

REALTOR® A/E

THE BUSINESS JOURNAL FOR REALTOR® ASSOCIATION EXECUTIVES

WINTER 2014

Raise the Bar

10 Ideas to Boost Member Professionalism

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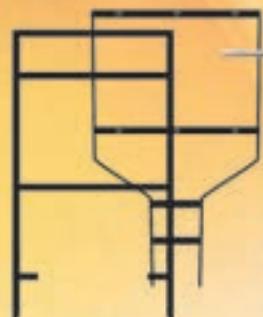
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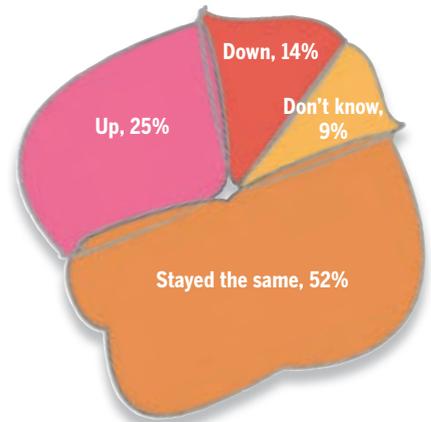
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Cover image by Nick Rotondo, ©2014

Value of Professionalism



Andrea Bushnell, RCE, is EVP of the North Carolina Association of REALTORS®. Contact her at 336-808-4222 or abushnell@ncrealtors.org.

How much time do you spend working to ensure that your members reach the highest level of professionalism? We each devote hours, weeks, and months to this effort, not to mention significant financial and human resources. We approach professionalism through classes, online training, cartoons, videos, games, charades, and play-acting. We legislate, we regulate, and we prod, probe, cajole, humor, and threaten our members into educational “compliance.” But are we actually moving the professionalism needle? Are our members better prepared to represent their clients? Are our efforts being rewarded with lowered risk, fewer claims, or better insurance rates for our members? What would the landscape look like if we didn’t engage our members in professionalism awareness?

Each AE and staff specialist will answer these questions differently. In part, the answers will directly reflect the amount of effort put toward professionalism, but the answers will also reflect how personally vested we become to reaching a positive outcome as a result of our efforts. Making a personal investment is critical to doing a great job for our members, but it is also dangerous. When we get too personally invested in an outcome, for example, we often lose sight of the true value of our efforts to our members.

Unfortunately, our efforts are not always directly proportional to the value that members put on those efforts. This is the value question with which we must grapple in order to truly serve our members: How do we show them the value of professionalism?

This value equation must be applied to each and every service we provide—tangible and intangible, including professionalism.

I am fully convinced that we have the most difficult (and rewarding) job imaginable. Members are not generic or of one thought. What one wants, another will find objectionable. What one finds of benefit, another will believe is “leveling the playing field.” Consolidations, shared services, and administrative efficiencies should be acceptable to all members, but fear of losing control means that even this concept is up for grabs in the brokerage community.

So what are we to do as a community of professionals? Well, drinking wine in significant amounts comes immediately to mind; but seriously, I find communicating with peers, talking through issues, having a few laughs amid more than a few tears, brainstorming, creating, and planning are not only professionally beneficial but personally rewarding. It is an investment in our own professional development.

We must be willing to challenge each other, challenge the status quo, challenge traditional thoughts, and challenge our beliefs about the value of services to our members.

In order to move the needle for our members on professionalism, we must first be able to move the needle for ourselves.

Andrea Bushnell, 2014 Chair, AE Committee

MORE ONLINE

Visit the AE Committee page at REALTOR.org for more on AEC activities in 2014.



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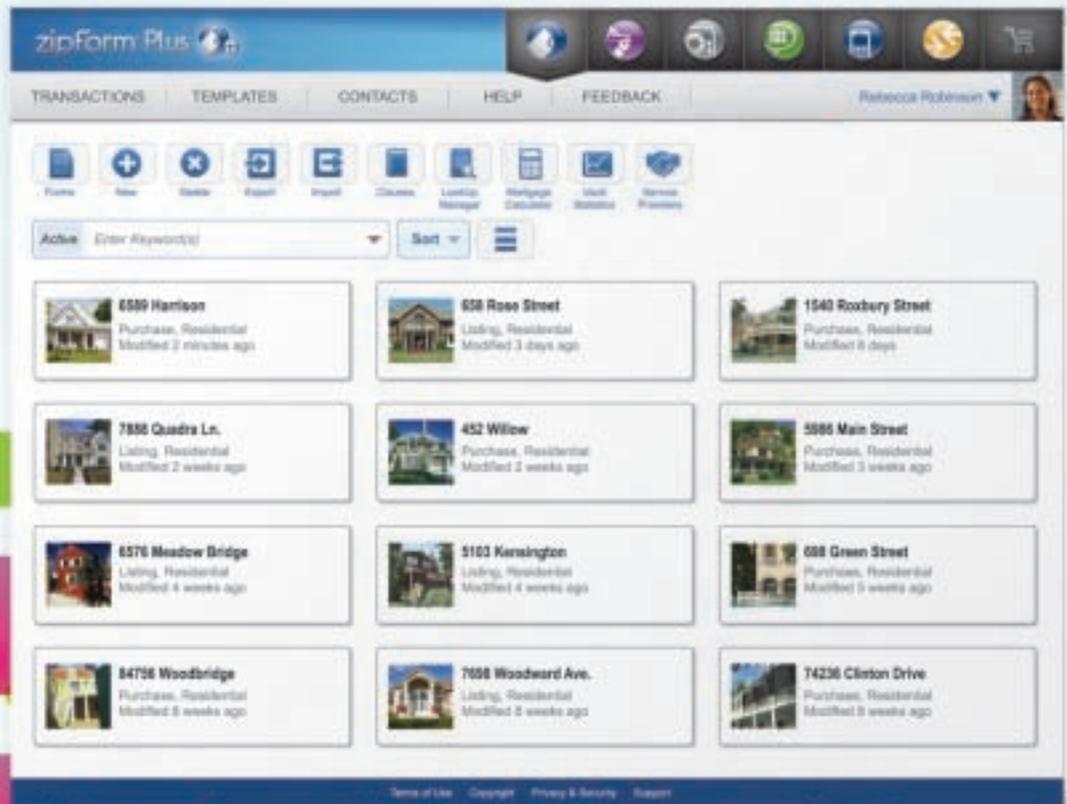


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RPR Launches Dashboard

The RPR dashboard, launched in January, provides associations the ability to easily generate reports they can use to answer questions from members, boards, politicians and news outlets.

Where MLS data is available from an RPR partner, the dashboard provides market data as well as details of how members are using RPR, including how many members are visiting the site and what RPR features and reports they use. The dashboard displays upcoming training opportunities to enhance members' RPR skills and has links to articles associations can republish.

All associations have access to a key feature of the dashboard: the Federal and Local Economic Area Reports. The federal report can be generated by congressional district boundaries, or by an entire state. The local report can be generated for a city, county, or zip code. Association staff can allow association volunteers, such as NAR's FPCs or elected leaders to generate reports, which complement housing statistics already provided by NAR. For more details on dashboard features for associations, visit <http://blog.narrpr.com>.

Power of 'R' Campaign Amplifies Outreach

In a world where a growing number of voices on a growing number of platforms are speaking on real estate topics, the National Association of REALTORS® is developing new ways to communicate to REALTORS® and consumers that the REALTOR® organization—at the national, state, and local level—is the leading advocate for the real estate industry and the nation's 75 million property owners.

Through the Power of 'R' campaign, the work of REALTORS® and associations can be shared and amplified throughout an array of electronic platforms.

Whenever your association posts items demonstrating how you serve home owners, better your community, or meet with elected officials, include #PowerofR. And search for #PowerofR on any socialmedia platform to see posts that relate to REALTORS® inter-

The Power of 'R' is you and all you do to advocate for the real estate industry and the nation's 75 million property owners—in your community, at city hall, at the state house, and on Capitol Hill.

To tie together REALTOR® communications from members and associations, NAR is encouraging the use of a single slogan, "Power of 'R,'" along with the hashtag #PowerofR on Facebook, Twitter, Instagram, and other social media platforms. The hash symbol turns any group of words that directly follow it into a searchable topic.

acting with local, state and national officials, supporting their communities, and helping people become responsible home owners.

In addition to the hashtag, there are several Facebook banners that associations and members can use. For more on the campaign, visit realtor.org/topics/powerofr/about-the-powerofr. ■

Online National Orientation Module Now Available

NAR, in partnership with the 2013 AE Committee's online orientation work group, has developed a new orientation option for all associations. NAR has negotiated preferred pricing with Learning Library Inc. to offer REALTOR® associations an online orientation national module for their new members. Associations can choose to offer the NAR national module only or develop and add local content and work with their state association to develop a custom online orientation covering all three levels of the REALTOR® family, at a reduced rate. Learning Library will host webinars monthly to answer questions about offering the online national module as well as how to add local content. In addition, the hard copy Orientation Toolkit, including the new Orientation Video on DVD, was sent to all associations in early February. Visit realtor.org/orientation for more information. Attend the AEI session on the platform, 8 a.m.–8:45 a.m. Tuesday, March 25. For more, contact Kim DiGangi at kdigangi@realtors.org. ■



Association Tech Fair 'Smack Down' Pits Tradition Against Tech

Two nationally known real estate experts, Dan Elzer, president of The Training Academy, and Bill Lublin, CEO of the Social Media Marketing Institute, faced off on the importance of social media and technology versus old-school skills and sales techniques at the Greater Manchester/Nashua Board of REALTORS® 6th Annual Tech Fair and "Smack Down," Oct. 17, 2013. The event was open and free to all New Hampshire REALTORS® and association affiliates.

