AFFORDABLE HOUSING INFLUENCERS
of Central Texas

TRANSACTIONDESK
Get to Know Your Newest MLS Benefit
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CODENEXT AND YOU
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from the president

The new ABoR South is open on 11200 Manchaca Road! The fresh space is better equipped to serve your needs and is right in your backyard. At this convenient location, you’ll find a larger classroom space, a closing room, expanded REALTOR® store, along with the same great service and hours.

Check out the new digs and celebrate with us at the ABoR South Grand Opening REALTOR®/Affiliate Happy Hour on Thursday, March 30. You can pick up drink tickets at the new ABoR South between 3:00 and 5:00 p.m. and head over to Moontower Saloon afterwards for drinks, food truck options, and good company!

With the rapid growth in our population, we have seen home buyers and renters struggle to find an ideal living space due to an increase in rent and median home prices. Our cover story highlights five individuals who are making positive changes in the Central Texas community through their fight for affordable housing. Each individual was asked questions regarding their organization’s purpose, the future of Central Texas housing, and their motivation to continue striving for those who need stability and a home. On page 14 in our Advocacy section, read about District 2 Council Member Delia Garza’s perspective on CodeNEXT and the impact it will have on the city.

Join over 2,000 REALTORS® from across the state at this year’s REALTOR® Day at the Texas Capitol on Tuesday, April 4. Avoid traffic and the arduous search for parking by joining us on one of our two shuttles. You’ll have the opportunity to meet with state representatives and senators to discuss issues that mean the most to the real estate community. Visit ABoR.com/REALTORDay for more information and registration.

Lastly, ABoR and SABOR shared, that while still in the feasibility stage, we are assessing if our members and marketplace would benefit from merging our two MLS systems. This consideration stems from the rapid development throughout Central and South Texas areas and the constant shift in dynamics in the real estate industry. We are dedicating time and energy to this idea because we see potential for our members and the consumers in both markets. We also know our members are increasingly operating on a regional basis, so it makes sense to explore whether we should similarly expand our MLS. You may provide your feedback by emailing president@abor.com.

NEW DESIGNATED REALTORS®

- Roberto Varela
  Varela Properties
- Tom Duemler
  Appraisal Professionals
- Derek Kotrla
  makeATXhome
- Cheryl Fowlkes
  Superior Town & Country Realty
- Lourdes Fusaro Norton
  Lourdes Fusaro Norton
- Henry Sheppard
  The Agency Austin Inc
- Misti Bruton
  AVO Realty
- Kyle Jancovech
  Jancovech Real Estate
- Chase Burris
  Tribe Realty
- Clay Freeman
  STRIPE REALTY
- Michael Ruschhaupt
  Lillian Smith Properties
- Craig House
  All Streets Realty
- Erin Pearson
  Pearson Properties
- Patrick Tighe
  Tighe Real Estate
- Julie Mattoon
  Century 21 Realty Network
- Brooke Daniel
  Hippo Realty, LLC

BRANDY GUTHRIE
2017 PRESIDENT OF THE BOARD
**REALTOR® of the Year: Leonard Guerrero**

“Wow, what an honor! I am humbled and honored to have received the ABoR REALTOR® of the Year Award,” said Leonard Guerrero.

As the recipient of the 2016 award, Leonard feels that the best contribution to our industry is to become engaged to help protect our industry and our clients’ private property rights. This means joining and asking others to join in on one or more of the many opportunities that the local, state, and national associations offer members. Leonard’s contributions have helped him to become a better person and a better REALTOR®.

Leonard extends this duty to his office in helping mentor agents in his brokerage to become better and more successful agents. He notes that to have longevity in the real estate industry, you must have a passion for the business. His brokerage’s mission statement is “Help People” and this statement motivates him, as he works with clients.

**Real Estate Center Advisory Committee Elects Austin REALTOR® as Chairman**

Congratulations to Stephen D. “Doug” Roberts of Moreland Properties who was elected chairman of the Real Estate Center’s Advisory Committee. He is a member of the Real Estate Council of Austin, Austin Board of REALTORS®, Texas Association of REALTORS®, and the National Association of REALTORS®. The committee has three public members, each representing residential, commercial, and industrial properties. Roberts will represent the real estate brokerage sector and his term lasts until January 2019.

**ABoR Wins Big at the TAR Winter Meeting**

The Texas Association of REALTORS® hosted their annual Winter Meeting from February 10 – February 14 at the Hyatt Regency Hotel in Austin. Texas REALTORS® came together to discuss relative industry topics and honor one another at the Awards Luncheon. Congratulations to Bill Evans of Austin Real Pros, REALTORS® and the ABoR Academy for winning Innovative Program of the Year. Congratulations are also in order to Past Foundation Chairman, Steve Crorey of Sierra Homes Realty, winner of the Texas REALTOR® Hero Award for his community service related to promoting homeownership.

**Condolences**

ABoR CEO, Paul Hilgers’ brother, John, has recently passed away after a long battle with Multiple Myeloma. Please keep Paul and his family in your thoughts and prayers.

REALTOR® and long-time ABoR leader Conway Taylor passed away. As an ABoR member for almost 50 years, Conway will truly be missed.

Our condolences to the family and friends of Richard Wayne Gibson, who passed away on February 2. Wayne worked for Keller Williams Realty and had been an ABoR member for over 20 years.

The REALTOR® community lost HomeCity’s Michael Murphy recently. Our thoughts and prayers go out to his family and dear friends.

**ABoR South moved to 11200 Manchacha Road on March 1. The bigger, better space is already hosting classes and serving members. Be sure to join us for a Grand Opening Happy Hour for REALTORS® and Affiliates on March 30. Find details in the Events section of ABoR.com.**

**TREPAC Investors had a winning-good time at this year’s Wine Tasting event on February 23. You can get involved and advocate on behalf of the real estate industry and homeowners by attending REALTOR® Day at the Texas Capitol on April 4. Register for the shuttle and BBQ lunch at ABoR.com/REALTORDay. Look for more details soon on ABoR’s April 26 forum discussing the new Land Development Code, CodeNEXT.**

**ABoR.com | 5**
ABoR’s Installation and Industry Awards Ceremony was January 24 at the JW Marriott.
Aaron Farmer passes the leadership torch to Brandy Guthrie. The 2017 ABoR Board of Directors is welcomed into the new year. Affiliate of the Year was awarded to Christina Isaac. REALTOR® of the Year, Leonard Guerrero (right), speaking with Mayor Adler (left). Valorie Doyle was awarded the Community Service Award for her extensive volunteer work. Jayna Love (center) was named Rookie of Year for her busy first year as a REALTOR® helping 33 families in 12 months. Salesperson of Year, Cord Shift, with his wife, Annie. The 2017 ABoR Foundation Board of Directors has a lot in store for REALTOR® philanthropy this year. Stay tuned for opportunities to give with your colleagues. The 2017 ABoR Board of Directors is welcomed into the new year.
Get to Know Your Newest MLS Benefit
TRANSACTIONDESK!

