A new Medicare tax will affect some homeowners, based on income, beginning in **January 2013**. The 3.8 percent tax, the Unearned Income Medicare Contribution, is not a real estate sales or transfer tax. This tax will effect individuals whose Adjusted Gross Income (AGI) exceeds \$200,000 for singles or \$250,000 for married couples. When limits are reached, the tax will be assessed. Capital gains, interest, dividends and rent are considered investment income. Some income generated from real estate may be affected by this new tax.

For example, according to a fact sheet from NAR, if the gain from the sale of a primary residence is below \$250,000 for an individual or \$500,000 for a couple, there will be no tax on what is gained. If this amount is exceeded and it brings the individual over the AGI income limits, then the tax would be levied on what is gained over the set limits. Rental income and investment properties may also be affected. If net rental income surpasses the AGI limits, anything over is subject to the tax. Additionally, if a second home or investment property is sold, the amount gained that places the individual(s) over the AGI limits is subject to the new tax.

What this Means Today

Not all aspects of the reform measures begin taking effect immediately. Some will not be implemented until later this year. Others will begin taking effect over the next several years. The tax credits for small businesses, some provisions for pre-existing conditions for children and the uninsured, and others have taken or will take effect soon. For a full list of what is currently available, visit <http://www.whitehouse.gov/healthreform/immediate-benefits>.

Additional Resources

The bills passed by Congress are complex and contain a vast number of components. Additional resources have been created to help you better understand the new laws. NAR has created a special section on their website that is dedicated to providing the latest news, frequently asked questions and resources regarding health insurance reform. Their materials offer a REALTOR® perspective on healthcare reform issues. Visit NAR’s resource center at <http://www.Realtor.org/HealthReform>.

More information can also be found of the White House’s website at <http://www.whitehouse.gov/healthreform>, including a section on what the reform means for you, which details different scenarios regarding how the new legislation will impact Americans.



IN THE NEWS

ABoR works hard throughout the year to promote the value of REALTORS® to the local community and communicate with our members what is happening in the real estate market. Read below to learn about some of the media coverage ABoR has received in recent months.

April 7, 2010: The *Austin Business Journal* reported home sales in February were up 4 percent compared to the year before, as noted by ABoR’s monthly housing statistics.

March 31, 2010: ABoR’s 2010 Chairman-elect, **Judith Bundschuh**, spoke with KVUE News about the real estate market in Austin and discussed tips on how homeowners can prepare their homes for sale.

March 30, 2010: The *Austin American-Statesman* highlighted a 24 percent increase in pending home sales as a sign that the extended homebuyer tax credit could be helping first-time buyers secure a home.

March 18, 2010: The *Austin Business Journal* detailed ABoR’s monthly statistics, noting an increase in homes sales in February. ABoR’s 2010 Chairman, **John Horton**, spoke about the steady improvement home sales have seen in recent months, as well as the increases in pending sales in February and a decrease in how long homes are staying on the market.

March 3, 2010: KVUE News spoke with **John Horton** about the tax credit for first-time homebuyers. Horton was invited to appear as a special guest on KVUE’s Midday News and is expected to continue his participation in the coming months.



ABoR Learning Communities Mark One-Year Anniversary

April 1 marked the first anniversary of ABoR's online Learning Communities, a password-protected platform that allows Central Texas REALTORS® to share news, ask questions and discuss critical industry issues in a private environment.

Nearly 23 percent of all ABoR members and MLS subscribers have joined the Learning Communities thus far, and the number of participants continues to grow. While participants have discussed topics ranging from short sale status ([MLS Subscribers Community](#)) to the proper way to submit a lease application ([Property Management and Leasing Community](#)), discussions on a centralized showing service ([Technology Trends Community](#)) and REALTOR® Property Resource ([ABoR Members Community](#)) have generated the most buzz.

"The Learning Communities are a great place to gain knowledge about our industry," says REALTOR® **Karen Wilson**, who facilitates the Technology Trends Community. "They allow everyone to have a voice and offer a great support network for agents."

Community Enhancements

Feedback from those who have joined the Learning Communities has played a crucial role in the development of the communities, and a variety of adjustments have been made to increase usability.