The two hosts passionately defended their positions by offering solutions to everyday market challenges. "It was a very lively Smack Down with contrasting ideas offering attendees insight as to where to focus their efforts to make the biggest impact on their real estate careers," says Jessica Perry, the association's communications and marketing



From left: Bill Lublin, Ed Buczynski (N.J. member and event host) and Dan Elzer, the tech Smack Down winner.

coordinator. The event also featured tech vendors providing information on products and services members can use to enhance their real estate business. ■

Nebraska Awards Mark of Excellence Winning the Nebraska Association of REALTORS® Mark of Excellence Award has nothing to do with production or sales. The award's criteria includes taking continuing education classes, participating in political action, volunteering in the community, serving on committees, and attending local, state, and national REALTOR® events. The purpose of the recognition (represented with a lapel pin) is to honor professionalism and inspire members to reach higher. ■



Customize NAR's Consumer Advertising Campaign Materials to Your Local Market

NAR's Consumer Advertising Campaign launched a new commercial, "Make Your Move," the third in a series of television commercials as part of the Market Momentum focus—advertising that encourages consumers to take

advantage of the opportunities in today's market. This latest commercial encourages consumers to stop waiting, start considering, and make a move by calling a REALTOR® and visiting realtor.com®. In addition to the new TV and radio ads that will run as part of NAR's national media buy, the campaign includes print and digital materials that you and your members can use in your local market. Visit the online ad generator at REALTOR.org (search for "ad generator") to access these latest advertising materials as you plan your own consumer outreach. ■



Local Association Misuse of REALTOR® Logo

Mary Newill, the National Association of REALTORS® trademark administrator, is kept busy alerting members (and others) of their misuse of the association's registered marks and logos. In the Fall issue of *REALTOR® AE* magazine, Newill spotted two misuses by a local association that all associations may want to take note of.

A local association of REALTORS® runs a consumer-oriented Web site with its own unique name and branding.

The REALTOR® block logo was displayed on that site in the lower left corner. The problem was that, according to

Newill, it was not clear that this Web site was owned or operated by the local association.

"Member boards are licensed to use the REALTOR® marks, including the REALTOR® logo in connection with their name. Therefore, it's not appropriate to use the REALTOR® logo on the site without also using the association's name in connection with the trademark." This is important to note as more associations launch Web sites and online services that are aimed at consumers and may not have association branding.

In addition, the association had created a video graphic on the site using the block R as a letter in the word "start," as in, start your home search with a REALTOR®. Yet again, this turned out to be an inadvertent misuse of the block R logo because 1) the REALTOR® logo must always appear with the "REALTOR®" identifier right below the block R and 2) it is never appropriate to use the block R as a substitute for an R in a word.

The rules regarding proper format of the REALTOR® logo are available at realtor.org/mmm. Also, Newill says she's happy to review any use of the marks associations come up with. Contact her at mnewill@realtors.org. ■



Briefing

NAR PROGRAMS, PRODUCTS, & INITIATIVES

Centennial Successes

Code of Ethics 100th Anniversary Year Ends with Trove of Promotion Ideas for Associations

REALTOR® associations across the country marked the 100th anniversary of the REALTOR® Code of Ethics in 2013 with an array of awareness materials, events, contests, and other resources.

In Pennsylvania, the state Association of REALTORS® celebrated the centennial with a video contest encouraging members to share what the Code means to them. Three members won prizes—including an Apple iPad and a Samsung Galaxy Note 10.1—and had their videos shown at the PAR spring business meeting.

In July, in San Marcos, Texas, Mayor Daniel Guerrero and the City Council presented a proclamation honoring the Code of Ethics' 100th anniversary. Members of the San Marcos Area Board of REALTORS® showed their REALTOR® pride with Code of Ethics centennial banners created by the Texas Association.

In June, the Delaware General Assembly approved House Resolution 13, recognizing

the Code of Ethics centennial and the Code's work in protecting consumers. Rep. Briggs King sponsored the resolution, and state and local REALTOR® associations in Delaware contributed toward getting the resolution passed.

The Greater Albuquerque Association of REALTORS® developed the Code Kiosk, an online Code of Ethics resource for members. The main goal of the Code Kiosk, an interactive Web site, was to support GAAR's members in conveying the ideals and relevance of the Code to the public during open houses, marketing presentations, and other consumer outreach. Users can easily click through the site and read key facts about NAR's Code of Ethics.

Adding its new Code of Ethics image to a custom postage stamp enabled the Missouri Association of REALTORS® to promote the centennial on all its mailings. MAR also created T-shirts and custom graphics. To educate members and the public about the



Code's centennial, MAR planned articles for its e-newsletter and member Web site as well as a public awareness campaign.

The Virginia Association of REALTORS® published a special centennial edition of *Commonwealth*, its quarterly magazine. The issue is full of articles on the Code of Ethics, including a handy cheat sheet about the types of information that must be disclosed online. A feature story discusses NAR's Code of Ethics in relation to Virginia state law. Another feature outlines specific scenarios where the Code of Ethics might come into play during real estate transactions.

These innovative ideas are also great ways to keep the code in front of members anytime. For links to all of these resources and more, visit NAR's centennial page at realtor.org/coe100. ■

Professional Conduct Video Highlights Respect

Chances are that you've seen NAR's 10-minute video "A Pathway to Professional Conduct: Respect Starts Here," which offers members six tips to professionalism and conducting business with the utmost respect for peers, the public, and property. It's included in the annual New Member Orientation Toolkit mailed to associations. But did you know you can also post it to your association Web site, include it on your YouTube association page, and link it to your Facebook groups? The companion brochure highlights all the tips in the video. View it online or purchase a pack of 100 for \$39.95. See these resources and more at REALTOR.org (search for "Pathway to Professional Conduct"). ■

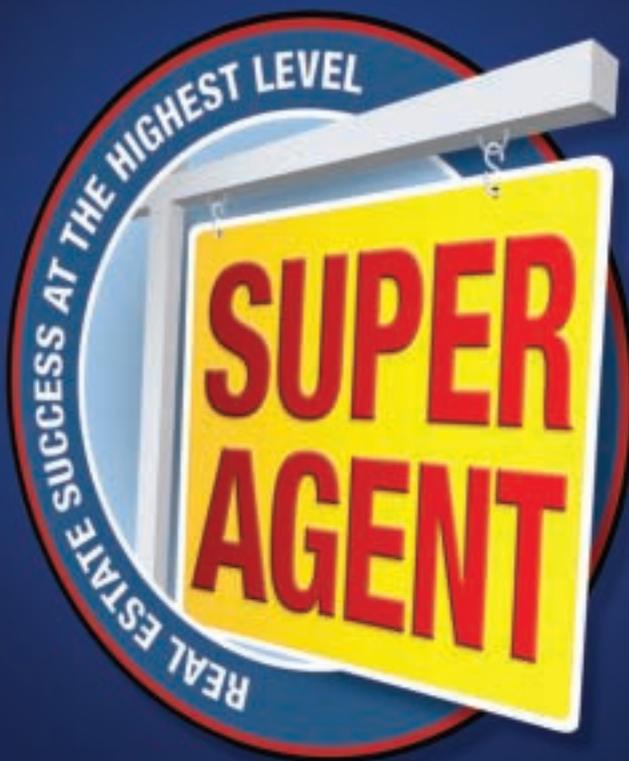
See You at the AE Institute in Baltimore!

No AE should miss the AE Institute, the annual event that delivers real estate industry insights and provides a wide range of education designed to help AEs across the country better serve their members. The conference kicks off Saturday, March 22, at 8:15 a.m. with 2014 NAR President Steve Brown and a keynote address from Connie Podesta, comedian and motivational speaker. The REALTOR® Party Luncheon on Sunday features a keynote address by Donna Brazile, veteran Democratic political strategist and syndicated newspaper columnist. On Monday, NAR CEO Dale Stinton, RCE, CAE, hosts the popular Q&A update on NAR issues. New this year, the REALTOR® Party



Immersion Day (Friday, March 21) is a workshop to help AEs identify their role in the REALTOR® organization's strengthened focus on state and local advocacy and outreach. Pre-registration is required. Full details are online at realtor.org/events/ae-institute. ■

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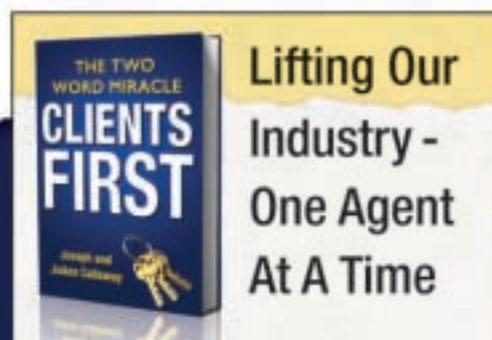
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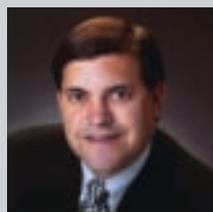
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Briefing

AE CONTINUING EDUCATION, AWARDS

Meet the New RCEs These 21 REALTOR® association executives earned their RCE (REALTOR® association Certified Executive) designation after an extensive course of study and exam in November. Not pictured: Jon Weber, RCE, Minneapolis Area Association of REALTORS®, Minn. RCE is the only designation created specifically for REALTOR® association executives. It exemplifies goal-oriented AEs with drive, experience, and commitment to professional growth. Candidates earn the designation by accumulating points through experience, education and a comprehensive written exam.