By now, you’ve likely used TransactionDesk to upload or view a listing’s documents, but are you aware of the money- and time-saving features your newest MLS member benefit offers? Get to know it better with some of these highlights!

COUNTEROFFERING WITH AUTHENTISIGN
When both sides of a transaction use your FREE e-signature tool, Authentisign, the counteroffer process is as smooth and easy as it’s ever been. If you’re a buyer’s agent, and your client is ready to send an offer, follow these simple steps to save you and the seller’s side time and energy during the negotiation and counteroffer process!

Part I

SENDING THE INITIAL OFFER TO THE SELLER
Buyer’s side

PLEASE NOTE:
Before following the steps below, the buyer’s agent will need to create a new transaction by clicking the TransactionDesk icon on the listing in Matrix OR clicking “Create Transaction” within TransactionDesk.

1. Once the buyer’s agent has created a new transaction for the listing, go to the Authentisign menu and click the “+ Add” button in the top right to create a new signing; choose a Signing Name and assign it to your new transaction; click Save.
2. IMPORTANT: On “Step 1: Details” (see to the right) of the new signing you’ve created, select the “Accept Counteroffer” box; note: this is only an option on the “Sign In-line” setting.
3. Complete the rest of the signing steps (Participants, form(s) to sign, form(s) customization) and send the signing to the appropriate parties.
Part 2

RECEIVING THE OFFER & COUNTEROFFERING

Seller's side

1. When the seller's side agent/client opens up the form to e-sign, click the blue “Counteroffer” button in the top right.

2. You will be prompted to “use the counteroffer/markup feature”; click OK.

3. Read the instructions that appear and click Continue.

4. Three tools will appear in the top right of the document—Draw Text, Draw Freehand (shown below), and Draw Line.

5. With each change you make, a summary box will appear for you to clearly and accurately describe the change: you can add as many markups as needed for the counteroffer.

6. When all changes are marked, click Next.

7. You will be prompted to add initials to each of the changes made; click OK.

8. An initials box will appear with your initials to signify that a change was made; the box can be moved and placed as needed.

9. Click Complete, followed by clicking OK to confirm that “you have reviewed and chosen to send the counteroffer/mark-up changes.”

10. The potential buyer who sent the original form to sign will receive an email notice that a Counteroffer has been made by the signer (seller).
Access to All of the Forms You Need!

You wouldn’t pay an additional cost for your HBO subscription to add-on Game of Thrones when it should already be included, so why would you pay more for system add-ons when you get everything in one integrated system for free?

Instanet Forms—part of the TransactionDesk platform—contains all of the forms you access through other tools, such as zipForms, but it also includes so much more. It gives you access to TAR, TREC, and ABoR forms all in one location tied directly to Matrix, easy auto-population of listing data, and editable forms!

TO ACCESS YOUR FORMS, FOLLOW THESE QUICK STEPS:

1. Open TransactionDesk on the Matrix homepage

WAYS TO ACCESS TRANSACTIONDESK
- Click the green pinwheel icon on a listing
- Click the green pinwheel icon on the MLS Dashboard
- Click the TransactionDesk link under “External Links”

2. From the TransactionDesk Broker or Agent Dashboard, click the Instanet Forms icon on the left-side menu

3. You’ll be able to access, view, and download any ABoR, Fannie Mae, TREC, or TAR form you need for a transaction!

4. You can choose your form and open it with a new transaction, add it to an existing transaction, or create a standalone form.

5. If you select to add the form to a new transaction or add the form to an existing transaction, the proper information will auto-populate in the appropriate fields when you tie it with a MLS ID or Realist Tax ID.

You can find Matrix-specific TransactionDesk training resources at ABoR.com/TransactionDesk.
THANK YOU!

Austin Energy applauds real estate professionals for advising home buyers and sellers on ECAD.

You deserve gratitude and praise for the expert counseling you give on the energy audit ordinance, which promotes energy efficiency and savings to benefit our community.

With your ECAD knowledge, you help clients reap the benefits of home energy efficiency to:

- Save Energy
- Stay Comfortable
- Save Money
- Help the Environment

You may not earn commission by promoting this energy saving initiative, but you sure do earn our respect. If you need information about the ordinance and related rebates, contact us. We are grateful for you and your dedication to the Austin area.

Certiﬁed Residential Management Company

- We pay referral fees for new & existing business
- We register your owner for future sale

Send us your property management accounts!

512-794-8171 x211

Austin Landmark Property Services, Inc
Certified Residential Management Company

Mike Ebert, REALTOR®, RMP®, TRLP

Rick Ebert, REALTOR®, MPM®, RMP®, TRLS, TRPM,
Author of 22 Property Management courses

512-482-5346

The Energy Conservation Audit and Disclosure Ordinance is a City of Austin Code.

AUTO-POPULATING MLS DATA ONTO A FORM

If your form is editable with MLS data, the proper fields will auto-populate onto the form when you follow the document upload process:

1. Once you have your listing in Active (A) status, go to Add/Edit and select the proper listing to Edit.
2. On the Modify Listing menu, select “Upload Documents.” (This will open TransactionDesk.)
3. A window will appear asking you to “Create a Transaction,” which essentially means creating a folder to place all relevant documents attached to your listing.
4. Enter a Name, import the MLS ID (or from Realist Tax, if you prefer), and select your side of the transaction (in this case, select “Listing Agent”). Click Create.
5. Once the transaction is created, you will be prompted to upload any documents you have saved on your computer; add any documents (such as a Survey) that you have available.
6. To add any additional forms to your listing, click the three horizontal lines in the top right corner, click “Forms” from the Transaction Wizard menu that appears, and then click the “+ Add” icon.
7. Select the proper form from the Instanet Forms library; if the form is editable, it will auto-populate with the proper listing information in the appropriate fields.
8. Confirm that the form contains the proper listing data on it.
9. To exit out of the form’s editable state, hover over the file icon and click “Save” and then “Exit.” (You may also choose other options with this form, such as printing it or emailing it to a client to fill out and e-sign.)
10. Repeat this process for as many forms as needed.

austinenergy.com/go/ecad

AUTO-POPULATING MLS DATA ONTO A FORM

If your form is editable with MLS data, the proper fields will auto-populate onto the form when you follow the document upload process:

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8. Confirm that the form contains the proper listing data on it.
9. To exit out of the form’s editable state, hover over the file icon and click “Save” and then “Exit.” (You may also choose other options with this form, such as printing it or emailing it to a client to fill out and e-sign.)
10. Repeat this process for as many forms as needed.
### TEXAS REAL ESTATE LICENSING EXAM PREP COURSE

Beginning in April, ABoR will offer a comprehensive two-day course to help obtain a Broker or Real Estate License. The Texas Real Estate Licensing Exam Prep Course offers testing practice for the state, national, and math portions of the exam, and includes six state practice exams and more.