Some of the most important updates involve the e-mail notifications participants receive when new activity has taken place in their communities. Originally, members had to set notification preferences for each community they had joined by clicking the Notifications link in the top right corner of each community. Now, members have the option to apply their notification preferences to all communities at once. This global notifications feature can be accessed via the Notifications link in the main toolbar at the top of every Learning Communities page. If a user fails to set his or her preferences, notifications will now default to "weekly" instead of "don't notify."

Other updates concern the options Learning Communities members have when posting discussion comments. A toolbar has been added to the discussion module that allows participants to cut, copy and paste information; create hyperlinks; and format text.

In addition, ABoR is investigating the possibility of adding a spell-check feature to the communities.

While members have been allowed to submit classified ads to the Learning Communities from the get-go, administrators failed to be notified of the submissions, which meant that some ads did not get posted. This issue has now been resolved, however, as a notification feature has been put place that alerts administrators of new classified ad submissions. REALTORS® are encouraged to submit classified ads regarding used office equipment, furniture or computers.

Connect with Colleagues

As the Learning Communities enter their second year, participants look forward to more realty professionals joining the discussions. **Bruce Adams**, a REALTOR® who has been using the communities since they launched, says he has been telling fellow REALTORS® about this resource. "Many agents aren't aware that the communities exist, but my hope is that at least 75 percent of ABoR's membership will start using them soon."

Have you joined the Learning Communities yet? Getting started is as easy as clicking the Learning Communities link on the homepage of [Abor.com](#), logging in with your Abor.com password and following the instructions under the Announcements section on the right side of the screen.

If you have questions or would like to request an office presentation on the Learning Communities, please contact **Kate Voth** at kvoth@abor.com or 512-454-7636, ext. 1303.

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KELLER WILLIAMS KNOLLY

BarCamp photos compliments of Nanette Labastida

Real Estate BarCamps: What's all the Buzz About?



If you are not familiar with the term "BarCamp," you will be soon. BarCamps, or "unconferences," are gaining popularity with professionals in many industries because they allow conference participants to control conference content.

The typical BarCamp is an ad hoc gathering that allows those with similar interests to learn in an open environment. Event attendees may volunteer to lead sessions on their topic of choice and choose the time slot during which their session will be held. In this way, the overall event schedule is determined by participants at the start of the event. As multiple sessions are held simultaneously throughout the day, event attendees choose which sessions to attend and are free to join or leave a session at any time.

On Thursday, March 11, approximately 80 real estate professionals met at Third Base sports bar for Austin's first Real Estate BarCamp. Though most participants were from the Austin area, some came from Dallas, Houston and even outside of Texas. The event, held from 12:00 to 6:00 p.m., included sessions on appraisal issues, strategic marketing through home staging and social media, blogging, single property websites and more.

REALTOR® **D'Ann Faught**, who headed up the event, considers the event a success. "More so than any other Real Estate BarCamp I've attended, this event did a great job of mixing the old and new. While attendees were not abandoning old ways, they were embracing new ideas and covering a lot of interesting topics."

As the Real Estate BarCamp was conducted in the back room and patio area of Third Base, attendees found themselves in an intimate atmosphere well suited for small-group discussions and the opportunity to network with fellow real estate professionals. For REALTOR® **Nanette Labastida**, this aspect of the event was much appreciated.

"I liked the casual atmosphere, the ability to network and socialize in between sessions, and the fact that most people who attended were really interested in the subject matter," said Labastida, who helped organize the event.

The event was, indeed, a good mix of work and play, where food, drink and t-shirts were provided. Those who attended the after-party at The GoodLife Team headquarters also enjoyed music by Nate Davenport and connected with those who had come from far and wide to discuss real estate and technology.

Faught and Labastida know they are not alone in wanting to attend another Real Estate BarCamp in Austin.

"A lot of people who didn't present at this event told me they'd like to lead a discussion at the next one. Once you realize how comfortable the environment is and that you don't have to come with a prepared presentation, the thought of leading a session becomes a lot less intimidating," said Faught.

Faught plans to continue organizing Real Estate BarCamps in Austin on an annual basis and would like to see attendance climb to 250 in the coming years. If you are interested in helping organize the next event, contact Faught at texasregirl@gmail.com or 512-784-8440. For more information on Austin's first Real Estate BarCamp visit <http://rebarcamp.com/austin/>.