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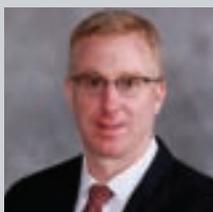
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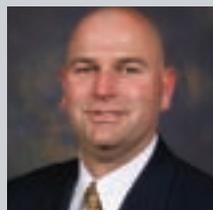
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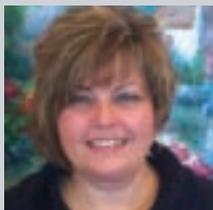
Lindsey Martinez, RCE
South Padre Island Board
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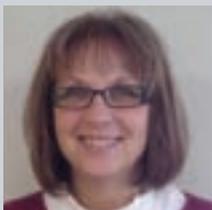
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Cummings Receives McDermott Award



Dave Cummings, communications director for the New Hampshire Association of REALTORS®, is the recipient of the 2013 Terry McDermott Community Leadership Award. The award honors an AE who goes above and beyond his or her service to the community. Cummings founded the Hoops For Heroes initiative, which raised roughly \$95,000 for the Intrepid Fallen Heroes Fund for wounded veterans. Pledging to shoot 1 million basketball free throws as a fund-raising event, Cummings solicited donations on his Web site and Facebook and through word of mouth. His efforts gathered a strong social media and national media following. He made a shot during the second quarter of a Celtics game at the Boston Garden (pictured above) and reached the midway mark on the flight deck of the USS Intrepid aircraft carrier on Veterans Day 2010.

Cummings will be formally recognized at the 2014 AE Institute in Baltimore on March 22, at which time NAR will make a \$500 donation to the Intrepid Fallen Heroes Fund. ■

AEs on the Move

■ **Sandy Naragon** is the new CEO for the Akron Cleveland Association of REALTORS® after the Akron and Cleveland boards merged in October to form a 4,500-member association serving REALTOR® across Northeast Ohio.

■ **Jarron Springer, CAE**, joined the Greater Nashville Association of REALTORS® as CEO in February. Springer comes to the REALTOR® family from the Tennessee Grocers & Convenience Store Association. Don Klein, former GNAR CEO, stepped down in January after 16 years with the association and launched his own leadership and communications consulting company. ■

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REALTOR® Party

Association-Backed Candidates Win Again



Julienne Uhlich is a campaign services manager at the NATIONAL ASSOCIATION OF REALTORS® in Washington, D.C. She can be reached at 202-383-1325 or juhlich@realtors.org.

Getting REALTOR® champions—politicians in tune with the REALTOR® organization’s views—elected to public office has long been a priority. Since the laws governing campaign contributions

were relaxed in 2010, more advocacy organizations have entered the arena with huge amounts of money for federal candidates. In response, REALTORS® have stepped up their efforts and engaged in nearly 500 state and local campaigns in the past two years.

Case in point: Sunnyvale, Calif., holds its City Council elections in the off-year, so there is relatively low turnout in these elections. With low turnout, vociferous anti-business, no-growth candidates can take up a much larger proportion of the vote than is reflective of the beliefs of the general population.

The 4,000-member Silicon Valley Association of REALTORS® knew something had to be done to change the course of politics in the area. Three of the seven City Council seats were up for election in November 2013, two of which were open seats. The association identified two REALTOR® champions to run for those seats.

Association Government Affairs Director Jessica Epstein contacted NAR about how she could take action and learned about the resources and grants available to run an independent expenditure campaign* through the REALTOR® Party. It took only 10 days from the time Epstein applied for funds and assistance from the REALTOR® Party to get the funding approved.

REALTOR® champion and Sunnyvale planning Commissioner Gustav Larsson was an ideal choice to run. Elected officials and community leaders who were already REALTOR® champions supported him. He understood the needs of homeowners, opposed point-of-sale mandates and rent control, and supported the temporary placement of real estate signs on public property.

The association also identified planning Commissioner Glenn Hendricks as an ideal candidate. He promoted the development of small affordable-housing units and took a nuanced approach to his-

toric preservation, preferring a case-by-case basis to a blanket approach.

The *San Jose Mercury News* said of the candidates in its endorsement editorial that “Hendricks and Larsson have in common excellent preparation for the council on the planning commission, listening to all sides and making thoughtful decisions.” NAR polled area voters to check on candidate viability and confirmed that the association’s choices were solid.

After discussing the various campaign tools available, the Silicon Valley Association opted to help get Larsson and Hendricks elected the old-fashioned way—knocking on doors. In addition to running online ads that would drive Internet traffic directly to the candidates’ Web sites, the association sent out dozens of canvassers to knock on doors during the month of October up to Election Day. Wearing “Neighbors of Glenn” and “Neighbors of Gustav” T-shirts, the canvassers (who were recruited and paid; many were students) reached out to those most likely to vote in this off-year election.

By the time the polls closed on Election Day, the door-to-door field team had knocked on 34,000 doors, spreading the word about our REALTOR® champion candidates and encouraging the voters to get to the polls. And the effort was well worth the end result: Larsson won with 53 percent of the vote; Hendricks won with 58 percent.

November is election time in many areas. Associations should plan now to get involved by supporting their issue champions and working to replace real estate-unfriendly elected officials. Open seats are the best opportunities to change the shape of a governing body. Now is also the time to recruit local candidates to run—maybe even a REALTOR®. ■

* A political campaign that expressly advocates the election or defeat of a candidate that is not made in cooperation with or at the request of a candidate or a political party.



Event: Sunnyvale City Council Elections



- **When:** Fall, 2013
- **Total amount of REALTOR® Party Grant:** \$124,900
- **Costs:** \$22,000: online ads; \$102,900: field program elements, including T-shirts, door hangers, canvassers, and more.



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10 Ideas to Raise the Bar for Member Professionalism

For the past 100 years, the National Association of REALTORS® Code of Ethics has remained a reliable guide for REALTOR® professionalism—and overall, REALTORS® do a good job of following it, say association executives, professional standards administrators, and trainers around the country. But what can be done to maintain or improve professionalism moving forward into the Code's second century?

“Right now, no one objectively knows whether REALTOR® professionalism is getting better or worse,” says Ted Loring, a California REALTOR® who serves on the Interpretation and Procedures Advisory Board for NAR's Professional Standards Committee.

Rather than seeing a rise in the number or severity of complaints, experts pointed to a new challenge: changes in the types of complaints being made due to shifts in the real estate market.

For example, Sue Flucke, president of the Arizona Association of REALTORS®, and Terry Tolman, chief staff executive of the REALTORS® Association of Maui, say that because more properties were rented in a slow market, the incidence of complaints associated with property management rose. Flucke and others also say the housing crisis triggered many complaints about the way brokers handled short sales.

Complaints often reflect REALTORS®' inexperience, either with the profession in general or with a particular type of transaction. But other complaints, experts agree, reflect genuine moral lapses—REALTORS® responding to difficult situations with shortcuts they know to be wrong but hope to get away with.

Even though the complaint rate is low—and many credit ombudsmen and mediation programs for helping resolve minor issues before they escalate into formal complaints—there is always room for improvement.

Experts, along with AEs responding to *RAE's* anonymous survey, suggest a variety of measures that might set higher standards for professionalism.

1 Promote the resources already in place.

“Use the bar, rather than raise the bar,” urges Hank Lerner, director of professional practice at the Pennsylvania Association of REALTORS®. “Guide agents to the resources that already exist so they can pick up the phone, call the other agent and explain, ‘I’m not going to do this because the Code of Ethics says it’s not right.’ We need to emphasize that it’s everyone’s responsibility.”

Among the resources that an association could use to craft a professional standards page for its Web site are links to NAR’s “A Pathway to Professional Conduct: Respect Starts Here” video and brochure.* State and local associations created new and innovative ethics materials last year as part of NAR’s Code of Ethics centennial celebration. These ranged from ethics competitions to a newsletter series (view them online at realtor.org/coe100).

2 Improve the quality of professionalism training.

“Good trainers give case scenarios that relate to the agent,” Flucke says, “but some of them just read the Code. The areas with better training have better results.”

Bruce Aydt, one of the top real estate instructors in the country, says NAR’s initiative to break up its online Code of Ethics training videos into easily digestible 20- to 30-minute chunks is a welcome development. Aydt says in-person training should incorporate a variety of teaching methods—demonstrations, role-playing, quizzes, lectures, and case studies—to accommodate different learning styles.

Tolman recommends that training focus on specific issues that are problems—this would require associations to be proactive in surveying members and keeping track of complaints, whether formally filed or not.