**CLASS INCLUDES**
- Two days of comprehensive instruction
- Option to retake classes, up to 1 year, for free
- Six practice tests covering state, national, and math
- Convenient weekend classes

**DATES AND LOCATIONS**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Course</th>
<th>Location</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>GRI Finance</td>
<td>ABoR Headquarters</td>
<td>$275, Non-member $300</td>
</tr>
<tr>
<td>May 6</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>Senior Real Estate Specialist (2 days)</td>
<td>ABoR Headquarters</td>
<td>$275, Non-member $300</td>
</tr>
<tr>
<td>June 8</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>Fight Texas Tax Appraisal &amp; Win</td>
<td>ABoR Headquarters</td>
<td>$275, Non-member $300</td>
</tr>
</tbody>
</table>

Register for classes at [ABoR.com/Courses](http://ABoR.com/Courses).
### ABoR NORTH IN CEDAR PARK

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Event</th>
<th>CE Hours</th>
<th>Member Cost</th>
<th>Non-member Cost</th>
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<tbody>
<tr>
<td>MAR 27</td>
<td>9:00 a.m. – 12:00 p.m.</td>
<td>Introduction to Matrix</td>
<td>3</td>
<td>$0</td>
<td>$33</td>
</tr>
<tr>
<td>APR 3</td>
<td>10:00 a.m. – 2:30 p.m.</td>
<td>Fight Texas Tax Appraisal &amp; Win</td>
<td>4</td>
<td>$36</td>
<td>$44</td>
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<td>APR 10</td>
<td>1:00 p.m. – 5:00 p.m.</td>
<td>TREC Legal I</td>
<td>4</td>
<td>$36</td>
<td>$44</td>
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<tr>
<td>APR 10</td>
<td>9:00 a.m. – 12:00 p.m.</td>
<td>Introduction to Matrix</td>
<td>3</td>
<td>$0</td>
<td>$33</td>
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<tr>
<td>APR 12</td>
<td>10:00 a.m. – 12:00 p.m.</td>
<td>Matrix Open Lab</td>
<td>3</td>
<td>$0</td>
<td>$22</td>
</tr>
<tr>
<td>APR 14</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>Farm and Ranch Practices</td>
<td>7</td>
<td>$63</td>
<td>$77</td>
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<tr>
<td>APR 24</td>
<td>9:00 a.m. – 4:00 p.m.</td>
<td>Broker Responsibility</td>
<td>6</td>
<td>$54</td>
<td>$66</td>
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### ABOR SOUTH

<table>
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<th>Date</th>
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<th>Event</th>
<th>CE Hours</th>
<th>Member Cost</th>
<th>Non-member Cost</th>
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<tr>
<td>APR 14</td>
<td>10:00 a.m. – 11:00 a.m.</td>
<td>RPR® Introduction</td>
<td>1</td>
<td>$0</td>
<td>$11</td>
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<td>MAR 14</td>
<td>12:00 p.m. – 2:00 p.m.</td>
<td>RPR® Advanced</td>
<td>2</td>
<td>$0</td>
<td>$22</td>
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<td>MAR 15 – 16</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>GRI Brokerage: Brokerage/Agency</td>
<td>32</td>
<td>$275</td>
<td>$300</td>
</tr>
<tr>
<td>MAR 21</td>
<td>1:00 p.m. – 3:00 p.m.</td>
<td>Basics of the Client Portal</td>
<td>No</td>
<td>$0</td>
<td>Non-member $10</td>
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<tr>
<td>MAR 22 – 23</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>GRI Brokerage</td>
<td>32</td>
<td>$275</td>
<td>$300</td>
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<tr>
<td>MAR 28</td>
<td>10:00 a.m. – 12:00 p.m.</td>
<td>Customizing Your Matrix</td>
<td>No</td>
<td>$0</td>
<td>Non-member $10</td>
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<td>MAR 29</td>
<td>8:30 a.m. – 12:30 p.m.</td>
<td>TREC Legal I</td>
<td>4</td>
<td>$36</td>
<td>$44</td>
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<td>MAR 30</td>
<td>8:30 a.m. – 12:30 p.m.</td>
<td>TREC Legal II</td>
<td>4</td>
<td>$36</td>
<td>Non-member $44</td>
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<tr>
<td>MAR 30</td>
<td>2:00 p.m. – 4:00 p.m.</td>
<td>Matrix Open Lab</td>
<td>No</td>
<td>$0</td>
<td>Non-member $10</td>
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<tr>
<td>APR 5</td>
<td>10:00 a.m. – 2:30 p.m.</td>
<td>Fight Texas Tax Appraisal &amp; Win</td>
<td>4</td>
<td>$36</td>
<td>Non-member $44</td>
</tr>
<tr>
<td>APR 6</td>
<td>9:00 a.m. – 4:00 p.m.</td>
<td>Broker Responsibility</td>
<td>6</td>
<td>$54</td>
<td>Non-member $66</td>
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<tr>
<td>APR 11</td>
<td>1:00 p.m. – 4:00 p.m.</td>
<td>Professional Standards for REALTORS®</td>
<td>3</td>
<td>$0</td>
<td>Non-member $33</td>
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<tr>
<td>APR 12 – 13</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>GRI Finance</td>
<td>32</td>
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<td>Non-member $300</td>
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<td>APR 18</td>
<td>2:00 p.m. – 4:00 p.m.</td>
<td>Matrix Advanced Client Portal</td>
<td>No</td>
<td>$0</td>
<td>Non-member $10</td>
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<tr>
<td>APR 18</td>
<td>10:00 a.m. – 12:00 p.m.</td>
<td>Realist Tax 2.0</td>
<td>2</td>
<td>$0</td>
<td>Non-member $22</td>
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<td>APR 19 – 20</td>
<td>8:30 a.m. – 5:00 p.m.</td>
<td>GRI Finance</td>
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<td>$275</td>
<td>Non-member $300</td>
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<td>APR 24</td>
<td>1:00 p.m. – 3:00 p.m.</td>
<td>Matrix Open Lab</td>
<td>No</td>
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<td>APR 25</td>
<td>1:30 p.m. – 3:30 p.m.</td>
<td>Mobile MLS Tools</td>
<td>2</td>
<td>$0</td>
<td>Non-member $22</td>
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<td>APR 26</td>
<td>1:00 p.m. – 5:00 p.m.</td>
<td>TREC Legal I</td>
<td>4</td>
<td>$36</td>
<td>Non-member $44</td>
</tr>
</tbody>
</table>