Can't wait a full year to attend this type of event? Consider attending one of the Virtual Real Estate BarCamps, held quarterly. As these events are experienced virtually, attendance is not limited to those in a particular city. Thousands of

real estate professionals can tune in to sessions broadcasted by presenters from across the nation so long as they have a computer with Internet access. For more information, visit <http://www.virtualbarcamp.com/>.

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ABoR Foundation Selects Scholarship Recipients

Every year, the ABoR Foundation selects a group of promising high school seniors to receive \$1,000 scholarships to attend Texas colleges, universities or trade schools. This year, the Foundation received more than 150 applications from qualified students. The hard-working individuals selected to receive scholarships displayed a commitment to academic excellence, as well as dedication to their involvement in their local communities.

The Foundation is pleased to announce this year's scholarship recipients: **Lindsey Braun** of Del Valle High School; **Britt Brandon** of Hyde Park Baptist High School; **Lauren Briggs** of Marble Falls High School;

Wade Johns of Elgin High School; **Katherine Layton** of Smithville High School; **LaToya Mitchell** of Crockett High School; **Jessica Stamper** of Lago Vista High School; **Salvatore Testa** of Hendrickson High School; and **Abbie Thames** of Jack C. Hayes High School. Additionally, **Helen Hardy** of Georgetown High School was named the recipient of the Malcolm B. Hardee Memorial Scholarship.

Please join us in congratulating these wonderful young adults on their achievements. To make your contribution to the Foundation, visit Abor.com and select ABoR Foundation from the left toolbar.

MEMBER SPOTLIGHT

This segment of our magazine focuses on recent accolades given to members of the association. Please join us in congratulating them on their accomplishments. If you would like to submit details on recent recognition you've received, send us an e-mail at marketing@abor.com, and the spotlight may turn to you in a future publication.

ABoR Members Appointed to Working Groups and Committees

The Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB) recently appointed several real estate professionals, including some ABoR members, to newly assigned working groups and committees.

TREC selected ABoR members **Bill Evans** of Austin Real Pros, REALTORS® and **Renee Figliozzi** of Centerpointe Real Estate Group for their Education Working Group. ABoR's 2010 Chairman of the Board, **John Horton** of John Horton Realty, was selected to be a member of the Broker Responsibility Working Group. **Avis Wukasch** of Keller Williams Realty was selected to contribute as a liaison for the Broker Responsibility Group. According to a TREC press release, these individuals will consider several key issues, review practices and propose initiatives for the agency—all for the advancement of the real estate industry.

Additionally, **Edgar Hornsby** of Paul Hornsby and Company has been assigned to TALCB's Peer Investigative Committee. As a committee member, Hornsby will help review appraisals and investigate complaints in an effort

to ensure all standards and rules have been followed.

ABoR Members Exercise Star Power

Star Power selected ABoR members **Laura Duggan** and **Patrick Birdsong**, both of West Austin Properties, as their Stars of the Month in January 2010. As stars, Duggan and Birdsong were recognized for their achievements as top producing agents. The Star Power organization focuses on sharing knowledge and information through education and mentoring, so that real estate agents can learn excellence from one another.

Proud to share this accomplishment with Birdsong, Duggan is "deeply honored by this recognition." She continued, "the stars are so generous sharing their trade secrets and time to mentoring others. To me, this is an opportunity to pay my success forward. After 31 years in the business, it is an honor to be able to help others accomplish what I have accomplished."

McCrocklin Heads Off to Washington

John McCrocklin of John McCrocklin & Associates has been invited to partake in a special forum discussion at the National Association of REALTORS® (NAR) Midyear Legislative Conference and Expo during the 2010 Real Estate Summit. McCrocklin will lend his knowledge on the financial markets with regards to the valuation of real estate when he travels to Washington this May.



Photo: ©iStockphoto.com/zentilia

MLS UPDATE

Support Ending for Windows 2000

ABoR has learned that Microsoft will no longer offer technical support for Microsoft Windows 2000 Professional beginning on **July 13**. Based on standard procedures, MarketLinx typically only offers technical support for the products that Microsoft is still servicing. Therefore, if MLXchange users experience technical difficulties with the 2000 version of Windows, support may no longer be available after the July 13 cutoff. The MLXchange technical support team always works diligently to provide MLS subscribers with quality assistance and aims to help you solve your problems. However, if your computer still runs on Windows 2000, you are encouraged to upgrade your system.

More information regarding Microsoft's change in technical support offerings can be found online at <http://support.microsoft.com/gp/lifean35>.

