

A collection of light-colored wooden blocks arranged on a yellow background to form the outline of a house. Two rectangular blocks are stacked vertically at the top left. Two long blocks form the roofline, meeting at a peak. Two vertical blocks form the front pillars. Two more long blocks form the base of the house.

Legal Update I Student Manual



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Acknowledgments

Legal Update Writing Group

Carolyn Hatley

Kerri Lewis

Kandi Luensmann

Byron Underwood

Avis Wukasch

Texas Real Estate Commission

R. Scott Kesner, Chair

Mark Woodroof, Vice Chair

Benjamin “Ben” Peña, Secretary

Stuart Bernstein

Chance Brown

Jason Hartgraves

Leslie Lerner

Renee Harvey Lowe

Barbara Russell

Chelsea Buchholtz, Executive Director

Texas Real Estate Research Center at Texas A&M University Staff

Pamela Canon, Executive Director

Cheryl Pruitt, Program Director

Gary Maler, Director of Strategic Initiatives

TREC Writing Staff

Vanessa Burgess, General Counsel

Jennifer Grube, Curriculum Developer

Abby Lee, Deputy General Counsel

Summer Mandell, Government and Strategic
Communications Director

Michael Molloy, Director of Enforcement

Sierra Pizarro, Communications Specialist

Jennifer Wheeler, Education and
Examinations Director

Texas Real Estate Research Center Advisory Committee

W. Douglas Jennings, Chairman

Doug Foster, Vice Chairman

Troy C. Alley, Jr.

Russell L. Cain

Vicki Fullerton

Patrick Geddes

Besa Martin

Rebecca “Becky” Vajdak

Barbara Russell, Ex-Officio

Foreword

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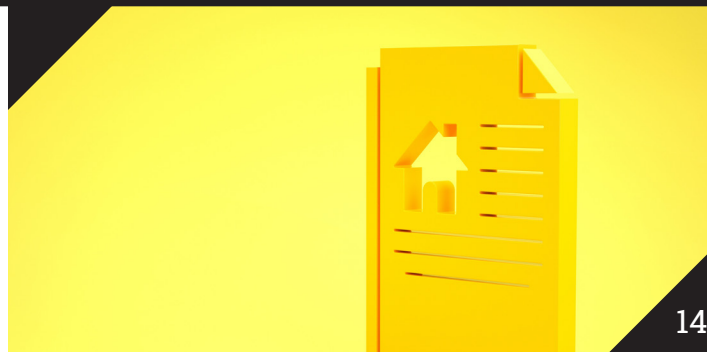
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Chapter 1

TREC Rules, Updates, and Legislative Changes



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Learning Objectives

After this chapter, you will be able to

- ✓ Describe TREC’s advisory committees that examine different areas of the real estate industry.
- ✓ Explain how an idea becomes a TREC rule.
- ✓ Describe why TREC’s quadrennial rule review is important to license holders and consumers.
- ✓ Identify recent TREC rule changes that affect license holders.
- ✓ Understand legislation passed by the 88th Texas Legislature relating to the practice of real estate.

Who Makes the Rules?

License holders often wonder whether TREC staff comes up with all the rule changes, but the reality is these initiatives generally come from advisory committees, the nine TREC Commissioners, and public input from license holders like you. Ultimately, the full Commission votes on whether to adopt a rule.

There's a Committee for That!

Section 1101.158 of the Texas Occupations Code authorizes TREC to create and appoint members to advisory committees to examine different areas of the real estate industry with a focus on consumer protection. As of publication, TREC has four active advisory committees, each with a different purpose and members that include license holders and subject matter experts.

Who Gets to Serve on Advisory Committees?

TREC administers an application process for potential advisory committee members every year and seeks individuals to fill specific roles. Selection committees composed of Commissioners review each application and appoint members to serve terms.

If you are interested in serving on a committee, subscribe to TREC's e-newsletters, follow TREC on social media, or regularly check trec.texas.gov for announcements. More information about the composition of each committee is on the following page.

What Do Advisory Committees Do?

Sometimes, advisory committee discussions and recommendations prompt rule changes. Other times, the Commission may ask a committee to consider a specific issue, like required education for brokers and sales agents. Advisory committees typically meet quarterly, and meetings are open to the public. License holders are encouraged to attend and participate.

How Do I Get My Ideas Considered?

License holders and members of the public may request the Commission consider an idea or proposal several different ways, including during the public comment portion of a Commission meeting or attending and presenting at an

advisory committee meeting. Find out when committee meetings occur using the calendar on TREC's website at trec.texas.gov/agency-calendar.

How Does a Rule Get Implemented?

New rules and rule proposals are often recommended to the Commission by the advisory committees. The Commissioners then vote on whether a rule should be proposed for public comment or needs to be reviewed by the committee again.

Once a rule has been proposed by the Commission, typically at the quarterly TREC Meetings, a public comment period opens where anyone can give their opinions on proposals. After the comment period closes, the advisory committee reviews all the comments and, as a result, may make changes to proposed rules, decide to withdraw their recommendation, or leave the recommendation as originally presented.

Once thoroughly considered, the rule must be formally adopted by the Commission before it goes into effect. Rule adoptions also happen at the quarterly TREC Meetings.



TREC Advisory Committees

Advisory committees review and provide feedback—ensuring all possible changes are examined for their potential implications on the practice of real estate consumer protection. Here are the four advisory committees, who they are composed of, and their function.

Education Standards Advisory Committee (ESAC)

Duties: ESAC regularly reviews curriculum standards, course content requirements, and instructor qualifications for qualifying and continuing education courses. It makes recommendations to the Commission to ensure license holder education meets the highest educational standards.

Members: 12 total members: Seven real estate license holders, four education providers licensed by the Commission, and one public member.

Broker Responsibility Advisory Committee (BRAC)

Duties: BRAC is tasked with advising TREC as to issues surrounding broker responsibility within the real estate industry. This committee may make recommendations to TREC regarding possible legislative and rule

changes associated with brokers and broker responsibility issues impacting both the real estate industry and the consumer.

Members: Nine real estate broker license holders.

Texas Real Estate Broker-Lawyer Committee (BLC)

Duties: BLC drafts and revises contract forms promulgated by TREC.

Members: 13 total members: Six real estate license holders appointed by the Commission, six attorney members appointed by the State Bar of Texas, and one public member appointed by the Governor's Office.

Texas Real Estate Inspector Committee (TREIC)

Duties: TREIC provides recommendations to the Commission regarding the licensing, education, and regulation of inspectors in Texas to promote a high degree of service from the inspection industry and ensure the protection of the public.

Members: Nine total members: six real estate inspector license holders and three public members.