### LOCATIONS

**HEADQUARTERS**
4800 Spicewood Springs Road
Austin, TX 78759
Monday – Friday, 9 a.m. – 5 p.m.

**ABoR NORTH**
1120 Cottonwood Creek Trail
Bldg B Ste. 220
Cedar Park, TX 78613
Tuesday – Friday, 9 a.m. – 5 p.m.
Saturday 10 a.m. – 2 p.m.

**ABoR SOUTH**
11200 Manchaca Road, Ste 301
Austin, TX 78748
Tuesday – Friday, 9 a.m. – 5 p.m.
Saturday 10 a.m. – 2 p.m.

**Lunch-n-Learn**
Complimentary

Unless otherwise noted, ABoR is provider #0127
District 2 is one area of town which had previously been underrepresented and viewed by many as ignored prior to the advent of Austin’s 10-1 council. This district is entirely south of the river and covers an area that stretches from the airport and parts of Del Valle in the east, to a portion of South 1st in the west. ABoR spoke with District 2 Council Member Delia Garza to get her perspective on CodeNEXT and the impact it may have on her district and across the city.

When Council Member Garza met with us, she explained that, in her view, the top two issues facing the city as a whole are affordability and transportation. She also explained that while those issues are important in District 2, she would also add health disparities to the list for the area. District 2 has many areas which are defined as “food deserts” and one part of District 2 has the highest rate of childhood obesity in the city. “While health disparities, particularly access to healthcare and healthy food, may seem at odds with the issues of affordability and transportation, all of these issues are connected at the heart of it,” she said. She views CodeNEXT as an opportunity to address all of these issues head on.

First, she explained how she hopes CodeNEXT can address

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**CodeNEXT and You**

The View from District 2

**C**odeNEXT, the rewrite of Austin’s Land Development Code, has been ranked by many, ABoR included, as the most important issue that Austin’s city council will face this year. The importance of this issue is only underlined by the fact that in 2014, Austin changed the way the city was represented on the council dais. In 2014, Austin moved from a council elected entirely at large to 10 single member districts. This shift gave a voice to many on city council for the first time. Situated in southeast Austin,
the issue of affordability. “There is a need for Austin to diversify the types of housing available in all parts of our city. Right now, we have a lot of single-family homes and a lot of multi-family developments, but we need to allow for duplexes and fourplexes in transition zones, as well,” she said. Council Member Garza went on to explain that diversity in housing choices and density on corridors can impact affordability by increasing the housing stock available. With an average of 100+ people moving to the Austin metro area each week, an increase in housing stock would neither encourage nor discourage growth, but would allow our city and region to keep up with the growth that is already happening.

Council Member Garza also mentioned that she hopes that greater density where appropriate, like corridors, will encourage transit use. Greater transit use could have a positive impact on both the issues of transportation and affordability by taking cars off the road. Better planning can also allow for more frequency and reliability of public transportation all across our city. While Council Member Garza is hopeful, she mentioned that even after the release of the draft code, there are still many questions.

“District 2 covers a large area, some of which is less urban and considered a ‘non-transit zone’ where bus routes and transit stops are lower priority. I hope that these areas don’t get forgotten when we are making these important plans,” she said.

When asked how she hopes CodeNEXT will address health disparity, an issue she called out as specific to District 2, she remained hopeful that better planning will encourage small neighborhood groceries and allow for more transportation options for those needing to get to and from health appointments. Outside of CodeNEXT, Council Member Garza plans to continue to prioritize public health in her agenda and hopes to increase the budget for Health & Human Services during the next budget cycle.

We closed our time with Council Member Garza by asking her what other positive outcomes she hopes come about as a result of CodeNEXT. “Right now it seems like it is neighborhoods vs. developers, and I hope that we can work to end that division. I understand the concerns of neighborhoods to keep their community character, after all, that is often why people move there in the first place. I feel like there is common ground to be found, though and I hope this process can help build bridges between those two communities,” she said. A good code can help manage the city how and where growth takes place and ABoR also hopes that that is an idea that the community can build consensus around.

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Transition Zone: an area between a large corridor with commercial and multi-family zoning and a neighborhood traditionally made up of single-family homes.

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Meet the Council Member
DELIA GARZA,
DISTRICT 2

1 She is a former Austin Firefighter and has called Austin Home since 1999.

2 Casa Maria is her go-to local spot for a breakfast taco, but she also can’t help loving Taco Cabana.

3 What her weekends look like: family time at one of Austin’s many parks.
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AFFORDABLE HOUSING INFLUENCERS of Central Texas

Everything’s bigger in Texas and that includes our housing demand and median home prices. Throughout 2016, Austin has been placed at the top of numerous lists from sources such as *U.S. News and World Report*, *CultureMap*, and *Austin Business Journal* for its growth in population size and job availability. With the area’s tech influence, music history, and outdoor space, it’s no wonder many people move to Central Texas each day. However, while it’s great to be labeled as one of the best cities to live in, it certainly comes with a hefty cost.

Our area housing market has seen strength in its housing demand and sales growth. However, the range of home prices and rental properties has slowly risen, causing first-time home buyers and renters difficulty when looking for an ideal place to call home.

As a REALTOR®, you know other challenges include housing affordability among home buyers and low-income families. Affordable housing has been a hot topic among residents and policy makers for a long time, and with CodeNEXT in the works, we are hoping for some change in the near future.

In this issue, we put the spotlight on five individuals who are working hard each day to bring affordable housing to Central Texas. Each person was interviewed on Central Texas housing topics and allowed us to learn what organizations are doing great work to help residents in Central Texas.

Interviewed by Alexandra Walker
An affordable housing internship is what sparked Mandy De Mayo’s interest to help others. A proud alumnus of the LBJ School of Public Affairs at University of Texas, De Mayo moved to Austin from Washington D.C. in 1991 and has fallen in love with Central Texas since.