Safety Alert: Preparing Yourself to Reduce Risk

Your seller has decided to put their home on the market and you are in full preparation to get the house sold. You've taken professional photos, your listing is active in the MLS and the home has been professionally staged. Despite your thorough preparation, have you thought about the risks involved with selling the home?

ABoR was recently notified by the Austin Police Department (APD) about a string of robberies in the Balcones area, near the Balcones Country Club. This report has once again brought to light the risks associated with conducting open houses and selling properties. Detective Brooks of APD reported that the targeted homes were staged, vacant properties. A few days prior to the burglaries, open houses were held at these homes. However, records of those who attended the open homes were not kept on file. If you or your clients are the victim of a crime, contact your neighborhood police or detective unit immediately.

Following basic safety precautions may help ensure safety at open houses. Remember to record the names, contact information and driver's license numbers of the individuals who attend your open house. Having a list of those who viewed the property can be a valuable resource should an incident arise.

Often times, you encourage homeowners to avoid leaving their valuables in plain sight. You probably mention they should put away electronics and jewelry, but have you reminded them to include medication on that list? In the past, APD has contacted ABoR about medication theft—a serious concern when holding open houses. Your fellow REALTORS® have also sent in reports of similar theft to ABoR. As their REALTOR®, you can urge homeowners to put their valuables in a secure location

during all property showings to help reduce the risk of similar theft. Don't leave medication off the list of valuables that should be secured, as this often isn't an obvious item that comes to mind.

Beyond trying to reduce the risk of burglary, there are many other safety tips to consider during open houses and property showings. Preview some tips below.

- Let prospective homebuyers walk in front of you when touring the property—you can direct them around the house, rather than leading them.
- Check the premises and never assume all visitors have exited your open house at the end of the day. Make sure to check each room and the backyard before you lock up.
- Keep what you carry to showings or open houses to the bare minimum. This may include leaving behind flashy, expensive-looking jewelry. Females may consider locking their purses in their vehicles before their appointments. However, you should always have your cell phone with you.
- Be prepared to escape. When you are showing a property, make sure to plan out at least two escape routes so that if you need to exit the home quickly, you've already thought your plan through.
- Set up a phone schedule which includes a call to one of your colleagues once an hour to check-in.

For more tips and information on REALTOR® Safety, visit www.realtor.org/safety.



Find the latest safety updates by logging on to ABoR's online Learning Communities and joining the Safety Alerts Community.

REALTOR® Ethics Case Study

Exclusive Brokerage Lessons

CORE VALUES

The following scenario is based on an actual case heard by members of ABoR's Professional Standards Committee.

The Situation

REALTOR® A, who is an agent for Broker Z, filed a complaint alleging that REALTOR® B directly contacted the seller of a development that was listed with Broker Z. As the agent responsible for the listing, REALTOR® A was forwarded an e-mail from the seller that was sent by REALTOR® B, in which she asked the seller specifically about the marketing and sales of the property. When questioned by REALTOR® A about the e-mail, REALTOR® B claimed to have taken the seller's contact information from a sign located at the property. REALTOR® A stated that the only phone number on the sign went directly to his cellular phone, and he claimed to have never received a call from REALTOR® B.

The Response

Based on a review of evidence presented at the professional standards hearing, the below findings of facts were determined.

- The seller has a long-term listing agreement with REALTOR® A and Broker Z for the property development.
- While driving, REALTOR® B came across the property listed with REALTOR® A. Afterwards, she contacted her office staff to find the contact information for the seller.
- REALTOR® B proceeded to contact the developer's office directly and asked for an e-mail address to get in touch with the seller. At this time, REALTOR® B made direct contact via phone and e-mail with the seller about the marketing of the property.

- REALTOR® A did question REALTOR® B about contacting the seller, at which time she claimed to be unaware that REALTOR® A was the representative for the seller.
- Broker Z testified to the committee that the only way the seller's contact information could have been located by REALTOR® B was from the seller's website, which clearly listed REALTOR® A and Broker Z as the listing's representatives.
- In the end, REALTOR® B did admit to contacting the seller by way of bypassing the listing broker and agent.

The Outcome

After reviewing the evidence presented, the Professional Standards Committee determined REALTOR® B violated Articles 1 and 16 in the REALTOR® Code of Ethics.