The Life Cycle of a TREC Rule

Ideas and Consideration

License holders, the public, and even TREC staff may identify issues license holders are facing and ask advisory committees to consider making changes to an existing TREC rule or proposing a new one.

Drafting

Rule change recommendations are reviewed by the appropriate committee. Once the committee is satisfied with the language, it will vote to move the rule or rule change forward for proposal at a future TREC Meeting.

Proposal and Public Comment

If the Commission proposes a rule or rule change at a TREC Meeting, it gets published in the *Texas Register*. Once published there, the public has 30 days to provide written comment about the proposal. It is easy to provide these comments through the online tool on TREC's website.

Public Comment Consideration

Public comments are first reviewed by the appropriate committee who can recommend changes in response to those comments. Once the appropriate committee formally recommends the rules for adoption, the Commission votes whether to adopt the rule.

The Commission Votes Whether to Adopt the Rule

The Commission votes whether to adopt a rule or rule change at quarterly TREC Meetings. The effective date of rules are usually in the future. However, rules can be adopted on an emergency basis for immediate implementation, typically when the Texas Legislature has passed laws with effective dates TREC must comply with.



Ad Hoc Working Group Examines the Unauthorized Practice of Law

The Commission sometimes creates temporary ad hoc working groups to address specific issues in the real estate industry. An example of such a group is the Unauthorized Practice of Law Working Group (UPL), which conducted a thorough review of TREC Rule 537.11. During class, you'll watch the video "The Unauthorized Practice of Law and Special Provisions." This video explains why this group was created, who was part of the group, and its recommendations.

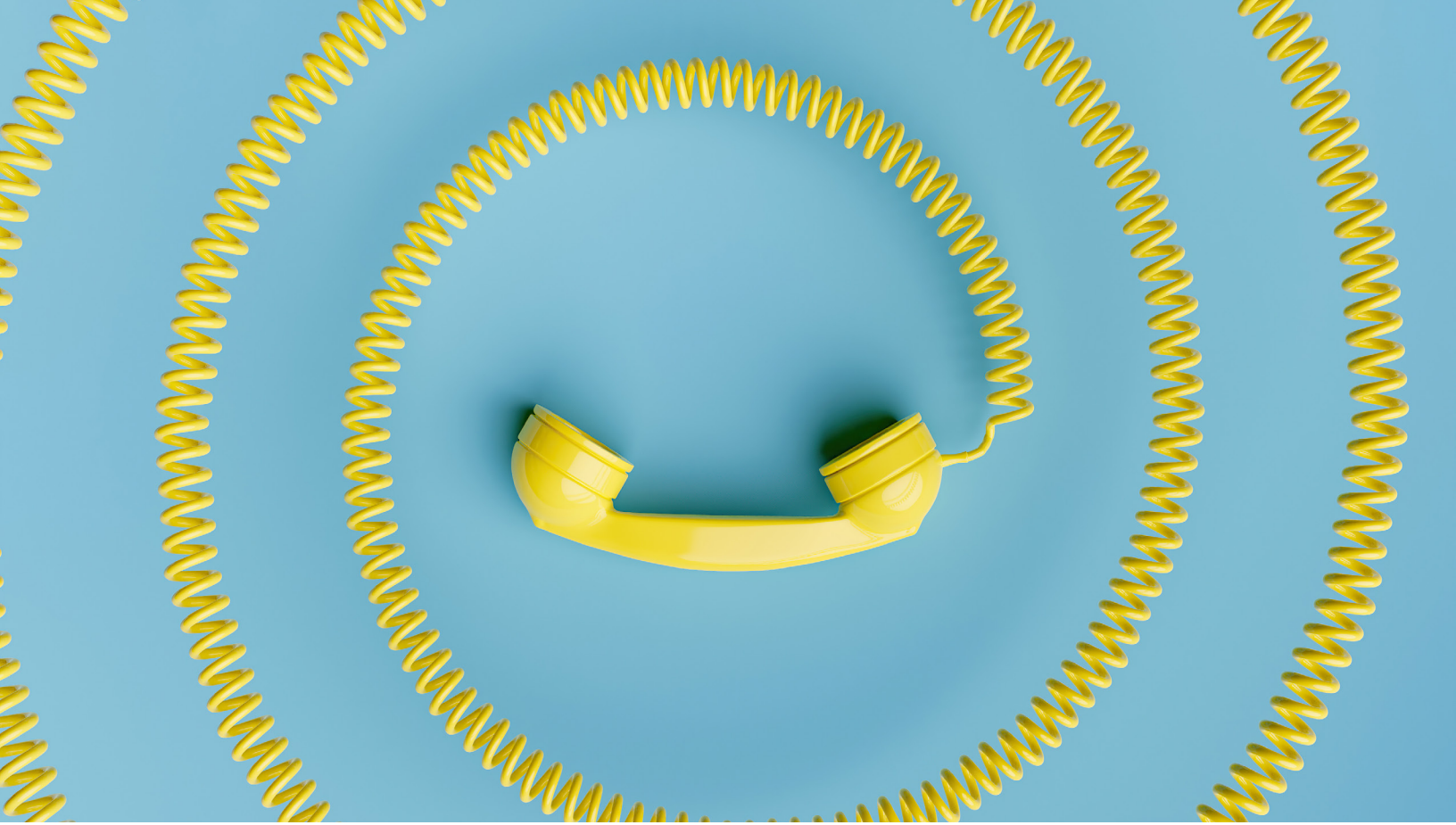
The goal of its changes was to clarify language about what constitutes the unauthorized practice of law and provide license holders a resource to point to when they are asked to do actions that would put their license in jeopardy.

TREC Rule Change Highlights: Quadrennial Rule Review Changes

State agencies like TREC are required by law to conduct a rule review every four years, known as quadrennial rule review. All TREC rules are "open" and reviewed by staff to determine if any rules should be revised or repealed.

Most changes are administrative, revising old terminology and references to outdated laws. For example, 2022 quadrennial rule changes included adopted amendments to change a staff position from "Administrator" to "Executive Director." Amendments also eliminated outdated references to residency requirements associated with real estate licenses, because those requirements were eliminated by the legislature in 2019.

Why does this matter to you? Quadrennial rule review is a chance for license holders and the public to provide input on existing regulation. This process ensures regulatory transparency and reflects a commitment to consumer protection and economic growth without burdensome regulation.



“Hello, Is Anyone There?” New Rule Addresses Sales Agents and Broker Response Times

The Commission adopted TREC Rule 535.157, Obligation to Respond Timely, in May 2023 which requires brokers **and** sales agents to respond to their client, a broker, or sales agent representing another party to a real estate transaction, or an unrepresented party to a real estate transaction **within two calendar days**.