**WHAT WOULD YOU SAY MOTIVATES YOU TO FIGHT FOR AFFORDABLE HOUSING?**
I’ve had the good fortune to work with some amazing people. What attracted me to affordable housing is its complexity. It’s not an easy fix and I like that challenge. If you can solve housing issues, it goes a long way to solving a lot of other issues.

**WHAT DO YOU THINK ATTRACTS PEOPLE TO CENTRAL TEXAS?**
When I leave, I am always happy to come back home and that says something. There is a spirit of independence that I really appreciate about Austin. People here have a “can-do it” attitude.

**WHAT PROJECTS HAVE YOU WORKED ON WITH HOUSING-WORKS AUSTIN THAT MAKE YOU MOST PROUD?**
We are getting ready to release our 3rd annual District Analysis of Affordable Housing, which gives us the opportunity to look at some trends. This gives us a chance to look at housing, district by district. The analysis has also been used by policy makers.

**IN YOUR OPINION, WHAT ARE SOME CHALLENGES FACING LOW-INCOME FAMILIES AND FIRST-TIME HOME BUYERS?**
The lack of options. First-time home buyers are having trouble finding homes near good schools and jobs. There is little to no supply of affordable homes for low-income families.

**HOW CAN COMMUNITY MEMBERS JOIN IN THIS FIGHT AND MAKE A DIFFERENCE?**
Educate yourself! You can subscribe to HousingWorks’ monthly newsletter that features profiles and keeps readers on top of policy issues.

**WHAT’S NEXT FOR HOUSING-WORKS AUSTIN?**
We want to compare the idea of housing to other factors such as health and economic opportunity. HousingWorks Austin is going to give tours to community leaders and start reaching out to federal legislators to talk about the effects of affordable housing.

**RAPID FIRE QUESTIONS**

**FAVORITE TACO SPOT?**
Mi Madre’s for breakfast and Tacodeli for lunch

**FAVORITE PLACE TO VISIT IN CENTRAL TEXAS?**
Walking the Shoal Creek Trail. I love how nature is incorporated in the city.

**FAVORITE MUSIC?**
I love classics like The Beatles and Bob Dylan.

**OUTSIDE OF WORK, WHAT ARE YOUR HOBBIES?**
Spending time with family and friends, being active outside, and yoga.

Mandy De Mayo
EXECUTIVE DIRECTOR OF HOUSINGWORKS AUSTIN
HousingWorksAustin.org
WHAT WOULD YOU SAY MOTIVATES YOU TO FIGHT FOR THIS CAUSE?
Foundation Communities was getting ready to build a complex near a lady who was in the midst of signing her housing contract. The lady found out about our upcoming building and considered cancelling her contact because of her misconceptions on what the building would bring to the neighborhood. After attending a tour of the facility, she changed her mind, and couldn’t believe the look of the place. I want people’s perceptions to change.

I am inspired by people’s success stories. Our residents are strong and have sacrificed a lot but they still need a place that is stable and provides after school tutoring and homework help for their kids. Some of our residents have mental issues, so having a place to call home is very important.

WHAT PROJECTS HAVE YOU WORKED ON WITH FOUNDATION COMMUNITIES THAT MAKE YOU MOST PROUD?
I am so proud of Foundation Communities’ 11 learning centers. We serve 1,000+ kids a day and our Children’s Home Initiative has helped over 225 homeless children. Our services such as ESL classes and financial coaching are consistent, so participation is high. All of these services are right at the doorsteps for our residents.

HOW CAN COMMUNITY MEMBERS JOIN IN THIS FIGHT AND MAKE A DIFFERENCE?
Foundation Communities offers dozens of volunteer programs. You can sit 1-1 with kids, assist with taxes, and help create “Welcome Home” baskets. I encourage the public to come to our open houses to see what they look like.

WHAT’S NEXT FOR FOUNDATION COMMUNITIES?
We want to conquer our waitlist that is now over a year long. We have many new sites to build and hoping one of those areas includes Mueller. Soon, we are going to reuse a former school and develop a multi-family project at the location. I want our continued projects to be a place of pride and support.

RAPID FIRE QUESTIONS
FAVORITE TACO SPOT?
Torchy’s Tacos. I was one of the first patrons of the original Torchy’s trailer.

DO YOU HAVE A FAVORITE COLOR?
Green. It represents my love of nature and I hope we can be as “green” as we can.

OUTSIDE OF WORK, WHAT ARE YOUR HOBBIES?
I spend my free time seeing live shows. Waterloo Records is a favorite hot spot of mine.

Walter Moreau
EXECUTIVE DIRECTOR OF FOUNDATION COMMUNITIES
FoundCom.org

After graduating with an economics degree, Walter Moreau searched for a way to merge his skills and help the community. Moreau has served as Executive Director for 20 years and it all began with a conference in Los Angeles.
HOW DID YOU INITIALLY GET INVOLVED WITH AFFORDABLE HOUSING POLICIES, COMMUNITY DEVELOPMENT, AND URBAN POLITICS?
I first became aware of and interested in working with community-based groups in California when I was working on my PhD. I worked with a cooperative of immigrant women working as house cleaners in Los Angeles. Once I got to Austin, I worked with members of a task force studying the decline in affordability in Austin. This work resulted in a report published by the Community Action Networking called “Through the Roof: A Report on Affordable Homes in Austin” (1999).

WHAT CAN THE COMMUNITY OR LEADERS DO TO MANAGE OUR REGION’S GROWTH PROPERLY?
Plan. That means first, assessing what the current problems and conditions are, developing an understanding of our challenges and support for a set of shared community goals, and then strategies for addressing them.

STATISTICS SHOW THAT 2016 WAS ANOTHER STRONG YEAR FOR THE AUSTIN HOUSING MARKET. WHAT DO YOU THINK THE FUTURE HOLDS FOR CENTRAL TEXAS HOUSING?
I hope we can do better at providing more housing choices and better transportation choices throughout our region. I’m afraid if we don’t work on this both within Austin and in surrounding areas, we will just spread growth far and wide and force people to drive long distances.

YOU’VE HAD A LOT OF YOUR RESEARCH PUBLISHED IN NOTABLE JOURNALS. THAT’S AMAZING! WHAT PROJECTS OR INITIATIVES HAVE YOU WORKED ON THAT MAKE YOU MOST PROUD?
Most recently I’ve been trying to help inform the discussion around how affordable housing fits into the vision articulated in Imagine Austin. I produced a set of metrics that can help city planners set goals for the preservation or production of affordable housing near transit corridors.