In RAE’s professionalism survey (*p.16*), one AE suggested: “The Code and Standards of Practice needs to be published (and taught) with a second-column commentary written without legalese, in common, everyday English as is done in some study Bibles. The commentary needs to answer the reader’s questions of relevance of the Code: What does this mean to me? How does this apply to my business? How does this apply to my business relationships?”

The National Association does provide a 15-video collection that covers each article of the Code of Ethics (and more) in easy-to-understand language, online at realtor.org/codevideos.

Finding quality instruction is key to

“Mandatory CE courses should include fair housing, consumer protection, and business regulations during each license renewal period.”

“We at the association can preach until we are blue in the face but unless the membership has the will to act, nothing will change. We get a lot of verbal allegations of unprofessional behavior, but few written complaints.”

AE quotes from RAE’s anonymous professionalism survey.

making professional-standards education stick. NAR provides a self-populated database of instructors at realtor.org/pstmsrc.nsf.

3 Increase the frequency or length of training.

Currently, REALTORS® must complete training on the Code of Ethics every four years and take continuing education classes every year or two to retain their real estate license. “If I were king for a day,” says broker Mary Ann Bush, who has several decades of experience training REALTORS®, “I’d make that four to six hours every six months.”

In RAE’s professionalism survey, 28 percent of AEs said increasing education would raise professionalism. Find interactive training materials online at REALTOR.org.**

4 Increase fines for serious violations.

June Barlow, vice president and general counsel of the California Association of REALTORS®, says NAR’s decision to implement a California task force recommendation to increase the maximum fine for violations of the Code to \$15,000, up from \$5,000, sets the amount of the fine to a level REALTORS® won’t regard as simply a cost of doing business. The \$15,000 maximum fine took effect Jan. 1, 2014, but it may not be assessed unless the violation occurred in 2014. In other words, if the infraction occurred in 2013 but the hearing is held in 2014, the maximum fine allowed would be limited to \$5,000.

In RAE’s professionalism survey, one AE said: “Too often, unethical behavior is rewarded by increased income to the member, while those who do complain find themselves wondering why they should behave. Making bad behavior really costly would be beneficial.”

5 Publish the names of violators.

The California task force also recommended allowing local associations to publish to their members the names of REALTORS® who receive any punishment beyond a reprimand. (Currently, only suspended or expelled respondents’ names may be published, unless a local board voluntarily opts to publish the names of respondents found in violation of the Code a second time within three years; consistent with Professional Standards Policy Statement No. 45.) The threat of publication would serve as a deterrent, Barlow believes. In addition, she says, “for those reluctant to turn in someone, it shows that something clearly does happen.” The task force also said details of the

violation should be included in the publication—which would help other members learn exactly what is prohibited.

At the same time that NAR increased the maximum fine, it clarified other administrative issues. For instance, only individuals (and not corporations or other business entities) may file an ethics complaint, and complaints cannot be brought in the name of third parties.

In *RAE*'s professionalism survey, one AE said: "The anonymous nature of the COE enforcement process creates the impression that nothing happens and no one is held accountable. The fact that it's optional whether or not to publish names means very few associations will publish the names of offenders, which keeps the problem in place. Members are reluctant to file against one another since they expect retaliation for what they do, saying, 'I have to work with these people.' Most members are ethical but unwilling to stand up to the bad apples."

"There need to be higher standards for membership. As long as we'd rather have more members than raise the standards for being a member, nothing will change."

6. Create statewide databases of disciplinary actions.

The same California task force recommended statewide databases that would facilitate the search of REALTORS® disciplinary records. Loring says consolidating data would help weed out any offenders who move from one locality to another and would also provide information about trends in violations.

In May 2013, NAR approved changes to the Code of Ethics and Arbitration Manual to clarify that hearing panels may include information about a member's prior violations in its decision, and that the panel must consider previous violations of the Code when determining discipline.

"There needs to be more or better understanding of how the Code makes a difference."

7. Encourage REALTORS® to "live the Code."

In a proposal Loring made that is under discussion by the Professional Standards Committee, he suggested periodic surveys and tests to study how REALTORS® implement the Code of Ethics in their business practices. Current tests, he said, ask routine questions ("Can you specify gender or race in advertising?"). More useful surveys or tests would ask open-ended questions about complex situations, eliciting information about REALTORS® propensity for ethical problem-solving. He explained, "If it's successful, and it makes education more effective, then the ability of REALTORS® to serve their clients ethically would increase. That's a huge win for the industry and the public."

8. Encourage brokers to improve agent supervision.

In *RAE*'s professionalism survey, one AE said: "Brokers need to enhance supervision of agents and hold them accountable for their conduct. Principal brokers and office managers must be better trained in the supervision of agents and provide more training in real estate best practices and etiquette." Another AE wrote: "Technology has taken away the broker mentoring from the equation. There are fewer office meetings for the REALTOR® spirit to be communicated."

9. Increase the requirements for REALTOR® membership.

"The only way to increase professionalism in our membership is to raise the standards for being a REALTOR®," said one AE in *RAE*'s professionalism survey. "We will take anyone as a member and we almost never kick anyone out. As long as we'd rather have more members than raise the standards for being a member, nothing will change."

Another survey respondent added: "With the inability to deny membership and take everyone regardless of history, our result is a large population of members that just do not care to do the right thing. Our true professionals are around 20 percent at most."

10. Make filing complaints faster and easier.

By far, the most common idea presented by AEs in *RAE*'s survey focused on improving and promoting the complaint process. Here are some views and ideas:

- "We need to do a better job of letting our members know they can file ethics complaints and how they can do this."
- "The process to file a complaint is tedious, confusing, and time-consuming to our members. Most of our members don't understand the process and they want things resolved and handled quickly. It takes too much time, so they say, 'Forget it and move on.'"
- "Members feel that filling out the complaint is too much work for a little slap on the hand."

"Members feel that filling out the complaint is too much work for a little slap on the hand."

How to File an Ethics Complaint can be found at: realtor.org/code-of-ethics/brochure-before-you-file-an-ethics-complaint. To adopt procedures to mediate potentially unethical conduct go to: realtor.org/ae/manage-your-association/association-policy/ethics-mediation. ■

* View online at realtor.org/articles/a-pathway-to-professional-conduct-respect-starts-here.

** realtor.org/policy/professional-standards-and-code-of-ethics/professional-standards-training-information-resources.

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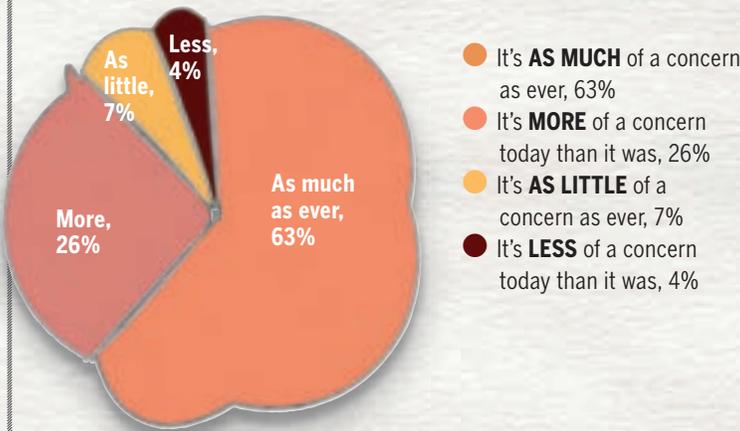
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Professionalism Survey Says ...

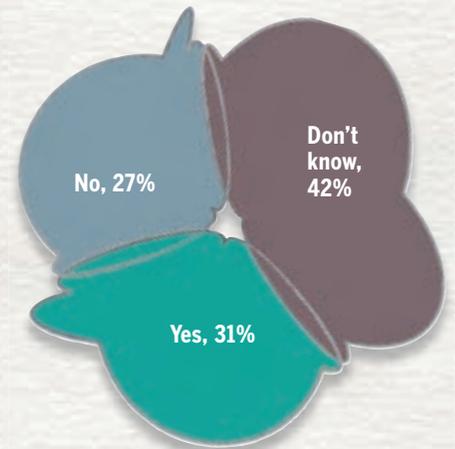
Nearly 100 AEs (and a few professional standards administrators and staff) participated in REALTOR® AE magazine's professionalism survey. Results appear throughout this issue, with 11 key findings here.

Q. At your association, how much of a **concern** is member professionalism today compared to three years ago?



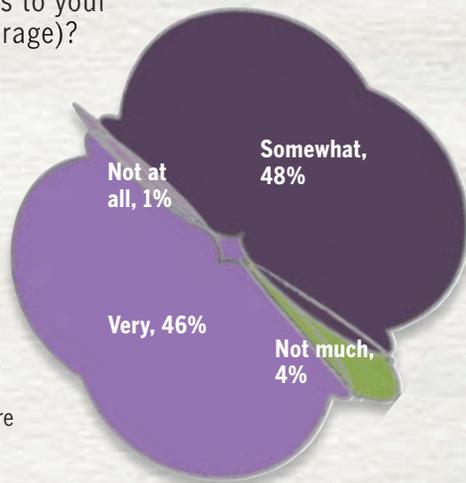
"We have the members recite the REALTOR® pledge at every membership meeting and tell them at the beginning of each year to be mindful of what professionalism is."