Article 1 states, "When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly."

Article 1 was violated by REALTOR® B when she failed to be honest in her original communications with REALTOR® A about how the seller's contact information was obtained.

Furthermore, Article 16 states, "REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients."

Ethics Case Study continues on [page 21](#)

Funny Things Happen on the Way to the Office

Based on a suggestion from an ABoR member, ABoR's Marketing Department has been collecting stories from ABoR members and MLS Subscribers on comical incidents that have happened during their time in the real estate business. We'd like to share some of the laughs we have received with you.

Steamy Moment

Several years ago, I was showing homes to a family on a Sunday afternoon in Crystal Falls. We were visiting a vacant house that was under contract but owned by a bank. There was a car in the driveway, but I disregarded it as many times a neighbor will use a vacant property to park an extra car. We entered the home. It was lovely, showed well and the buyers were impressed. As we approached the master bath door, however, we heard the water running. I knocked on the door and loudly said "Broker." The answer I received startled all of us. "We'll be right out," echoed from the bathroom.



We looked at each other, and 30 seconds later, the bathroom door flew open with clouds of steam rolling out. Two very nervous and wet adults raced out of the bathroom in towels. The mysterious adults exited the front door like a flash. Standing with my clients in amazement, I said, "Well, we know the plumbing works." **Gerri M.**

On the Fence

Not long into my career as a property manager, I fielded a call from an investor who owned a duplex and asked me to perform a rental comparative market analysis. He told me one side of the property was vacant and I could walk on the rear yard of that side. Upon opening the gate to the rear yard, the whole fence fell over! I proceeded to call the owner and tell him that I could manage the property on one condition - he needed to repair the fence. **Rick E.**

Stay tuned for more stories to come in future publications. If you're interested in sharing one of your comical experiences, e-mail marketing@abor.com.

PREPARE TO TAKE FLIGHT AT REALTY ROUND UP 2010

The real estate community is gearing up to fly into the Austin Convention Center for ABoR's annual tradeshow and just in time for Halloween. Mark your calendars for Realty Round Up 2010: Spread Your Professional Wings on **October 27**. This year's show will deliver an array of tools to help you soar to new heights as a REALTOR®. Opportunities are also available to help your business reach out to key decision-makers in the real estate community.

In 2009, exhibitors took the opportunity to showcase and market their businesses to the more than 1,500 real estate professionals who attended the trade show. Don't miss out on your opportunity to do the same in 2010. Booths are available on a first-come, first-serve basis in three sizes: 10x10, 10x20 and 20x20. Prices begin as low as \$400. To reserve your booth for the lowest price, submit your contract and payment by **June 30**, as prices go up on **July 1**.

Additional advertising and partnership opportunities are also available. Partnership opportunities range from a Mega Partner at \$2,500 to Bronze Partner at \$300. Full-page advertisements, priced at \$250, are also available in the newly expanded and elaborated event program. Only 30 total advertising spaces are available. Don't delay, advertise today!

Exhibitor packets and additional information on promotional opportunities can be found online at www.abor.com/roundup.

For questions regarding Realty Round Up, contact **Gina Willemsen**, Trade Show Coordinator, by phone at 512-454-7636, ext. 1601 or by e-mail at roundup@abor.com.



Stay tuned to future ABoR communications for more information as the show date approaches, and follow us on Twitter at @ABoR_RRU.

LEGAL TOPICS

Private Transfer Fee Covenants: The Good, the Bad and the Ugly

by Don R. Hancock

Private transfer fee covenants, referred to as a "PTF" or a "PTF covenant," have been around several years in Texas, kind of lurking in the background. Within the past couple of months, they have burst upon the real estate scene with a vengeance. I have seen lead articles in the Austin and San Antonio papers discussing PTF covenants within the past few weeks and numerous blog articles. Title companies have issued recent guidelines for title insurance when these covenants are in the chain of title. This is an issue which needs to be on your radar screen.

A PTF covenant requires the seller to pay a fee to a third party when property is sold. These covenants are usually found in the restrictive covenants for a subdivision but may also be contained in a deed or a separate document. The typical PTF covenant requires the payment of a transfer fee of one percent of the sales price to a third party each time the property is sold. The covenants usually have a life span of 99 years.