TREC Rule 535.2 still requires brokers and delegated supervisors to respond to sponsored sales agents within two calendar days.

Q: “So, does that mean I have to return every call I get within two calendar days? Haven’t you ever heard of a weekend? How am I supposed to have a life?”

A: You can have a life! The rule language speaks specifically to a real estate transaction. So, if you are currently in the process of working with a client on a real estate transaction, this requirement to respond is triggered. Real estate transactions happen 365 days a year and as a sales agent or broker, so

be sure to plan your time accordingly. There will likely be times when you need to respond on weekends or holidays, but only when an inquiry is tied to a real estate transaction.

Q: “Can I still go on the cruise I booked six months ago if I have a real estate transaction pending?”

A: It depends! No, really, it depends. While this book cannot provide you with an absolute answer to this question, consider implementing some best practices for such a scenario.

- Review policies and procedures in place that may address time away.
- Designate another license holder to manage your clients and pending transactions while you are out.
- Ensure your backup license holder is familiar with and has all the important details of the transaction, plus an understanding of the expectations surrounding your duties and theirs during this time.

Broker Responsibility Rule Changes

According to TREC Rule 535.2(i) (5), a broker must provide coaching and training to a sales agent the first **THREE** times a sales agent engages in a **NEW TYPE** of brokerage activity. This replaces the previous requirement that the broker provide coaching or training the first time a sales agent engages in a new type of brokerage activity.

For example, sales agents must receive coaching and training the first three times they act as a buyer's agent and the first three times they engage in leasing a property. While the broker is not required to be the one providing the coaching and training, the broker must ensure the person providing the coaching and training is competent. The checklist on the right has tips for brokers and agents to comply with this requirement.

BEST PRACTICE TIPS FOR BROKERS AND SALES AGENTS

BROKERS

- Make sure you have something in your policies and procedures that is clear on how this practice is handled at your brokerage. Make it absolutely clear what a sales agent needs to do in this event, who they need to contact, and what they can expect.
- Make clear what meaningful coaching and mentoring is at your brokerage.
- Have something in place to track the required training and coaching.
- Remember, you can have more stringent requirements in your policies and procedures than TREC has in rule. So, if you want to require more training and coaching, you absolutely can.
- See this as an opportunity to train and ensure your sales agents represent your brokerage in a meaningful way and not just a checkbox!

SALES AGENTS

- Make sure you know exactly what to do under your policies and procedures and how to proceed correctly in the event you are practicing a type of real estate brokerage for the first three times.
- Document the training and coaching you receive so that you can show you received it and where you are in your development.
- See this as an opportunity to learn and grow and not just a checkbox!

TREC Rule Changes Related to Late Renewals and Reinstatements

Effective October 2023, active license holders whose licenses expire are set to inactive status as of the expiration date, and any license relationships between sales agents and brokers are terminated. If you late renew—up to six months after your expiration date—your license will be renewed on inactive status.

Know Your License Expiration Date

Some license holders depended on having their brokers certify that they were being supervised while their license was expired. If you don't want an interruption in your ability to work, make sure to renew your license well before the expiration date.

“What Happens if My License Expires and I Keep Practicing?”

License holders on inactive status cannot conduct brokerage activities. Doing so would be unlicensed activity and can

result in disciplinary actions from TREC, including a minimum fine of \$1,000. In addition, the gap in your active time will be reflected in your license record.

How to Return to Active Status

License holders will go through fewer steps to renew an inactive license. You must complete all required Continuing Education (CE) and submit a request to activate your license.

What This Means for Brokers

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

What This Means for Sales Agents

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

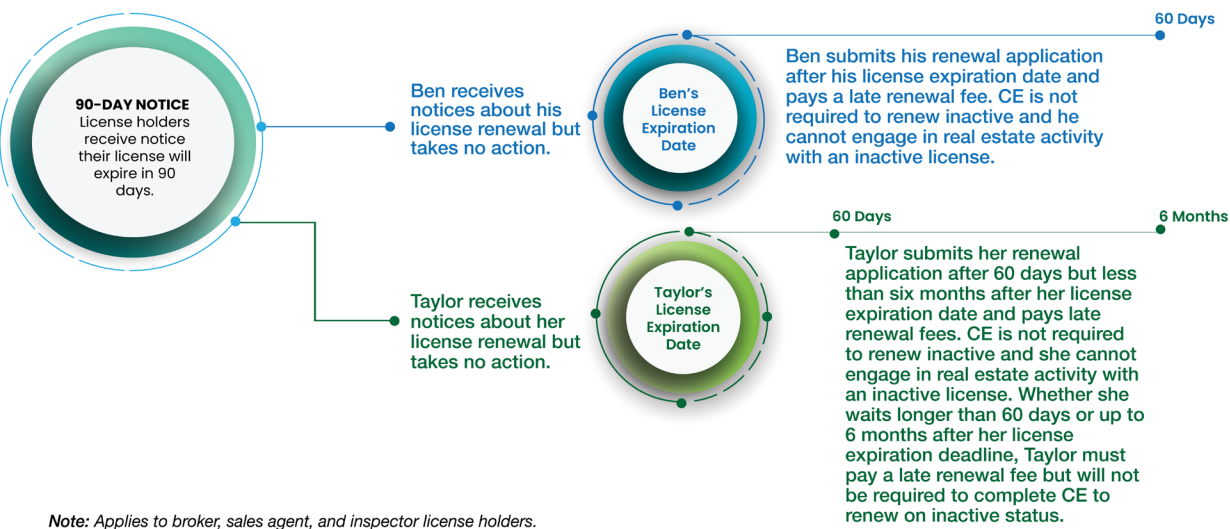
What Happens if I Wait to Renew After Six Months?

After six months and up to two years past your license expiration date, you may apply for reinstatement of your license (TREC Rule 535.91). After two years past the expiration date, you will have to reapply and pass the examination.

License Expire Process Chart

The chart below shows examples of two license holders' experiences under the new expire process.

If a license holder has not renewed before the license expiration date, the license is automatically set to inactive and their sponsorship is terminated.



Note: Applies to broker, sales agent, and inspector license holders.

Ben's license is inactive. He must complete all necessary CE and find a sponsoring broker to return to active status. His license history will reflect that he was inactive from his license expiration date until he returned to active status. There is no lookback period, and he could be subject to disciplinary action if he conducted real estate activity while inactive.

Taylor's license is inactive. She must complete all necessary CE and find a sponsoring broker to return to active status. Her license history will reflect that she was inactive from her license expiration date until she returned to active status. There is no lookback period, and she could be subject to disciplinary action if she conducted real estate activity while inactive.