Q. Would public reviews or **ratings** of REALTORS® and the services they provided boost member professionalism?



Q. How important do you feel professionalism is to your members (on average)?

- Somewhat important, 48%
- Very important, 46%
- Not that important, 4%
- Not at all important, 1%



"I see professionalism linked to an individual's core values; and I am not sure we can change core values."

REALTOR® AEs and association staff were surveyed between Dec. 15, 2013, and Jan. 10, 2014. Ninety-one participants completed the full survey.

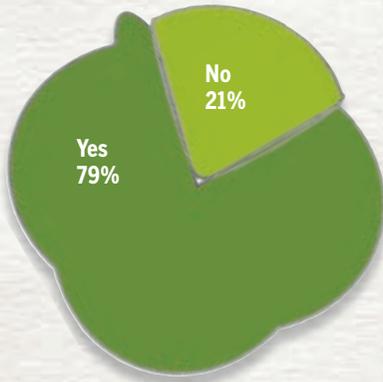
"We most often see failure to provide signed documents in a timely manner and failure to communicate the status of a transaction or return phone calls."



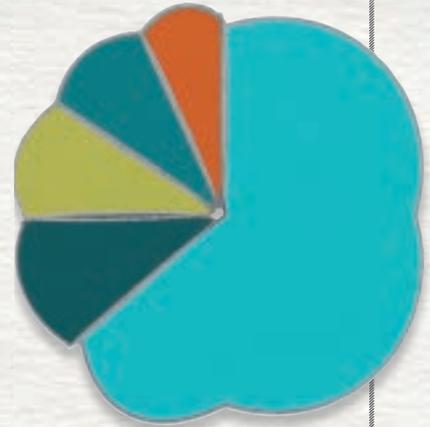
What specific **type of unprofessional behavior** (pick one) is most common at your association today?



Do you feel the REALTORS® Code of Ethics comprehensively addresses **today's ethical issues**?



- Lack of professional courtesy **among members**, 64%
- Lack of professional courtesy by members **to consumers** or their property, 11%
- Issues over **disclosure** (offers, agency, etc.) 10%
- Issues over **advertising**, 7%
- Issues over **discrimination**, 0%
- Other, 9%



"The Code covers more than enough ground, but members continually attempt to interpret it narrowly instead of broadly, as intended."



What does your association **do to promote professionalism**?

- We include a segment on professionalism in our **new member orientation**, 75% of associations.
- We have printed materials on hand or online that **explain what the Code of Ethics** is and how the association enforces it, 67%
- We regularly promote the Code of Ethics in our **member communications**, 67%

- We regularly promote to consumers that **REALTORS® are different** from other real estate practitioners because of their adherence to the Code of Ethics, 44%
- We include professionalism in many of our **member classes**, 32%
- We hold regular **classes on professionalism**, 22%
- We have a regular **professionalism**

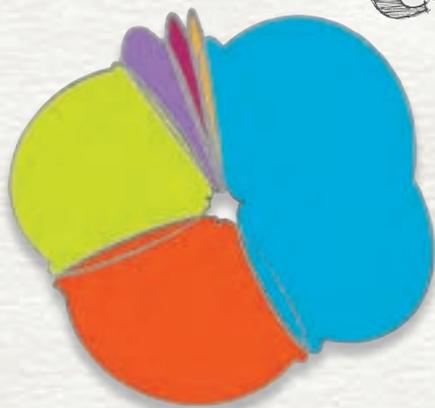
- column** in our print or electronic member communications, 21%
- We have a specific public **communications campaign** promoting REALTORS® ethics and professionalism, 9%
- Other, 19%, including: "We have the members recite the **REALTOR® pledge** at every membership meeting," and "We hold sales meetings and forums on professionalism throughout the year."

"In 2014 we will be implementing mandatory professional etiquette training for all members."





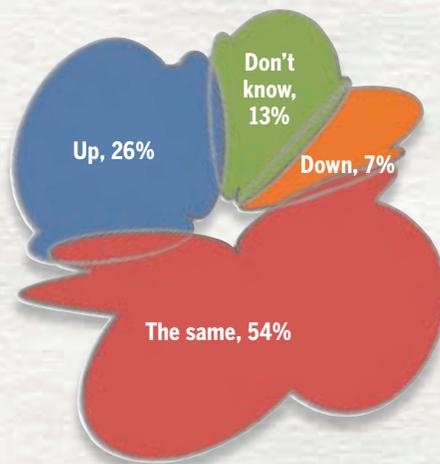
In your opinion, **how much unethical behavior** at your association actually results in an ethics complaint being filed?



- Less than 5%, 44%
- Between 5% and 10%, 26%
- Between 10% and 30%, 22%
- Between 30% and 60%, 4%
- Between 60% and 80%, 2%
- Between 80% to 100%, 1%



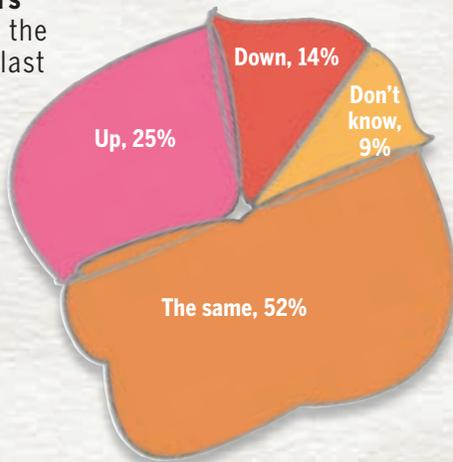
Is the use of association **mediation services** up, down, or the same at your association in the last three years?



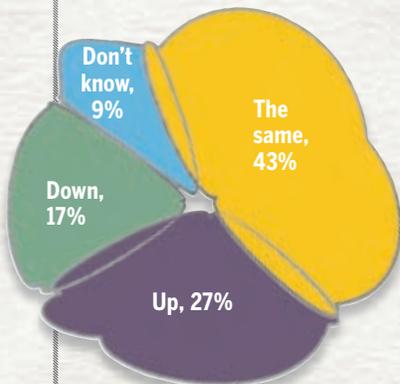
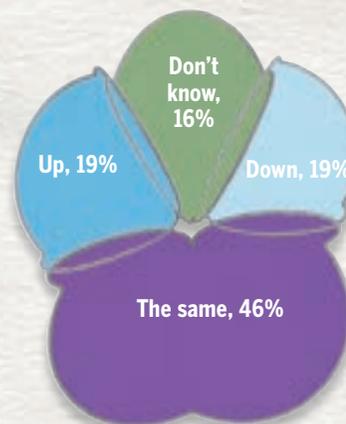
"I get a lot of feedback from members that they don't file complaints because they are worried about retaliation by the other member, the member's broker, or their entire office."



Is the number of ethics **complaints filed by consumers** up, down, or the same in the last three years?



Is the use of association **arbitration services** up, down, or the same at your association in the last three years?



Is the number of ethics **complaints filed by members** up, down, or the same in the last three years?

Many REALTOR® AEs indicated that they "don't know" the numbers or types of complaints because such complaints are handled by a state association or a regional ethics and standards shared services program.

Solution to a lack of professionalism?

Higher education is one way REALTORS® are developing the skill sets to meet greater customer demands for professionalism in the industry, says William Hardin III, director of the Hollo School of Real Estate at Florida International University.

After all, the real estate agent's role has changed dramatically in the last 15 years to focus more on helping customers interpret real estate information—much of which they've gathered themselves—to make more informed buying and selling decisions.

Agents who are committed to higher learning may engender higher degrees of trust and confidence from clients in meeting that evolving role, Hardin says.

While a college degree in real estate is not a requirement to meet higher levels of professionalism, the industry only benefits by having more agents and brokers seek higher levels of training, says David Funk, director of Cornell University's Baker Program in Real Estate.

"Buying a home is often a person's biggest investment in life," Funk says. "The trust and responsibility that comes with that is huge. University programs and a master's degree raise the bar and move the industry more toward a professional status that aligns it to the importance real estate plays in most people's lives."

Building a Solid Foundation

So how are graduate programs helping students achieve this higher level of professionalism? For one, they're putting ethical training at the forefront of their programs.

Although you may not find a specific course on real estate ethics in many graduate programs, educators say that's because teaching ethics is so important that they infuse it throughout a graduate student's curriculum, such as in law, financing, and business courses. The REALTOR® Code of Ethics is the foundation for most of the ethical training students receive in real estate programs such as REALTOR® University, University of Denver, and Florida International University, among others.

Real-world, practical applications are an important factor in graduate education and the teaching of ethics, says Marc Gould, dean of student services at REALTOR® University. Students often receive ethics training in the form of case studies that allow them to confront challenging circumstances related to real estate practice, business, and regulation—examining scenarios as wide-

ranging as dual agency, dispute arbitration and mediation, ethics in management, accounting practices, and marketing.

Many graduate programs also bring in real estate brokers and industry leaders to share their experiences with challenging transactions and ethical dilemmas. "It helps to take the abstract to the concrete," says Hardin says.

"Real estate is a large global industry, but when you're working in it, it can feel incredibly small. One's reputation, integrity, and ethics can't be underestimated," Funk says. "In our coursework, we never get away from the fact that real estate is a people business. Projects and transactions get done through networks with people."

Indeed, many graduate programs urge students to build connections during their training, such as by establishing mentorships with others in the field, connecting with alumni, joining the national and local REALTOR® associations, attending business networking events, and earning REALTOR® designations for the networking and added training opportunities.