For instance, if a developer placed a PTF covenant in the restrictive covenants for a subdivision, and a house in the subdivision was sold for \$250,000, the developer would receive a payment of \$2,500. If the same house was sold again five years later for \$300,000, the developer would receive \$3,000. This transfer fee payment would continue for the life of the PTF covenant, perhaps as long as 99 years.

Texas has limited the use of PTF covenants by prohibiting them and making them unenforceable unless they are payable to a property owners' association, a charity or a governmental entity. Advocates for the use of these covenants argue that if only a small portion of the fee, perhaps

five percent, is paid to a charity, the PTF covenant is enforceable and they continue to be used in Texas. I expect that the legislature will re-address this issue.

In the meantime, these covenants create a number of concerns.

For example, what obligations and duties do you, as a broker or sales agent, have to a buyer? Let me begin by stating that you are not a title company and you have no duty to investigate the state of the title to try to determine if such a covenant exists. If there is a problem, it arises when you know (or should have known) that the property being sold is subject to a PTF covenant.

When you are serving as a buyer's agent, if you know that a property you are marketing is subject to a PTF covenant, I have no doubt that you have a fiduciary duty to disclose the covenant.

If you are a listing agent, the issue is a little more complex and presents a number of issues. First, are you required to ask the seller if the property is subject to a PTF covenant? Second, if it is subject to a PTF covenant, are you required to disclose this to potential buyers? Third, what if your seller refuses to allow you to disclose?

Section 5.016 of the Texas Property Code states that, "A person may not convey an interest in or enter into a contract to convey an interest in residential real property that will be encumbered by a recorded lien at the time the interest is conveyed unless ... the person provides the purchaser and each lienholder a separate written disclosure statement ..." The statute goes on to provide in exact detail what the disclosure must state.

Section 5.016 was not intended to address PTF covenants but it seems broad enough to cover them since PTF covenants do create a lien. Recent title insurance guidelines also require written disclosure to the buyer.

Photos ©StockXpert.com/alxm

REALTOR® Ethics Case Study Exclusive Brokerage Lessons

REALTOR® B was found in breach of Article 16 for her behavior regarding directly contacting the seller of the property, despite knowing that the listing was already being represented by another brokerage.

Based on the above determinations, REALTOR® B received a letter of reprimand in her file at ABoR. Additionally, she is required to take three hours of mandatory continuing education on the REALTOR® Code of

Ethics and pay a monetary fine of \$250 to ABoR's general fund.

To ensure you avoid committing ethics violations, review the Code of Ethics and Standards of Practice of the National Association of REALTORS®, available online at http://www.abor.com/realtor_ethics/home.cfm in the Downloads section to the right of your screen.

Under Section 5.016, the penalty for not disclosing is that the buyer may terminate the purchase contract at any time prior to closing. Since the contract to sell will not be binding on the buyer unless you disclose a PTF covenant, if one exists, I think you need to ask your seller whether there is a PTF covenant which affects the property, and, if there is a PTF covenant, it should be disclosed to the buyer.

If the seller refuses to allow you to disclose, you cannot disclose. However, you might want to re-think your relationship with the seller and determine whether you want to continue to represent him/her in the sale. It seems pretty clear that a PTF covenant is a material fact which might influence a reasonable person in deciding whether to buy a property. Failure to disclose could be the basis of deceptive trade practice litigation.

Financing is a second issue. Unless the terms of the PTF covenant subordinate the lien securing the PTF, it will definitely impact financing. No lender will knowingly agree to make a loan if it could lose its collateral for the loan with the foreclosure of a PTF lien.

If the PTF lien is subordinate only to purchase money financing, that could mean the property will not be accepted as collateral for a subsequent home equity loan which could certainly create some concern for a potential buyer of the property.

A third issue is the economic effect of a PTF covenant on property. It will almost certainly depress the value of the property. If there are two identical houses and one has a PTF covenant and one does not, will they have the same value? I suspect they will not since the

buyer of the property with the PTF covenant will lose one percent of the sale price when the property is sold. The value of the property covered by a PTF covenant should be reduced since when the property is sold, only 99 percent of its value will be realized by the seller.

I do not see a lot of good in PTF covenants if they are used to provide additional income to a developer or any previous owner of the property. A PTF covenant could provide a beneficial result if the funds were payable to an owners' association and used by the association to improve the common amenities used by the community in which the property is located. You could also argue that the covenants were providing a social good if the funds were used to provide affordable housing or some other charitable purpose. However, on balance, I think these covenants will create more harm than good and I hope the legislature addresses the issue.