88th Texas Legislature: What License Holders Need to Know

Senate Bill 1577 went into effect January 1, 2024, and includes several provisions affecting TREC and its license holders. Here are a few highlights.

Broker Education Requirements

TREC has rulemaking authority to make changes to the education hours required to become a broker. License holders can easily follow the rulemaking process and comment on changes. Previously, this required a statutory change.

New Disclosure Requirements for Wholesaling

Wholesaling is a model in which an individual enters into a contract to buy real estate and then sells their contractual interest in the property to a third party prior to closing. A license is not necessary as long as the wholesaler discloses the nature of their interest in writing to potential buyers and sellers. Previously, wholesalers only had to provide disclosure to potential buyers.

Real Estate Recovery Trust Account

TREC has rulemaking authority to set and collect fees to cover maintenance of the Real Estate Recovery Trust Account. Limits are raised to \$125,000 per claim with a \$250,000 cap per license holder. Limits had not been updated since 1991.

Business Entity License Exemption

Business entities such as LLCs and S Corporations established for the sole purpose of receiving compensation earned by a license holder while engaged in real estate brokerage and is at least 51% owned by the license holder on whose behalf the entity receives compensation are exempt from licensure but must register with TREC. Previously, LLCs and S Corporations were required to hold a business entity broker's license. A license is still required for this type of business if it is engaged in any other brokerage activity, and you still have the option to obtain or maintain a business entity broker's license if desired. See chart below.

TREC Business Entity Comparison Chart

| | Registration | v. | License |
|--|---|----|--|
| Eligible business entities <small>Must be at least 51% owned by the license holder on whose behalf the entity receives compensation</small> | <ul style="list-style-type: none"> • LLCs • S-Corps | | <ul style="list-style-type: none"> • LLCs • Corporations, including S-Corps • Partnerships • Other authorized entities |
| Can the entity receive compensation on behalf of a license holder? | ✓ | | ✓ |
| Can the entity perform any other type of brokerage activity? (e.g., advertise a property under the name or use the name of the entity in the listing agreement.) | ✗ | | ✓ |
| Does the entity need a designated broker? | ✗ | | ✓ |
| Are there errors and omissions insurance requirements? | ✗ | | ✓* |

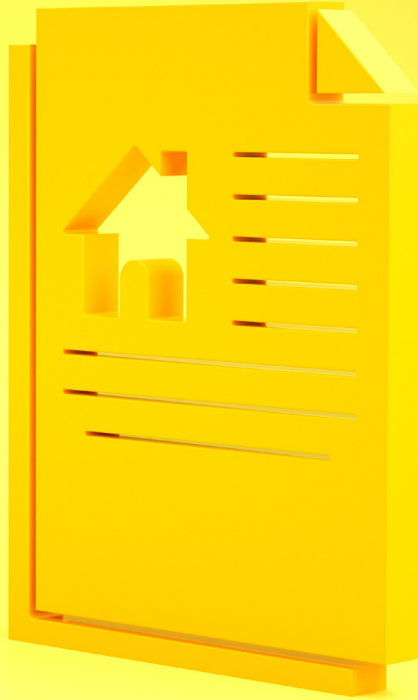
*If the designated broker owns less than 10% of the business entity.

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Chapter 2

Promulgated Contract Forms and Addenda



15 Broker-Lawyer Committee and TREC Contract Forms

16 Mandatory Versus Voluntary Use of TREC Contract Forms

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Adopted Changes to the *Residential Condominium Contract (Resale) Form*

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20 Adopted Changes to the *Addendum Regarding Residential Leases and Addendum Regarding Fixture Leases Forms*

20 Adopted Changes to the *Loan Assumption Addendum Form*

Adopted Changes to the *Reservation of Oil, Gas, and Other Minerals Form*

Learning Objectives

After this chapter, you will be able to

- ✓ Summarize the purpose and practice of the Broker-Lawyer Committee.
- ✓ Explain why TREC contract forms change.
- ✓ Identify recent changes to the *One to Four Family Residential Contract (Resale)* and other contract forms.
- ✓ Analyze possible consequences of loan assumptions and the importance of a license holder's familiarity with the *Loan Assumption Addendum* form.
- ✓ Distinguish between mandatory and voluntary use of TREC contract forms.

Broker-Lawyer Committee and TREC Contract Forms

The Texas Real Estate Broker-Lawyer Committee (BLC) is established by law and consists of six attorney members who are appointed by the State Bar of Texas, six members appointed by TREC, and one public member appointed by the Governor. Members serve six-year appointments, except for the public member who serves a two-year term.

The Texas Legislature has charged this committee with drafting and revising the TREC contract forms that are “capable of being standardized to expedite real estate transactions and minimize controversy.” That means creating forms consumers can trust and license holders can use.

TREC Forms Help You Avoid Practicing Law

License holders are prohibited from practicing law. That’s where BLC steps in, drafting forms in such a way that they can be used by license holders to facilitate real estate transactions without wading into the waters of practicing law.

Q: Why do TREC contract forms change?

A: In the legal world, there is no such thing as a static contract. Contracts are living documents in a perpetual state of change. TREC forms are often revised because of legislative changes. It is the responsibility of the BLC to regularly review contract forms and revise them as necessary. The good news is that the BLC drafts contract forms that generally work in many residential transactions.

Changes in real estate brokerage practice and market demands can prompt revisions; however, the committee is mindful that any changes made must not be based solely on a “hot market” or vice versa.

BLC-recommended changes are typically released all at once (pending Commission approval) approximately on a two-year schedule. However, legislative changes happen on their own schedule, which is why it might feel like the TREC contract forms are always changing.



Q: I sent in suggested change to the Broker-Lawyer Committee that would address an issue we are seeing in my coastal city. Why did they refer to it as a “5% issue” and not make the change?

A: The “5% issue” is a guideline the committee generally follows. This means committee members discuss whether a change to a TREC contract form addresses an issue affecting a high percentage of transactions (think 95%) or a small percentage (think 5%). In this example, the license holder’s idea might be a great one, but if it is specific to an issue related to the coast, it doesn’t meet the threshold for changing forms affecting license holders across the state.



Mandatory Versus Voluntary Use of TREC Contract Forms

The Commission updates all rules associated with the TREC contract forms to indicate whether use of the form by a license holder is mandatory or voluntary. License holders can use this as a reference point should they have a question as to whether they are required to use the form or have the option to use it voluntarily. Here are two examples.

TREC Rule 537.22 Standard Contract Form TREC No. 11-7, Addendum for “Back-Up” Contract

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 11-7 approved by the Commission in 2012 for mandatory use as an addendum to be attached to promulgated forms of contracts which are second or “back-up” contracts.