RAPID FIRE QUESTIONS
FAVORITE TACO SPOT?
Hands down, El Chilito

FAVORITE PLACES TO VISIT IN CENTRAL TEXAS?
Pedernales Falls and Enchanted Rock

OUTSIDE OF WORK, WHAT ARE YOUR HOBBIES?
I have several friends who are great cooks so I love to eat with friends!
Representative Celia Israel was elected in January 2014 and represents House District 50 in the Texas Legislature. Each day, she fights for our voices to be heard on issues involving higher and public education, access to healthcare, and ending discriminatory practices. Raised in El Paso, Texas, Israel moved to Austin in 1982 to attend UT.

Celia Israel
DISTRICT 50, TEXAS HOUSE OF REPRESENTATIVES AND LOCAL REALTOR®
CeliaforTexas.com

Describe Your Journey to Becoming a Representative
For me, it all starts with Ann Richards. I had just graduated from UT when Ann gave her famous speech to the Democratic National Convention in 1988. It resonated with me to have a Texas woman speak in such heartfelt terms about the greatness of our country and in turn, the greatness of our state. I learned from working on her campaign, and then in the administration the importance of having smart, common sense leaders who can also make us laugh at our situation.

Having served on a number of boards and commissions prepared me to be a more enlightened public official. When you work on budgets for non-profit organizations and when you serve on a bond advisory committee, for example, you learn there is no black and white—only a big opportunity to forge compromise in the middle.

Growing Up in El Paso, How Does It Differ From Austin? In What Ways Are They Similar?
Both cities are heavily reliant upon a strong business community. The Austin business community has become heavily technology oriented and, of course, the El Paso business community is heavily reliant upon trade with Mexico. I learned to respect the entrepreneurial spirit since I was a child and know how important small businesses are to our economy.

In the last few years, we have seen significant population growth in Central Texas. What do you think attracts people to the area?
I have lived in the Austin area since 1982. That’s a really long time and I’ve finally gotten away from the habit of giving directions based on where things used to be—like the airport, for example. Now, I recognize there are so many new people who have moved here because of our vibrant economy, but are adding to our unaffordability because the supply has not kept pace with the demand.

What Projects or Initiatives Have You Worked on That Make You the Most Proud?
During the interim period—last fall, we were able to help severely low-income central Texans get support from the State of Texas for public housing. We were also able to gain support from the Texas Department of Transportation to lower the tolls for trucks on SH130 during the week so more trucks would use SH130 as a bypass around the core of Austin and hopefully make that a safer corridor.

Statistics Show That 2016 Was Another Strong Year for Austin’s Housing Market, What Do You Think the Future Holds for Central Texas Housing?
The “shared economy” has already made an impact on our housing market. Clients are willing to pay higher prices to live more central and closer to a mass transit solution or a biking solution so they don’t have to have two vehicles. That means condo duplexes with shared walls where there used to be one house on the lot, and shared vehicle services or “sharing” a house with other family members or friends while savings accounts are being built up.

These are different times we live in and we must be willing to break away from the traditional views in order to meet our clients and our community where they are.

Rapid Fire Questions
Favorite 90’s Jam?
Bidi Bidi Bom Bom by the late, great, Selena

Favorite Taco Spot?
Casa Garcia in Pflugerville has fresh flour tortillas. Sin in the shape of a round disk—enough said.

What Are Some Ways Community Members Can Get Involved in the Fight for Affordable Housing? How Can We Make a Difference?
Join an organization working on issues you care about. On public education, “Raise your Hand Texas” is a great non-profit designed to support public schools. They stay on top of the issue, so you don’t have to, and will alert you when it’s time to speak up with your legislator. I hope you all know who your state representatives and senators are.

Statistics Show That 2016 Was Another Strong Year for Austin’s Housing Market, What Do You Think the Future Holds for Central Texas Housing?
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These are different times we live in and we must be willing to break away from the traditional views in order to meet our clients and our community where they are.

Favorite Place to Visit in Central Texas?
Pedernales State Park is less than an hour from Austin. There are plenty of hiking trails and the water rushing over the rocks is mesmerizing.

Sport of Choice?
I love college football—nothing compares to the energy of UT game day or any college game day. I love the energy and demonstration of school spirit.
WHAT IGNITED YOUR PASSION TO JOIN THE FIGHT FOR AFFORDABLE HOUSING?
I think the first “Gentrification Task Force” was put together around 2001 in response to what we Eastside residents saw as an invasion. GNDC used to have about 40 or 50 families on our wait list for rental housing; by 2005 we had 250! It was upsetting to hear about our neighbors, who had rented homes in East Austin for decades, being told to move, so the owners could either sell or spruce up the homes in order to double the rent. It inspired me to work harder. Now GNDC has over 700 families waiting for rental housing. That’s with no advertising or marketing whatsoever. It’s sad.

WHAT MOTIVATES YOU TO DO WHAT YOU DO? DID YOU HAVE A KEY MENTOR WHO HAD AN INFLUENCE ON YOU?
I think the beliefs I was first exposed to in Catholic school and my own spiritual search are the basis for why I feel it’s important and rewarding to provide homes to people whose lives would be stressed otherwise by housing they can’t really afford.

WHAT PROJECTS OR INITIATIVES HAVE YOU WORKED ON THAT MAKE YOU MOST PROUD?
I seem to feel proudest of whatever projects we’ve just completed. The Lopez House, which stands at the west end of East 9th Street overlooking downtown has been a symbol of the Guadalupe neighborhood and East Austin for decades. It’s a symbol of family, home, and the battle against greed and displacement that has threatened East Austin for years. GNDC acquired it in 2015 and completed restoration at the end of 2016. This weekend as I walked to work I was delightfully amazed when I saw one of those inflatable castles next to the home and heard the happy voices and laughter of children as the new tenant was hosting a birthday party at home.

HOW DOES GNDC DIFFER FROM OTHER AFFORDABLE HOUSING NON-PROFIT ORGANIZATIONS?
GNDC is an unusual non-profit because its board and staff are almost entirely residents and property owners from GNDC’s services area; basically 78702 and 78721. More than that, we give priority to applicants who have ties to East Austin.