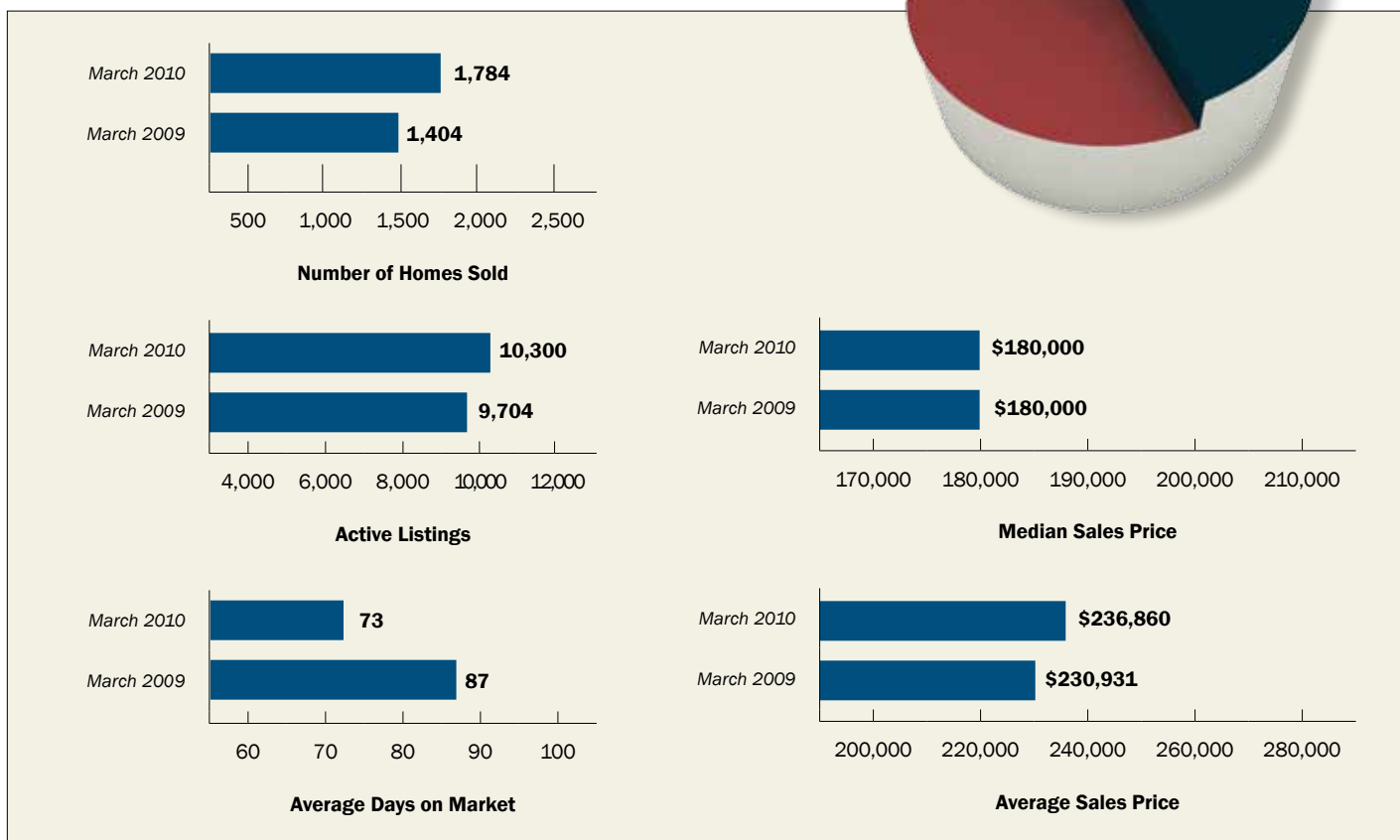
Don R. Hancock is a partner in Hancock & McGill, L.L.P., attorneys at law. He received his undergraduate degree from Texas A&M University in 1968 and his J.D. degree from the University of Texas Law School in 1971. Hancock has practiced real estate law in Austin since receiving his law license.

Don't Miss the Next Legal Topic!

Legal Topics will still be delivered monthly. Look for next month's topic in the *Austin REALTOR® Online* scheduled to hit your inbox on **June 8, 2010**. To update your e-mail address and preferences, visit the "My Account" section of Abor.com.