TREC Rule 537.64 Standard Contract Form TREC No. OP-M, Non-Realty Items Addendum

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. OP-M approved by the Commission in 2011 for voluntary use when the parties need to convey items of personal property not already listed in Paragraph 2, Property, of the contracts.

The Commission further clarified these terms by providing a definition for both in TREC Rule Section 537.1(5) and (6). The definition for “mandatory use” provides that unless an exception applies under TREC Rule Section 537.11(a), a license holder must use the form. And as the phrase suggests, “voluntary use” means the license holder may, but is not required to use the form.

Get to Know Your Redlines

Whenever there are proposed changes to contracts, TREC will issue “redline” versions of the forms to show what is being removed or added. See Appendix A for draft redline forms.

TREC Contract Form Changes Highlights

Effective February 1, 2023, the Commission adopted multiple changes to the promulgated contract forms. Many of these changes were technical in nature but are still important to understand. This chapter will highlight some specific changes. The changes below apply to all contract forms unless specified otherwise. Paragraph numbers referenced are from the *One to Four Family Residential Contract (Resale)*.

Escrow Agent

The term “Escrow Agent” is capitalized throughout the contract to reflect its status as a defined term.

Get Your Escrow Agent Right!

The Texas Real Estate Broker-Lawyer Committee has said “Escrow Agent” could be either the title company or an individual, like an attorney or a sole proprietor. However, the committee cautions about situations in which the parties may be using a specific title company, but the real estate agent inserts the name of the individual escrow officer. Problems can then arise if, for instance, a check is written out to the escrow officer instead of the title company, or the officer isn’t available or leaves the company.

Additional Changes

- Paragraph 3A is amended to add a definition of “cash portion of the sales price.”
- A new “required notices” section is added to Paragraph 6, which provides a location where MUD, PID, or other similar notices that have been given or are attached to the contract can be listed.
- Paragraph 7F is revised to require the seller:
 - Provide the buyer with copies of documentation from the repair person that shows both the scope of work and payment for the work completed
 - Transfer, at seller’s expense, any transferable warranties at closing.



Discussion Questions: Paragraph 7F Changes

- **What are the benefits of this change for your client?**
- **As a seller’s agent, what do you need to advise your client as it relates to this change?**
- **As a broker, how will you ensure your sales agents understand the implications of this change?**

What’s With the Capital Letters?

Have you ever noticed words in contracts that seem capitalized at random? It’s not a mistake: Whenever a term is capitalized in a contract, it means the definition of that term is somewhere else in the contract. For example, if Kelly Jones is filled in the “Buyer” blank, the term “Buyer” in all later instances in the contract means Kelly Jones.

- New Paragraph 9B(5) provides that private transfer fees will be the obligation of the seller, unless otherwise provided in this contract, and that transfer fees assessed by a property owner’s association are governed by the *Addendum for Property Subject to Mandatory Membership in a Property Owners Association*. A similar sentence is added to the *Residential Condominium Contract*.
- Paragraph 21 is amended to add a line for contact information of the buyer’s and seller’s agent, respectively, to provide copies.



Discussion Questions

Paragraph 21 Changes

- **How does this change help your real estate practice?**
- **What is a best practice associated with this change?**

In the *Unimproved Property Contract*, the *Farm and Ranch Contract*, the *New Home Contract (Incomplete Construction)*, and the *New Home Contract (Complete Construction)*, the Seller's Disclosure Paragraph has been amended to:

- Add checkboxes to each disclosure item to indicate whether the seller is or is not aware.
- Add two additional disclosures relating to whether the property is located in a floodplain or if any tree located on the property has oak wilt.

This may require communication with the seller or seller's agent before a buyer submits an offer or some additional back and forth communication if what the buyer initially submits is not correct. A seller's agent may also provide the answers on the MLS, if applicable.

Adopted Changes to the *Farm and Ranch Contract Form*

The *Farm and Ranch Contract* underwent quite a few changes in 2023. If you practice in this area, make sure you pay close attention. If you don't, still pay close attention!

- A notice is added that states the form is designed for use in sales of existing farms or ranches of any size, and that it's not for use in complex transactions.
- Paragraph 2A adds the term "Counties" to reflect the fact that farm and ranch properties could be located across two or more counties. Additionally, the phrase "including but not limited to water rights, claims, permits, strips and

gores, easements, and cooperative or association memberships" is deleted from the paragraph for consistency across forms and to eliminate unnecessary language.

- Paragraph 2B is amended to make the terms "house" and "garage" plural.
- Paragraph 3D is amended to alter the calculation of the sales price adjustment should the survey reveal a difference in acreage.
- New Paragraph 4D is added to address surface leases and includes options regarding whether the seller has delivered copies of written leases or provided notice of oral leases to the buyer, similar to the existing natural resource lease paragraph. The corresponding language in Paragraph 6F is also amended.
- On Page 10 of the contract, the statement "Do not sign if there is a separate written agreement for payment of Brokers' fees" is modified to make it more conspicuous.

Adopted Changes to the *Residential Condominium Contract (Resale) Form*

The *Residential Condominium Contract (Resale)* contains the following changes:

- Paragraphs 2B(2) and 2C(2) are amended to clarify the timing related to termination and to add a reference to the applicable Property Code provision.
- Paragraph 12A(3) is amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay under this section, as well as costs and fees provided by Paragraph 2.

Adopted Changes to the *Amendment to Contract Form*

- The *Amendment to Contract* is amended to add a notice to consult an attorney and to add a reference to Paragraph 7 of the contracts in Paragraph 2 of the Amendment dealing with repairs.
- The form is also amended to replace the parenthetical following Paragraph 9, Other Modifications, with a statement that real estate brokers and sales agents are prohibited from practicing law. Lines have also been inserted into the blank.

Adopted Changes to the *Seller Financing Addendum Form*

The *Seller Financing Addendum* contains the following amendments:

- A notice is at the top of the form encouraging consultation with an attorney and a financial professional and informing parties of the complicated nature of these transactions.
- Paragraph B is amended to modify the time period within which the seller may terminate.
- A new instructional parenthetical is added in Paragraph C. Additionally, the interest is modified to reflect a per annum interest rate.
- New Paragraph D2 is added to address casualty insurance and Paragraph D3(a) and (b) are amended to clarify the casualty insurance requirements.
- Paragraph D3(b) is further amended to add a requirement that the seller provide the buyer with an annual accounting of the escrow account, use escrow deposits to pay taxes and insurance premiums in a timely manner in certain circumstances, and hold the escrow deposit in a separate account. Language is also added to specify whether the escrow account will or will not be serviced by a third-party servicer at either the buyer's or seller's expense.