A Growing Differentiator?

As more real estate professionals earn master's degrees, could they pave a big change for professionalism in the industry?

"Any time it's easy to enter a field, you have difficulty with the idea of 'professional,'" says Mark Lee Levine, professor at the Franklin L. Burns School of Real Estate and Construction Management at the University of Denver. "As more earn master's degrees, employers will take notice of the quality of their work and the sophisticated analyses of real estate that they have. It may one day influence more hiring decisions. And consumers will see the benefits of people who are well-trained, ethical, and honest."

Still, the industry has a "tremendous ways to go in developing programs in higher education to serve all of the real estate industry's needs," Funk says. Associations can help, he adds, by creating university linkages, mentoring programs, and scholarships, and developing greater opportunities that connect students at the undergraduate and graduate levels to the association. Late last year, NAR launched its student membership category to emphasize the value of involvement in the National Association.

Whether it's through graduate training, designations, or continuing education, Hardin says, one thing will remain certain: "The professionals in our field tend to be those who invest in themselves and invest in understanding how the market works. And in the long term, they will be the ones left standing." ■

"As more professionals earn master's degrees, employers will take notice of the quality of their work and the sophisticated analyses of real estate that they have. It may one day influence more hiring decisions."

— Mark Lee Levine, professor,
University of Denver

Making it harder to get a real estate License

You hear it all the time: “If only it were harder to get a real estate license in the first place, then fewer bad apples would join the industry, or they’d learn earlier the right way to do business.”

More than 50 percent of the AEs in our professionalism survey (*page 16*) said heightened education requirements to obtain or retain a real estate license would be the best way to boost professionalism.

Several state REALTOR® associations are now working with their legislatures to change licensing requirements with this goal in mind.

Yet real estate licensing is a complex, political, and shifting issue that varies with each state, says Jeanne Jackson-Heim, executive director of the Idaho Real Estate Commission, current president of Association of Real Estate License Law Officials, and a former REALTOR® AE.

“In Idaho, for example, legislators have very little appetite for increasing licensing requirements for any trade,” says Jackson-Heim. “They often view any change to licensing requirements as imposing a ‘barrier to entry’ for that profession.” And, based on her experience, reluctance to increase licensing requirements is nonpartisan.

Nearly every state has, in statutes or rules, the number of hours the real estate licensing commission can require for a license, along with requirements for hours of continuing education and first-year, post-licensee education.

Idaho already requires 90 hours of prelicense education and 20 hours of CE every two years. So instead of proposing more requirements, the Idaho commission is suggesting to the legislature a change in the content of the education required for the first-time licensees. “We have seen a need for increased education in professionalism,” says Jackson-Heim. “It’s not that new licensees always have problems, but there is a predominance of new people getting into

the business looking for ways to set themselves apart, and sometimes this can lead them down the wrong path.”

This is why Idaho’s push right now is for targeted new-licensee education. “I don’t think that most long-time practitioners need more education,” says Jackson-Heim. “We just want to help the new folks get off on the right foot.”

By contrast, the South Carolina Association of REALTORS® had drafted 38 license law revisions that it believes will raise the standards of professionalism for all practitioners in the state.

The proposed revisions, which are expected to be introduced to the state legislature later this year, will double the number of hours of required prelicensing education to 120 and double the number of hours to 16 for required continuing education every two years. The proposal also includes a new

continuing education requirement for brokers-in-charge and property managers, as well as a new “documented field experience” requirement for first-year licensees. Going even further, the revisions will require criminal background checks for all licensees and real estate instructors, eliminate the continuing education age exemption for those older than 65, and require ethics to be

“There should be a completely separate CE track for managing brokers that should include office policies, the independent contractor agreement, sexual harassment, MLS rules, working with buyers’ agents, and procuring cause.”

"I believe those who want to be professional already are and those who aren't don't care. The only way to increase professionalism in the industry is to make it harder for the lazy ones to be in the industry."

AE quotes from RAE's anonymous professionalism survey.

included as a topic in every prelicensing course.

Cashion Drolet, senior vice president of government affairs for the South Carolina Association of REALTORS®, is optimistic that the new regulations will pass, but it will be a two-year process. "We strongly believe this is another avenue toward improving professionalism in the industry," she says. "Some changes we've asked for—increased inspections, random inspections, faster turnaround on disciplinary actions, and criminal background checks—have been enacted via administrative action, while others require regulatory action."

In Pennsylvania, the REALTORS® association backs a Senate bill introduced in 2013 that would heighten real estate license requirements to bring them more in line with national averages. For example, the bill would increase continuing education hours for all real estate licensees from 14 hours to 18 hours every two years. (According to ARELLO statistics, 18 hours of continuing education every two years is the average for the 50 states.) The bill would also require 95 percent attendance at prelicensure and continuing education courses, and require a high school diploma. All this "will help elevate the professionalism of all licensees, as well as provide additional protection to the consumers they serve," according to the association. The legislation was passed by the Senate Consumer Protection and Professional Licensure Committee in April 2013 and is awaiting action by the Senate.

"Perhaps licensees should have at least an associate's degree and we should make common courtesy a part of the state exam and pre-license training."

"PAR believes these changes will result in an enhanced level of service for consumers and a higher level of competency throughout the real estate industry," says association CEO Dave Phillips.

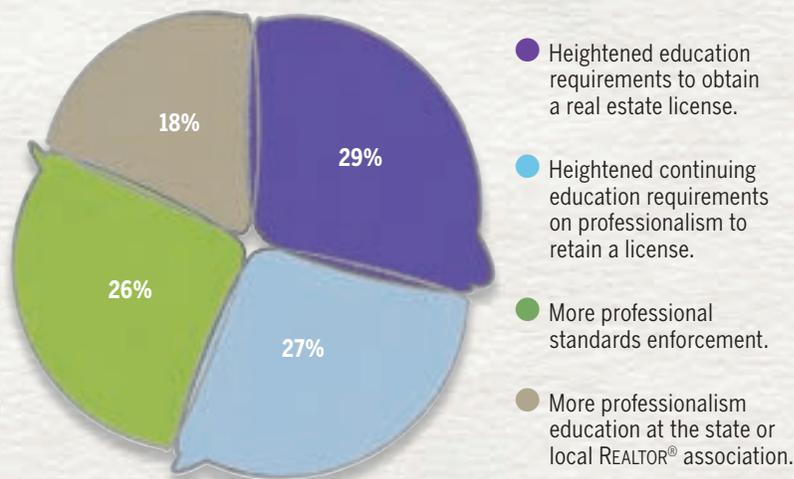
In North Dakota, the real estate commission is proposing an amendment to licensing regulations to curtail unprofessional behavior. The proposal will limit the number of continuing education hours a licensee can claim to have taken in one day to eight to minimize what appear to be fraudulent claims. "We have a lot of people taking their courses online now and it's amazing some of the claims that go to the commission for the number of hours taken in 15 minutes," says Nancy Willis, government affairs director for the North Dakota Association of REALTORS®.

Yet Jackson-Heim notes that licensing requirements are only part of the answer. "I think what else might help would be more broker involvement, more training and mentoring," she says. "Brokers could be required to do more, show the new folks the ropes until they've gotten their feet wet. Perhaps Code of Ethics requirements could be more frequent than every four years, or perhaps there could also be some increased education to attain REALTOR® membership. There's no right answer to this question or one right solution to this problem of professionalism. We should be attacking it on all fronts." ■

"PAR believes heightened real estate license requirements will result in an enhanced level of service for consumers and a higher level of competency throughout the real estate industry,"

— Dave Phillips, CEO, Pennsylvania Association of REALTORS®

Q. Among these options, which is the **one most effective way** you feel professionalism could be increased?



Who Should Run the Agent Ratings?

REALTOR® associations generally steer clear of promoting one member over another. Most association programs and services keep the playing field level. Online membership lists are in alphabetical order, and “Find a

REALTOR®” functions rarely stray from offering just designation, specialty, and language options to narrow the search for consumers.

So while associations may be happy to stand on the sidelines of the ratings battle, more are being dragged into the fray. Members are either talking about association-sponsored rating systems they believe could be more neutral, fair, and member-centric—as is the association norm—or asking the associations to intervene on their behalf against rating sites believed to be unjust.

“For a program to succeed in rating or ranking agent production, you would have to first standardize data feeds so that you’re gathering consistent and accurate information on everyone.”

— Lisa Noon, RCE, CAE, CEO, Oklahoma Association of REALTORS® Inc.

“Just last week, I received a frantic e-mail from an office manager at one of our largest firms,” says Kathy Roberts, RCE, AE of the Sarasota Association of REALTORS®, Fla. “One of her agents sent her a link to a rating on [a listing site] that she was extremely upset about. It was using data it had from an unknown source to rate her, and the results painted her in a bad light.”

Unfortunately, there’s very little associations can do to help agents who believe they’ve been wrongly rated. Although some MLSs decline to share data on sold properties or other facts that are often used to rank members, the only defense is a good offense, AEs say. Educating members on how the rating systems work or advising them on alternative methods of promotion are currently hot classroom topics at REALTOR® associations nationwide.

CAN THERE BE A “FAIR” RANKING PROGRAM?