FACTS & FIGURES

March 2010



Austin Real Estate Sales Volume Surges, Prices Remain Stable

According to the Multiple Listing Service (MLS) report by the Austin Board of REALTORS®, the volume of Austin area home sales in March 2010 was 1,784, up 27 percent from the same month in 2009. The median price of real estate in the Austin area remained unchanged in the same time period at \$180,000.

“Though we’ve seen increases in year-over-year sales volume consistently in recent months, it’s likely this substantial increase in volume is related to the impending expiration of the homebuyer tax credits on April 30,” said **John Horton**, Chairman of the Austin Board of REALTORS®. “What’s most encouraging, however, is that in the midst of this increase in sales volume, our real estate values have remained steady, which bodes well for the long-term value of real estate in Austin.”

Sales of condos and townhouses were particularly strong in March 2010, increasing by 129 percent to 215 sales as compared to March 2009. This follows sustained increases in demand for this property type

since September 2009 and a year-to-date increase of 86 percent.

March 2010 also marked the second consecutive month of substantially decreased “days on market,” which refers to the average time homes remain active in the MLS. At 73 days for March 2010, homes spent 16 percent fewer days on the market than in March 2009. In the same time period, pending sales increased 31 percent to 2,421; new listings increased by 29 percent to 4,170; and active listings increased by six percent to 10,300.

“These statistics indicate that demand is continuing to outpace supply, which is encouraging,” said Horton. “However, no one really knows the full impact of the homebuyer tax credits yet, so we’ll look ahead to this summer to determine the sustainability of these conditions.”

April 2010 Statistics

April’s market statistics will be included in the *Austin REALTOR® Online* scheduled to hit your inbox on **June 8, 2010**.

New Designated REALTORS®

Joe Acosta <i>Best Homes GMAC Real Estate</i>	Austin Cameron <i>Cameron Realty</i>	Satyanarayan Kotamraju <i>Global Real Estate Investments</i>	John Pizzitola <i>PTR Investments</i>
Mohammad Ali <i>Dash Realty</i>	Jennifer Cheng <i>JAC Financial Services, LLC</i>	Okatomy Kusuma <i>E T Realty</i>	Jason Pyka <i>JP Real Estate Corporation</i>
Dara Allen <i>Dara & Associates</i>	Matthew Greer <i>Matthew D. Greer</i>	Michael Levitin <i>Zing Ventures, LLC</i>	Bob Schreiber <i>Austin Homescapes Realty</i>
Wendi Anderson <i>Roots Real Estate</i>	Ian Gonzalez <i>TXHome Realty</i>	Tanner Markley <i>Crestone Property Group</i>	Allen Shipman <i>Shipman Partners, LLC</i>
Jeremy Boos <i>Central Austin Realty Group</i>	Patricia Gordin <i>Gibson Properties</i>	Barry Marotz <i>Marotz Realty Partners</i>	Thomas Shupe <i>Lone Star State Realty</i>
John Boyd <i>Centex Austin Realty</i>	Lezley Hemming <i>Lezley D. Hemming</i>	John McGannon <i>Colorado Trinity, LLC</i>	Jack Stapleton, Jr. <i>Austin Suburban Properties</i>
Kim Bramlette <i>Dunamis Realty Group</i>	Sandy Hoffman <i>SHoffman Properties</i>	Mary McMahon <i>Posh Properties, LLC</i>	John Tunison <i>Rentflow Network LLC</i>
Damon Brown <i>Damon & Dina Realty</i>	Sonny Jimenez <i>TexasRealtyPros.com</i>	Gregory O’Leary <i>Gregory O’Leary</i>	Tanya Victoria <i>Welcome Home Residential, PLLC</i>
Summer Burns <i>Summer Burns Realty</i>	Cody Kersh <i>Kersh Appraisal Services</i>	Justin Padgett <i>Black Dog Real Estate, Inc.</i>	

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Condolences

Condolences to the family of REALTOR® Karl Hendler. Hendler passed away in early March.
Condolences to REALTOR® Cynthia Reed and her family. Reed’s grandfather passed away in early April.
Condolences to REALTOR® Sytha Gustafson Minter and her family. Minter’s brother passed away in early April.

The Austin Board of REALTORS®
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