Adopted Changes to the *Addendum for Property Subject to Mandatory Membership in a Property Owners Association Form*

The *Addendum for Property Subject to Mandatory Membership in a Property Owners Association* is amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay under this section, as well as costs and fees provided by Paragraphs A and D.

Adopted Changes to the *Third Party Financing Addendum Form*

The *Third Party Financing Addendum* contains the following amendments:

- Paragraph 1 is amended to add an "other financing" box.
- Paragraph 3 is amended to add that a note must be secured by vendor's and deed of trust liens only if required by the buyer's lender.
- The phrase "provided in relation to the closing of this sale" is struck from Paragraph 5B to streamline the paragraph.

Adopted Changes to the *Addendum Regarding Residential Leases and Addendum Regarding Fixture Leases Forms*

Both the *Addendum Regarding Residential Leases* and the *Addendum Regarding Fixture Leases* are amended to add a checkbox in Paragraph B1 related to notice of oral leases.

Additionally, the *Addendum Regarding Fixture Leases* is amended to modify Paragraph A1 to include checkboxes, in lieu of a blank line, so that the parties can specifically indicate what types of fixture leases will be assumed and assigned.

Adopted Changes to the *Loan Assumption Addendum Form*

The *Loan Assumption Addendum* contains the following amendments:

- “Effective Date” and “Title Company” are capitalized throughout because they are defined terms.
- Paragraph A is amended to add that the noteholder of the loan being assumed is authorized to receive a copy of the buyer’s credit reports.
- Paragraph B is amended to modify the time period within which the seller may terminate.
- Paragraph C is amended to clarify that the buyer will assume in writing the following notes at closing, removes the reference to \$500 and instead insert a blank, and adds the following sentence: “Within 7 days after the Effective Date, Seller will deliver to Buyer copies of the note(s) to be assumed, the deed(s) of trust, and the most recent loan statement(s) from the lender.”
- New Paragraph H is added related to authorization to release information.
- A new due on sale notice is added.

Get to Know the *Loan Assumption Addendum!*

The *Loan Assumption Addendum Form* (TREC 41-3) is a form that has regained popularity with recent changes in the market. Make sure you understand it and the changes recently adopted, and make sure you review everything with your agents if you are a sponsoring broker. For more information about the *Loan Assumption Addendum Form* and loan assumption transactions, see Appendix B.

Adopted Changes to the *Addendum for Reservation of Oil, Gas, and Other Minerals Form* – ALERT!

The *Addendum for Reservation of Oil, Gas, and Other Minerals* is amended to replace the phrase “reserve and retain implied” with “waive” in Paragraph C. This change is to clearly inform sellers they may want to consult an attorney before determining whether to waive their right to the mineral estate. The change in terminology reverses the previous language. The old language “reserved,” the new language “waives.” It is important to understand the meaning and impact of this change. In addition, the term “current” is added to “contact information” in Paragraph D.

- C. Seller does does not **waive** ~~[reserve and retain implied]~~ rights of ingress and egress and of reasonable use of the Property (including surface materials) that are part of the Mineral Estate for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals. *NOTE: Surface rights that may be held by other owners of the Mineral Estate who are not parties to this transaction (including existing mineral lessees) will NOT be affected by Seller’s election. Seller’s failure to complete Section C will be deemed an election to convey all surface rights described herein.*

Chapter 3

Introduction to Fair Housing



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Learning Objectives

After this chapter, you will be able to

- ✓ Understand the impact of discrimination in real estate given the history of civil rights laws, current investigations, and trends.
- ✓ Identify federal, state, and local fair housing laws.
- ✓ Distinguish between the protected classes found in the Fair Housing Act, Texas Real Estate Commission's Canons of Professional Ethics and Conduct, TREC Rule Section 531.19, and the NAR Code of Ethics.
- ✓ Recognize and define different forms of bias.
- ✓ Describe steering and strategies to avoid it.
- ✓ Explain appraisal bias, including federal and state initiatives to reduce it.

Why Do Fair Housing Rules Exist?

The United States has a long, complicated history with property rights. Discriminatory policies and practices have prohibited property ownership for centuries, dating back to the 1700s against slaves and the 1800s against women. There was legislation in place that denied property rights to Native Americans and certain individuals of African, Asian, and Latin American descent. After the Civil War, the Civil Rights Act of 1866 was passed, but it did not erase the impact of decades of denying certain classes of people the right to own and control their own property.

Redlining

Laws were implemented allowing zoning by race. The Federal Home Owner's Corporation, a U.S. government agency, created red, yellow, and green color-coded maps indicating risk levels for lenders. Areas highlighted in red were considered high-risk lending areas, generally with high minority populations. You may have heard of this practice as redlining.

Deed Restrictions

After World War II, there was a rush to build housing in areas right outside of cities, further segregating populations around the country. Many of these developments had restrictions in their covenants that prohibited people of color from living within the developments.

It was not until 1948 that restrictive deed covenants were deemed unenforceable. The impact of redlining and restrictive deed covenants affected families for years to come.

Fair Housing Laws in Texas

Texas has its own fair housing act, which is nearly identical to the federal Fair Housing Act. Under the federal Fair Housing Act, complaints in states that have adopted similar fair housing laws, like Texas has, are referred to the state for enforcement and resolution. In Texas, the Texas Workforce Commission Civil Rights Division is the agency charged with administering and enforcing the Texas Fair Housing Act (with a few limited exceptions where cities have adopted their own fair housing act). See Chapter 4 for more information.

History of Civil Rights Laws Impacting Real Estate

The Civil Rights Act of 1968

The Civil Rights Act of 1968, commonly known as the Fair Housing Act, was passed to protect consumers from discrimination in mortgage lending, leasing, buying, and selling a home, and engaging in activities related to housing.

Congress had considered the bill from 1966 through 1967. But in 1968, after the assassination of Martin Luther King Jr., President Lyndon B. Johnson urged Congress to act, resulting in the passage of the Civil Rights Act of 1968.

The Fair Housing Act prohibits discrimination in the sale, lease, or financing of housing based on race, color, religion, and national origin. Amendments in 1974 added sex as a protected class, followed by amendments in 1988 adding protections based upon familial status and disabilities.

April 2023 marked the 55th anniversary of the passage of the Fair Housing Act, which is also National Fair Housing Month.

Jones v. Alfred H. Mayer Co.

The groundbreaking Supreme Court decision in the case of *Jones v. Alfred H. Mayer Co.* in 1968 confirmed the government could regulate the sale of public and private property, making racial discrimination illegal.

HUD's Equal Access Rule

In 2012, the United States Department of Housing and Urban Development (HUD) issued its Equal Access Rule. This regulation prohibits housing discrimination based on sexual

orientation and gender identity in HUD-funded or HUD-insured housing. Several courts have upheld sexual orientation and gender identity discrimination protection in private housing. For more information on the history of the Fair Housing Act and HUD, visit www.hud.gov.