“Pleasing everyone, or most everyone, with a rating system would be very difficult,” says Jeanette Newton, RCE, CEO, Dulles Area Association of REALTORS® Inc., Va. “Would it

be volume-based, activity-based, referral-based? There are so many factors that go into selecting the right agent.”

Sites that do review and rate agents, such as Zillow, Trulia, or Yelp, rely on whatever information they can get to formulate unique rating criteria. Ratings can include feedback from clients, days a home sat on the market, list price-to-sale price ratios, agents’ years of experience, how many homes sold, and a wide range of public data. Then, add the opportunities for agents to purchase ranking “enhancements” or “placements,” and have friends and family write glowing endorsements, and it is no wonder REALTORS® are dismayed with the current rating site offerings.

“For a program to succeed in rating or ranking agent production, you would have to first standardize data feeds so that you’re gathering consistent and accurate information on everyone,” says Lisa Noon, RCE, CAE, CEO of the Oklahoma Association of REALTORS®. “Some REALTORS® work as individuals, some work in teams, and others are teams where production is all given to the team leader. The question then is how to extrapolate quality service or production from different business models. Then we must ask ourselves, is production the only parameter for success?”

Indeed, as seen in realtor.com®’s controversial Agent-Match beta test, metrics such as days on market or list price-to-sale price ratio, “while useful within a real estate brokerage, could be confusing or even misleading to consumers,” said Errol Samuelson, chief strategy officer of Move Inc., which operates realtor.com®. “Numbers don’t lie, but they don’t necessarily tell the whole story, either.” Realtor.com® expects to release a retooled agent finder in 2014.

MAKE NO MISTAKE, MORE RATING SITES ARE COMING

Although disagreement on how to best rank or rate REALTORS® remains, sites that do so aren’t going away. From HomeLight and Mountains of Agents to Brokur and Stik, the number of startups aiming to match home buyers and sellers with agents skyrocketed in the past few years. And all—like the home listing sites before them—are striving to profit from claiming a space between the REALTOR® and the consumer.

“Credibility is the most important element in agent ratings, and you need that third-party relationship to show it.”

— Kathy Roberts, RCE, AE, Sarasota Association of REALTORS®, Fla.

Currently, no single player dominates the agent rating space—which industry analysts say is still nascent—creating an opportunity for anyone’s entry. So now, in addition to the question of how to rate agents, there’s the question of who should rate agents.

LEAVE RATINGS TO THE BROKERAGES?

“Agent ratings should be a broker option, and it would be best done outside of the association,” says Newton. “This is a perfect example of ‘leveling the playing field’ that our brokers would not be pleased about.”

Many large national brokerages, including ZipRealty and Redfin, already have their own review platforms for agents.

ZipRealty’s opt-in system posts the unedited reviews from all the agents’ clients while giving the agent the opportunity to respond to the review to clarify or explain. The brokerage says 9 out of 10 agents participate in the platform. Redfin, likewise, says it not only surveys every client—whether a deal closes or not—and posts all the reviews, but it pays its real estate agents based on those reviews.

As an alternative to a brokerage—or an association—building its own review platform, there’s a growing list of third-party customer satisfaction and service measurement companies, including RealSatisfied and Quality Service Certified, which both specialize in the real estate market.

Quality Service Certified currently partners with several REALTOR® associations in a NATIONAL ASSOCIATION OF REALTORS®-sponsored beta test of member ratings called the REALTOR® Excellence Program. More generalized customer satisfaction software that any entity can customize is available from companies such as Customer Thermometer and Hively.

LEAVE RATINGS TO THE AGENTS?

Agents are arguably the most motivated to build and manage their professional reputation. Glowing client endorsements that agents post on their own Web sites are still a powerful sales tool, and agents increasingly are using new technologies to boost the number of testimonials and credibility of the positive feedback they receive.

Services such as Stik, an online reputation management platform (for all types of professionals), offer agents a way to solicit endorsements from

clients and friends for posting across social media sites. The reviews are linked to authors’ Facebook or LinkedIn accounts to establish credibility. Similarly at Trulia, agents can add endorsements from Facebook friends to their profile, and at realtor.com®, agents can add client recommendations (garnered through a RealSatisfied survey) to their profile.

LEAVE RATINGS TO THE ASSOCIATION OR MLS?

The Houston Association of REALTORS® has run a popular agent rating system since 2009. Key to its success, say Bob Hale, HAR’s CEO, are its opt-in element and the option for agents to make their reviews public or not.

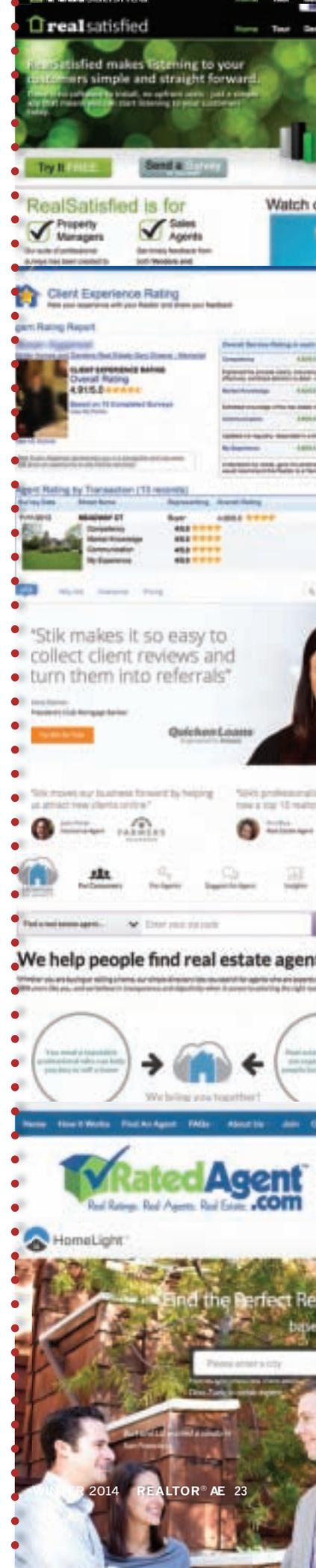
At the Sarasota association, members can participate in the REALTOR® Excellence Program offered through the My Florida Regional MLS. “I think the REP program really fills a need,” says Roberts, “and I don’t understand the reluctance of the brokers to use it.” Florida broker participation in the REP has been low.

Roberts says the ideal rating tool would have association involvement in development, but data gathering done by a third-party business partner. “Credibility is the most important element in agent ratings, and you need that third-party relationship to show it.”

In January, the small Pinehurst-Southern Pines Area Association of REALTORS®, N.C., became the first REALTOR® association to sign onto the RealSatisfied platform, which integrates with its MLS to automatically send customer surveys. Members can choose to use client feedback in their marketing, but AE Paula Nash said the program is for members to learn from their client’s feedback.

Although her members in Oklahoma have not pushed the idea of an association-run rating system, Noon says associations could be best positioned to manage them. “My impression is that programs overseen from within the organization are more readily accepted not only by members but also by the public. Anytime that we can create programs that take into account our members’ opinions and insight, we’re going to have a much better chance of success,” she says.

Who will claim the ratings space and how agents will be rated are questions associations, brokers, agents, and others will continue to ask themselves. ■



Small Board

Where Professionalism Becomes Personal



Amy DuBose, RCE, e-PRO,
association staff, San Marcos
Area Board of REALTORS®, Texas.
She can be reached at
512-396-5478 or
amy@smabor.com.

Especially in small associations, where REALTORS® know one another, their families, and their dogs (the one who dug up the neighbor's flower beds), one's professional reputation is very important. In

tight-knit communities where it's hard to sweep anything under the rug, professionalism can flourish or it can falter.

TALKING IT OUT FIRST

When I receive a call on a possible violation of the Code of Ethics at my association, I ask if the agent has talked with his or her broker about it. If so, then perhaps the broker is able to discuss the situation with the other agent's broker. Since the brokers want to maintain a good working relationship, they're inclined to work out any problems quickly. There's no need for REALTORS® to go to war with one another if there is a better and more effective way to handle the situation.

“Some of our members may be cautious to file a complaint against a top producer knowing that they will likely have to work with him or her again on another transaction.”

— Jim Haisler, CEO, Heartland REALTOR® Organization

“I think that our smaller size allows for more broker-to-broker contact,” says Jim Haisler, CEO of the 800-member Heartland REALTOR® Organization in Illinois. “Often when agents call me with a situation and are hesitant to file a formal complaint, I suggest they consider contacting the other agent directly to make the agent aware there is an issue. In my experience, most agents don't intend to violate the Code of Ethics, but rather, something happened that caused them to or they were unaware that they did violate the Code.”

For most small associations, the official Code of Ethics and Standards of Practice hearings, arbitrations, and mediations are done at the state or regional level. But AEs still do their fair share of informal refereeing between members.

REACHING INFORMAL SOLUTIONS

“Since I often know the parties well, I can guide them through to an appropriate resolution and correction informally,” says Kevan Lyons, RCE, EVP/COO, of the 151-member REALTORS® of Central Colorado Inc. “It's funny to me how both parties often come running, phoning, or e-mailing to tell me their side of the story. I never have to go search it out.”