SOME INDIVIDUALS STEREOTYPE AFFORDABLE HOUSING IN WAYS THAT ARE NOT TRUE. WHAT ARE SOME COMMON MISCONCEPTIONS ABOUT AFFORDABLE HOUSING PROJECTS AND HOW DO YOU COMBAT THOSE MISCONCEPTIONS?
The attitude about affordable housing that troubles me the most is the one that fails to recognize that the recipients are almost all hardworking people who contribute to making Austin a great city. Those people who are on vouchers, who pay little or nothing, are almost all dealing with serious disabilities, physical and/or mental. The best way to change people’s negative attitudes is to show them, or even better, to build high quality, well-managed affordable developments in their neighborhood.

THROUGH YOUR WORK, FAMILIES ARE IMPACTED IN A POSITIVE WAY. DO YOU HAVE A MEMORY OF A PARTICULAR FAMILY THAT HITS A SPECIAL PLACE?
There is a family that GNDC sold a home to in Montopolis back in 1998. GNDC had taken over the “rent-own”

Mark Rogers
Executive Director of Guadalupe Neighborhood Development Corporation (GNDC)
Guadalupendc.org

Originally from northeast Philadelphia, Mark Rogers went to college at the University of Colorado, where he received his B.F.A and Master’s degree in Art History. Rogers moved to Austin in 1986 to continue work with Art History. He has taught at UT Austin, UT Arlington, and Southwestern in Georgetown. He turned down teaching jobs to get involved in neighborhood issues and affordable housing development in 2002 and hasn’t looked back since.
The project after it had been lost to foreclosure by another group. The owner was willing to sell the properties at cost just to get out of lawsuits. The family in one of the homes waited three or four years, hoping things would get fixed so they could own a home. After a two-year rent-to-own program that I created for GNDC, we sold the home to the family. A decade or so later, I saw the husband who bought that home at a restaurant and he took me aside, shook my hand and thanked me. He told me that he had always felt ashamed because his wife had grown up in a home that her family owned, and yet he had never been able to buy her and his family a home until GNDC did. I tear up now even thinking of that.

WHAT ARE SOME UPCOMING PROJECTS FOR GUADALUPE NEIGHBORHOOD DEVELOPMENT CORPORATION?
The project I’m very excited about and hopeful for is one we’re planning to do in partnership with Foundation Communities at the Allan Center, an AISD property. FC will be doing the heavy lifting through the reuse of the former school and developing a multi-family project there. GNDC will be building about 40 townhomes with a percentage set aside for AISD employees.

RAPID FIRE QUESTIONS

FAVORITE TACO SPOT?
The mini tacos at Beto’s on East 7th Street are the bomb. Breakfast tacos from Porfírios on Holly are the real deal.

FAVORITE PLACES TO VISIT IN CENTRAL TEXAS?
My front porch. The house was built in 1886 and the street still brings to mind Austin 100 years ago.

WHO DO YOU ADMIRE THE MOST?
I have a lot of admiration for every homeless person I meet who greets me with a smile and kind words. How someone who has so much hardship maintains such dignity amazes me.

DESCRIBE YOURSELF IN THREE WORDS.

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“Thorough, not Picky”
As Austin grows, the challenge to create community also grows. A recent report from the City of Austin auditor predicts there will be more than 88,000 residents added over the next five years. There will be a population increase of 10.3 percent and the housing demand will remain high. This reality continues to create an opportunity for REALTORS® to facilitate the development of communities.

As a leader in the community, real estate agents and brokers are often the first point of contact for home buyers. They influence the home buying experience and neighborhood relationships by providing guidance, direction and feedback about our communities. They are entrusted with personal and confidential information and depended upon to facilitate the integration of individuals and families into Central Texas. At Leadership Austin, members are introduced to a variety of leadership theories, which can apply to the real estate profession. These theories include the organization’s core values of being a community trustee for the greater good of our region, building an inclusive environment for all, working collaboratively toward solutions and taking personal responsibility to do our part. Embedded in these values is the concept of ensuring success through a vision and effective communication.

In our work interactions, individuals are at various stages of their work life—no two individuals are the same or experience the same situations. The same is true of the home buying experience—no two buyers have the same desires, resources or experiences. The constant in this situation is the performance of the real estate agent or broker. Some individuals come to the home buying experience with a clear vision of what they want; others come to the home buying experience wanting more than they can realistically afford. Still, others come reluctantly, with little vision of what is possible. It is the role of the agent to help crystallize the vision.

A friend’s daughter recently embarked upon buying her first home. She conveyed to the agent what she thought she wanted. When she saw the property, it was totally not the best property for a first-time home buyer. The vision was neither realistic nor practical and the agent missed the opportunity to help the daughter create a concrete vision. As a community trustee, real estate agents need to have a definite understanding of the client’s vision or to help create the vision as you are integral in building the fabric of our neighborhoods.

It goes without saying that effective communication between the agent and home buyer is critical. This relationship should start off with...
positive energy. We should not underestimate the need to read the energy of clients. Some call this the law of attraction—you will receive what you put out. In any case, we know that our thoughts, words and actions create an attitude and environment that dictates the client/agent relationship. Thus, it is important to take the time to create an amicable and open environment so that you can interpret and facilitate the client’s needs and vision. This holds true for the work environment and the relationship between employee and their supervisor. As a leader, our job is to facilitate and effectively communicate.

The encounters between an agent and their client can be perceived as a way to make a difference in our community. You get the opportunity to not only facilitate the achievement of someone’s dream, but also you are creating cohesive communities in which individuals feel comfortable, settled and are able to contribute to their new community. As our population grows, agents are critical to helping to create community. □
There has been an increase in lawsuits across the country by photographers claiming copyright violations in real estate listings. If you are sued for copyright violations, the photographer can claim actual damages or, more likely, statutory damages under federal copyright law. Statutory damages can range from $750 to $30,000 for each violation, plus attorney’s fees and costs. In cases of multiple infringing photos, which are typically the case, the potential penalty claim can be astronomical. Defendants typically find themselves in a position of paying a settlement to avoid exposure to possible bankruptcy.