Why Does Fair Housing Matter for You?

Understanding the history of fair housing laws is important for license holders because these laws were established to prevent discrimination and provide equal opportunity for everyone. Fair housing laws continue to evolve. This understanding complements the fiduciary responsibility license holders owe their clients and the duties owed to customers and the public. It is crucial that you follow and promote fair housing laws. While many of the formal restrictions on an individual's property rights are no longer, these practices have literally drawn maps and condoned land development in ways that still put people at a disadvantage.



Knowledge Check

Notes

1. What year was the first civil rights legislation passed in the United States?

- a. 1866
- b. 1968
- c. 1974
- d. 1988

2. What is another name for the Civil Rights Act of 1968?

- a. Americans with Disabilities Act (ADA)
- b. Fair Housing Act (FHA)
- c. Housing Affordability Act (HAA)
- d. Consumer Protection Act (CPA)

3. What protected class was added to the Civil Rights Act in 1974?

- a. Race
- b. Religion
- c. National origin
- d. Sex

4. In 1988, the most recent amendment to the Civil Rights Act was passed. What two protected categories were added?

- a. Religion and national origin
- b. Gender preference and religion
- c. Familial status and individuals with disabilities
- d. Race and color

Fair Housing Complaint Trends

The *National Fair Housing Alliance®*, *2022 Fair-Housing Trend Report* collects data regarding Fair Housing from the

- National Fair Housing Alliance Member Organizations (NFHA)
- The U.S. Department of Housing and Urban Development (HUD)
- Fair Housing Assistance Program (FHAP)
- Department of Justice (DOJ).

The following information is reprinted with permission from the National Fair Housing Alliance®, 2022 Fair-Housing Trend Report.

Complaint Data by Basis and Agency in 2021

| Basis | NFHA Members | HUD | FHAPs | DOJ |
|-----------------|--------------|-------|-------|-------|
| Race | 14.98% | 29.4% | 29.7% | 19.4% |
| Disability | 52.39% | 57.7% | 56.9% | 50.0% |
| Familial Status | 6.48% | 8.4% | 9.6% | 8.3% |
| Sex | 5.39% | 15.8% | 11.8% | 11.1% |
| National Origin | 4.10% | 9.1% | 10.2% | 11.1% |
| Color | 1.64% | 2.9% | 4.7% | 0.0% |
| Religion | 0.85% | 1.9% | 2.3% | 8.3% |
| Other | 14.17% | 8.9% | 13.6% | 11.1% |

Note: Some reported complaints included more than one basis of discrimination.

Housing Discrimination Complaints by Basis and Agency

These data show that among the four agencies, disability continues to be the category with the most complaints. One reason for this volume is that discrimination based on disability can be obvious, and therefore easier to describe in a complaint.

The second-most-reported type of housing discrimination was based on race, constituting 18.97% of all complaints. According to the *National Fair Housing Alliance®, 2022 Fair-Housing Trend Report*, “This is an increase in race-based complaints, as in 2020, race-based housing discrimination complaints made up 16.79% of complaints received.” This represents an increase of approximately 3% of all complaints.

Discrimination against other protected classes such as familial status, sex, and national origin is generally more subtle and therefore harder to detect and report. Color and religion, as in previous reports made up the fewest number of reported cases.

Housing Discrimination Complaints by Transaction Type

The data in this section of the *National Fair Housing Alliance®, 2022 Fair-Housing Trend Report* are based on complaints received that occurred in rental, real estate sales, mortgage lending, and homeowners’ insurance transactions. These data also include harassment and other complaints based on protected class.

As in previous years’ reports, the highest number of complaints were related to rental housing. The *National Fair Housing Alliance®, 2022 Fair-Housing Trend Report* points to two reasons for this.

First, rental transactions are the most frequent type of housing transaction. Second, the simplicity of the transaction can make it easier to identify (or suspect) discrimination. In 2021,

the number of rental-related housing discrimination complaints increased by almost 10% over the previous year's data.

According to the report, "This increase in complaints is the result of higher demand and lower supply of available housing along with the continuing effects of the global pandemic. While the federal government took steps to bolster the economy, additional safeguards were needed to protect renter households from unfair and discriminatory practices. Such unfair practices can include landlords demanding three to five times the monthly rent for tenants to qualify and restricting the application process to online systems. These practices typically impact those already at a disadvantage for housing opportunities."

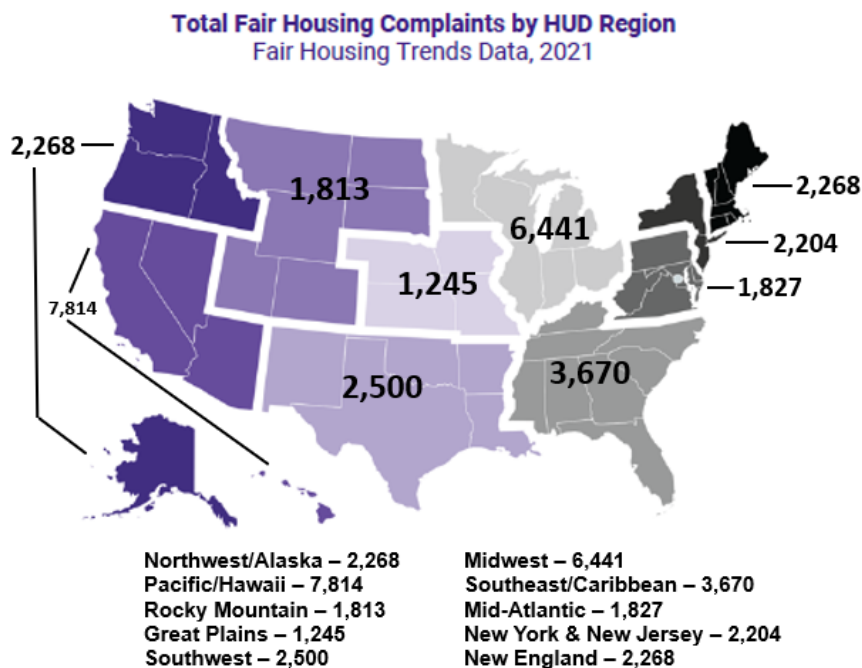
The second highest number of complaints were under the real estate sales transaction at 4.51%, which is dramatically lower than rental-related complaints.