Yet despite the opportunity for discussion and informal remedies at small associations, sometimes serious ethics violations do occur and require solutions in keeping with the standards all members have sworn to uphold. The need to enforce the Code of Ethics is something that is paramount at associations of all sizes. In order for our profession to grow, we need solid case studies that provide details of when things go awry. It's like the warning on the paint can cautioning against ingesting it—it's there because someone actually drank the paint. Without warnings and stories to tell to our members, we risk not just the REALTOR® reputation but also permanent damage to the industry as a whole.

FEAR OF FILING FORMAL COMPLAINTS

Unfortunately, members of small associations are particularly reluctant to file official complaints because, even though ethics proceedings are confidential, not much in a small town is secret. Plus, members fear being blacklisted as a tattletale, even if the ethics violation is true and serious.

“Some of our members are cautious to file a complaint against a top producer knowing that they'll have to work with him or her again or at least show his or her listings,” says Haisler. And you see other agents at the grocery store.

Although there's no easy answer to dealing with unprofessional behavior, associations of all sizes must keep to the code and remain impartial, fair, and consistent with whatever remedy works best. ■



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Professionalism and Pocket Listings



Lesley M. Walker is associate counsel at the National Association of REALTORS®. Contact her at 312-329-8834 or lwalker@realtors.org.

By now pocket listings are a concept most real estate professionals are familiar with, and in some circles they have become something of a dirty word. Lower inventory has created a surge in pocket

listings, especially in markets such as Northern California, where as much as 30 percent of all listings are believed to be pocket listings. However, markets across the United States are dealing with this issue more often lately as real estate recovers and demand outpaces supply. Pocket listings can be legal, but agents must proceed cautiously and consider the related risk management concerns they pose.

A pocket listing, off-MLS, or “office exclusive” listing as it is sometimes called, generally refers to a listing in which an agent has a listing agreement and the seller does not authorize the placement of the listing on the MLS. Instead, the agent markets the property through informal networks or new online platforms. MLS rules commonly require agents to place listings on the MLS within two days of receiving a signed agreement. Failure to do so violates MLS rules, garnering the agent significant penalty and fines. Of course, sellers can always elect not to have their property included in the MLS. In these instances, agents must have the seller sign an MLS opt-out form evidencing the seller’s direction not to have the property placed on the MLS.

Suggesting a pocket listing

The REALTOR® Code of Ethics’ Article 1 requires REALTORS® “to promote and protect the interests of the client.” REALTORS® must always keep this in mind when recommending a pocket listing to a client. Even beyond the Code of Ethics, state law generally dictates that real estate agents owe a fiduciary duty to

their clients, meaning real estate professionals must place their clients’ interests above their own and act in the best interests of their clients at all times.

Legal risk concerning pocket listings arises when agents or brokers keep listings off the MLS for reasons that are not in the best interest of the client. For example, unlike MLS listings, pocket listings are more likely to result in the agent representing the seller and the buyer, and the outcome would be a higher commission for the agent. This in itself is not illegal or unethical, but if the prospect of a double commission is the reason an agent suggests a pocket listing to the client, then this could violate the Code of Ethics, MLS rules, and laws in most states. In another example, assume brokerages in a high-end market have numerous pocket listings, which creates an aura of exclusivity for their business and attracts high-end clients. This also is not illegal or unethical by itself. Yet if the listings are kept off the MLS in order to boost the brokerage’s reputation, not to benefit the seller-clients, the result can be a violation.

Therefore, prior to recommending and entering into a pocket listing, real estate agents must always ensure that they are doing so because of the anticipated benefits for the seller and not because of any benefit the agent or brokerage might receive.

It cannot be overlooked that Article 3’s duty to “cooperate with other brokers except when cooperation is not in the client’s best interest” is rooted in the premise that broad exposure and cooperative marketing often produces the best results for sellers.

Pocket Listings: A Threat to the Culture of Cooperation? An informal working group convened by NAR in September 2013 to explore pocket listings’ effects on broker cooperation in general concluded that associations could take the following steps to enhance the REALTOR® culture of cooperation: 1) Increase member education about the potential risks inherent in pocket listings, 2) develop sample disclosure and consent forms explaining the possible consequences of withholding property from MLSs, and 3) continued emphasis on the value of cooperation, both informally and through the mechanism of MLSs.

Associations deliver pocket listing facts to members and consumers.

In addition to a webinar and Q&A document on pocket listings posted at CAR.org (which has been reprinted across the Internet), the California Association of REALTORS® added a section to its residential listing agreement that states: “Any reduction in exposure of the Property may lower the number of offers and negatively impact the sales price.” Sellers and brokers must initial the warning.

When an agent recommends a pocket listing to a client, it is crucial that he or she thoroughly discuss with the seller the pros and cons of listing a property through the MLS. The agent should go one step further and be sure that the seller understands the benefits being waived by not including the property on the MLS. In general, the MLS offers sellers the greatest exposure of their property, allowing it to be actively marketed to every real estate agent belonging to that MLS. In addition, by listing on the MLS, the property may be downloaded to and displayed on third-party advertising sites used by the general public. Withholding a property from listing on the MLS significantly diminishes these marketing opportunities, which may result in reaching fewer potential buyers and a longer time from listing to selling the property, and, perhaps at the core of most sellers’ minds, it may not yield the highest price for the property.

Yet, there are situations where pocket listings may be appropriate. One example is a seller with privacy concerns. High-profile individuals or celebrities may not want the general public to know they are selling their property. Another situation is when a seller may not want a lot of people coming through the property. In

these scenarios, a pocket listing may make sense to protect and maintain the client’s privacy.

Market impact of pocket listings

There is an industrywide impact of pocket listings. Many times, properties offered as pocket listings are never entered into the MLS once they are sold. This limits the available information about the market and makes it difficult for other agents, buyers, and sellers to determine values of nearby properties, and for appraisers trying to determine the current market value of a particular property. Without this information, an MLS’ database is also compromised because a true and accurate picture of price, sales time, and sales activity is not recorded.

Still, a pocket listing may make sense for a seller. The National Association of REALTORS® has no official policy on pocket listings. The decision to recommend a pocket listing to a seller is subject to a REALTORS® adherence to the Code of Ethics requiring the utmost ethical and professional standards. Pocket listings should be used only if the agent has determined that doing so would not compromise the legal and ethical duties they owe to their client. ■

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When *REALTOR*® *AE* magazine asked Steve Harding, CEO of the Tennessee Association of REALTORS®, what he thought had led him to receive the 2013 William R. Magel Award of Excellence, he



Stephen D. Harding is CEO of the Tennessee Association of REALTORS®. Contact him at 615-440-5032 or steve.harding@tarnet.com.

recalled the inspiring guidance given to him many years ago by Magel himself.

“I was a newly minted state EO [in 1977] and between class sessions at what’s now called the AE Institute, Bill and I talked about how I liked being the chief of staff at TAR. I confided in him that as executive assistant and education director at TAR, I found the hands-on work of the association fulfilling, so I wasn’t sure that I would enjoy turning that over to others whom I would then manage as EVP. Bill told me that I should embrace this new opportunity and I should not become a ‘manager of people.’ He said, ‘Nobody worth their salt wants to be managed; what they want is to be collaborated with.’ Bill told me true leaders manage things, such as calendars, events, and priorities, but they leave the daily workflow to others on staff. This gives the EVP time to do the most important and rewarding stuff like finding new ways to help members and staff reach their goals.

“Later, Bill and I talked about the priorities and the things that really mattered. He said, ‘Steve, in your job everything matters, but people matter most. Show the people you work with how much you value the work that they do for the association. Openly acknowledge their achievements and let them know they are an important part of the team.’”

Indeed, in Harding’s 40 years in REALTOR® association management, he has built a nationwide reputation for his leadership.

He gives his staff direction, support, encouragement, and the authority to carry out their responsibilities as they meet members’ ever-changing needs. He has also served as a mentor to local AEs in Tennessee and throughout the country.

Yet Harding mod-

estly attributes his career success to being lucky and also having his parents as role models, a spouse that “keeps every thing running at home” without him, and having a “most talented administrative vice president in Linda Woods.”

Only a handful of AEs have a 40-year perspective on the changes in the industry. When Harding looks back to his early days as a state EO, he sees a vastly different industry.

“When I first came to work for the Tennessee Association of REALTORS®, NAR had just created the REALTOR®-Associate membership category, which allowed nonbroker licensees to join our ranks. In Tennessee, our membership more than doubled in a few years. The typical member was a white, middle-aged, male broker who worked in an independent real estate firm. TAR’s dues for nonmanaging sales agents were \$10 annually. Services provided to members were basic—education (mostly GRI courses), a monthly newsletter, three business meetings per year (one being a convention with paid registration), and part-time lobbying of Tennessee’s legislature.

“Today we have a much more diverse membership, which more closely represents the ethnic mix of our state’s population. Women outnumber men in the membership and within our committees and elected leadership. All members need, and have come to expect, a broad range of specialized training and services that include a legal and ethics hotline, a technology hotline, more than 80 standardized real estate forms, both topical and mandated courses for CE credit, dedicated lobbying of interest to members and property owners, and a range of other services that we never dreamed about in those years.”

In addition to staying on top of industry changes, technology advances, and member needs, Harding says AEs need to look for opportunities to get involved in the political process and support candidates in local, state, and national elections. “It might just become the most important thing you can do to make a real difference.” ■



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