For our members, the greatest exposures are (1) with your own photographers, and (2) on your IDX and VOW feeds. First, when you hire a photographer to take pictures of your listings, you need to make sure you have rights to the photos, which comply with your MLS obligations. When you place a listing in the MLS, including the photographs, you warrant to the MLS that you have all rights necessary to comply with the MLS rules. In this regard, you should review ACTRIS Rule 7.10. The bottom line is that you must be giving the MLS rights “for any purpose consistent with the facilitation of the sale, lease, and valuation of real property.”
PHOTOGRAPHER AGREEMENTS
Where most photographer agreements fall short is they severely limit use of their photos to the period of marketing the property. This is not sufficient for MLS purposes. As an example, listings remain in the MLS for your use in valuing properties. Photographs are an integral part of that use. Therefore, your agreements with photographers must include those rights. Fortunately, NAR has prepared sample forms, which you may choose from in your negotiations with your photographers. If your photographers will not agree to give you sufficient rights to comply with the NAR rules, you must find another photographer or risk being in violation of MLS rules and potentially exposing everyone with an IDX or VOW feed to claims of copyright violation. For more information and sample agreements, see bit.ly/PropertyPhotos

IDX OR VOW WEBSITES
For those with IDX or VOW websites, which display listings from the MLS, you have potential exposure if your site displays listings from other participants who have not secured the proper rights to the photos in their listings. Any photo from any listing, which is displayed on your site, can create liability. This exposure presents the risk of you being sued for the statutory penalties or actual damages, attorney’s fees and costs mentioned above, for infringing photos you had nothing to do with other than display on your site through your IDX or VOW feed. The good news: there is an easy and inexpensive way to protect yourself from liability for such claims.

PROTECT YOURSELF WITH DMCA
The Digital Millennium Copyright Act (“DMCA”) is a 1998 federal statute which extends copyright law and enhances penalties for violations, but it also limits the liability of providers of online services whose violations are unintentional and who follow two simple procedures (often referred to as the “DMCA safe harbor”). It is the position of NAR that the DMCA safe harbor applies to MLSs as well as IDX and VOW websites.

Protection is a two-step procedure (and who doesn’t like a two-step?) First, each operator of a site which displays listings must designate a “copyright agent” to receive notices of copyright
violations (referred to as “takedown requests”). Beginning in December this became almost ridiculously easy and inexpensive. For $6 you can register your agents for all your websites. This can be done online at bit.ly/DMCAdirectory.

Next, you must adopt and publish on your website a Copyright Infringement Policy giving notice of your DMCA agent’s contact information and your policies regarding copyright infringement. The notice can be part of your website’s terms of use or some other notice displayed prominently on your website. The policy statement should explain that you respond quickly to notices of claimed infringement and terminate users or account holders who are “repeat infringers.” You should also include a statement detailing how to provide a notice of claimed infringement, and what should be included in the notice. The DMCA has a list of items, which must be included in your policy.

If you receive a notice of claimed infringement, which has properly followed the procedure stated in your policy, you’re required to:

1. Expeditiously remove the infringing material (which will likely involve notifying the ABoR MLS to remove the photo if it’s in a listing on your IDX or VOW).
2. Notify the source of the allegedly infringing material so that they may file a counter-notice.
3. If you receive a counter-notice, provide it to the copyright holder.
4. If a proper counter-notice is received and the copyright holder does not file suit within 10 business days, restore the removed material.

Anecdotally, it is often reported that those who are in compliance with the DMCA seldom receive claims of copyright infringement. Copyright holders “trolling” for violations often use “bots” to search for violations, and it’s suggested that if the bot sees a site has the DMCA notice, and is therefore not a ripe target for a quick settlement, they will move on rather than go through the takedown notice procedure.

The above should not be relied upon as legal advice. You should always consult your own attorney when addressing legal issues. However, I would be happy to discuss these issues directly with you or your attorney to assist you in taking steps to protect you from claims of copyright violation.

Learn more information about the DMCA at bit.ly/aboutDMCA

Joe Babb, J.D. is a partner at Babb, Reed, & Leek, LLC. He has over 30 years of experience focusing on real estate and business law.

Want to learn more on protecting listing photos?

RSVP to ABoR Forum: Protecting Listing Photos on March 29 from 10 a.m. to 12 p.m.
Details at ABoR.com/Forum.
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Make the move from agent to broker with confidence by enrolling in the Texas Real Estate Licensing Exam Prep Course with the Austin Board of REALTORS®. Get instruction from industry experts at your local real estate association, and learn proven test-taking methods to set you up for success.

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See sales counselor for details. AUS-111957
Foul Odor Not “Sea Air”

A California appellate court reviews the damage awards made to purchasers who were told by a real estate professional that a strange odor on the property was “sea air” but the purchasers later discovered buried oil and septic tanks on the property.

Justin Fong, M.D., and Suzanna Fong (“Buyers”) purchased a seaside home from Phillip Sheridan (“Seller”). When they visited the home prior to purchasing, they noticed a strange, moldy aroma in one of the rooms. The real estate professional (“Licensee”), who was serving as a dual agent, told the buyers that the smell was from “sea air” and could be fixed by “changing things like sheetrock.”

Following purchase, the Buyers moved onto the property and began noticing an “oil-like” odor on the first floor. They continued noticing the smell for two years and eventually hired a contractor to investigate. The contractor found a buried septic tank on the property, and then also found a buried oil tank. The Buyers notified both the Licensee’s broker and the seller about what they had found on the property.

During the removal of the oil tank, an inadvertent spill took place on the property which caused additional property remediation efforts. Eventually, the Sellers moved away from the property due to the overwhelming chemical smell on the property. In order to fully remediate the property, the entire house was removed from the property.

The Buyers filed a lawsuit against the Seller, the Licensee, and the Licensee’s broker for $275,000. A trial was held to consider the Buyers’ claims against the Seller. The court rejected the fraud allegations against the Seller, but ruled the evidence supported the negligent misrepresentation allegations, holding the Seller vicariously liable for the Licensee’s statements that the strange smells were “sea air.”

The court awarded the Buyers $91,635 for the discovery of the tanks and remediation of the property. Because the Buyers had already settled for $275,000 and the settlement amount exceeded the damage award, the court awarded the Buyers nothing. Thus, the court affirmed this award.

Next, the court considered whether the trial court had properly calculated their damage claims. The Buyers argued that they had submitted evidence supporting an award of at least $750,000, yet the trial court had only awarded $90,000. The court agreed that the trial court had not adequately explained how it had calculated the award amount. Therefore, the court vacated the damage award and sent back to the trial court to issue a detailed statement explaining the basis for its award.

Finally, the court considered the “prevailing party” award to the Seller. The purchase agreement contained a provision that allowed the prevailing party to recover its attorney fees and costs. In California, the prevailing party is the party who is determined to have best accomplished its litigation objectives. Because the court had reversed and remanded the damage rulings for further proceedings, the question of who was the prevailing party in the litigation was no longer clear and so the court also reversed this ruling, sending it back to the trial court for further consideration.

This article was previously published online in August 2016 by the National Association of REALTORS®. Read the full decision at bit.ly/SeaAirRuling
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