Complaints by Transaction Type in 2021

| | Rental | Sales | Lending | Insurance | Harassment | Advertising | HOA/Condo | Other | Total |
|------------------|---------------|--------------|------------|-----------|------------|-------------|------------|--------------|---------------|
| NFHA Members | 20,085 | 653 | 188 | 31 | 882 | 271 | 150 | 414 | 22,674 |
| HUD | 1,304 | 199 | 114 | 3 | 0 | 0 | 0 | 476 | 2,093 |
| FHAPs | 4,090 | 556 | 92 | 2 | 0 | 0 | 0 | 1,675 | 6,413 |
| DOJ | 22 | 0 | 1 | 0 | 4 | 0 | 0 | 9 | 36 |
| Total | 25,501 | 1,408 | 395 | 36 | 886 | 271 | 150 | 2,574 | 31,216 |
| Percent of Total | 81.69% | 4.51% | 1.27% | 0.12% | 2.84% | 0.87% | 0.48% | 8.25% | 100.00% |

Total Fair Housing Complaints by HUD Region

The map on the next page shows the total number of fair housing complaints by the 10 HUD regions for the United States. It shows data for all the agencies combined (FHAP, NFHA, HUD, and DOJ). According to the *National Fair Housing Alliance®, 2022 Fair-Housing Trend Report*, "... there are many states and localities that do not have a private or governmental fair housing enforcement agency. This can make it difficult for consumers to understand their fair housing rights and to know where and how to file a housing discrimination complaint.



Fair Housing Investigations

The following are two fair housing investigations affecting Texas homebuyers and homeowners. Both cases involve fair housing laws and the agencies that enforce them. These cases appear in the *National Fair Housing Alliance®*, 2022 Fair-Housing Trend Report.

National Fair Housing Alliance v. Redfin

In April 2022, the National Fair Housing Alliance, along with nine local fair housing organizations, agreed to settle a race discrimination lawsuit with Redfin Corporation. The plaintiffs alleged Redfin “redlined communities of color in this digital age by setting minimum home listing prices in each housing market on its website under which it will not offer any real estate brokerage services to buyers or sellers.” They charged that Redfin’s practices perpetuated separate and unequal housing markets based on race in violation of the Fair Housing Act.

Under the terms of the settlement agreement, Redfin agreed to change its minimum housing price policy and implement changes to other practices to increase its services and help counter redlining and residential segregation. It will pay the plaintiffs a total of \$4 million.

Texas Housers v. State of Texas

In March 2022, HUD issued

letters of findings that the State of Texas violated Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1987 by unlawfully discriminating based on race in its distribution of disaster relief funding.

In their complaint, Texas Housers and Northeast Action Collective alleged that the State of Texas was awarding funding to prevent and mitigate disaster to white neighborhoods and depriving that same funding to those in need who reside in historically black and Hispanic neighborhoods. If the parties are unable to agree to a voluntary resolution, HUD may refer the complainant to the Department of Justice for resolution.

Exceptions to the Fair Housing Act

The Fair Housing Act applies to most, but not all, types of housing. Some exceptions to the Fair Housing Act are as follows:

- **Owner-occupied buildings** with four or fewer units.
- **Single-family homes rented without using a broker.** There are caveats to this, but the broker part is what you should note.
- **Religious organizations.** This is complicated, so if you are doing work on behalf of a religious organization, know the limits of this exception.
- **Private clubs and housing for the elderly.**

TREC Rules Related to Discriminatory Practices

The Texas Real Estate Commission has rules regarding discriminatory practices. Section 1101.652(b)(32) of the Texas Occupations Code authorizes TREC to suspend or revoke a license if the license holder, while acting as a broker or sales agent, discriminates against an owner, potential buyer, landlord, or potential tenant on the basis of race, color, religion, sex, disability, familial status, national origin, or ancestry, including directing a prospective buyer or tenant interested in equivalent properties to a different area based on race, color, religion, sex, disability, familial status, national origin, or ancestry of the potential owner or tenant.

The statute above is reflected in TREC rules under Chapter 531, Canons of Professional Ethics and Conduct, which states in Section 531.19, Discriminatory Practices:

(a) No real estate license holder shall inquire about, respond to, or facilitate inquiries about, or make a disclosure of an owner, previous or current occupant, potential purchaser, lessor, or potential lessee of real property which indicates or is intended to indicate any preference, limitation, or discrimination based on the following:

- (1) race;
- (2) color;
- (3) religion;
- (4) sex;
- (5) national origin;
- (6) ancestry;
- (7) familial status; or
- (8) disability.

(b) For the purpose of this section, disability includes AIDS, HIV-related illnesses, or HIV infection as defined by the Centers for Disease Control of the United States Public Health Service.

National Association of Realtors (NAR) Code of Ethics and Standards of Practice

Members of the Realtor organization must also consider the NAR Code of Ethics and Standards of Practice. Article 10 says Realtors shall not deny equal professional services to any person or be parties to any plan to discriminate for reasons of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity.

In November 2020 and again in January 2023, NAR approved a series of recommendations from NAR's Professional Standards Committee that extend the application of Article 10 of the Code of Ethics to discriminatory speech and conduct outside of members' real estate practices. Standard of Practice 10-5 says Realtors

must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Definitions and FAQs Courtesy of NAR

Harassing Speech: Speech that is intended to threaten, intimidate, denigrate, or otherwise harass a person or group of people.

Hate Speech: Speech that is intended to insult, offend, or intimidate a person because of some trait (such as race, religion, sexual orientation, national origin, or disability).

Epithets: A characterizing word or phrase accompanying or occurring in place of the name of a person or thing; A disparaging or abusive word or phrase.

Slurs: Insulting or disparaging remark or innuendo; aspersion; A shaming or degrading effect; Stain or stigma.

Q. What is the difference between discrimination based on race versus color?

A. Race discrimination is treating people differently based on their ancestral or cultural characteristics. Color discrimination is treating people differently based on their skin color but can occur between persons of different and/or the same race. Color relates to the pigmentation of the skin. Color discrimination may occur between people of the same race who have different skin tones. Color and race discrimination may occur at the same time

but are also independent concepts.

Q. What is the difference between discrimination based on national origin versus ancestry?

A. Ancestry refers to the place where your ancestors came from, and though different from national origin (which refers to the place where you were born), the two types of discrimination are closely tied. Discrimination based on ancestry is often tied to race, color, and nationality. It can take many forms, but generally is based on language, physical appearance, cultural customs or dress, or a combination of these.

Does TREC Enforce the National Association of Realtors (NAR) Code of Ethics?

TREC is the government agency that regulates real estate license holders in Texas. When a license holder violates TREC rules or state laws, TREC can take disciplinary action that can include license suspension or revocation.

The NAR Code of Ethics is enforced statewide by Texas Realtors, the voluntary membership organization for real estate license holders. TREC does not enforce the NAR Code of Ethics and complaints should go to Texas Realtors.



What is Bias and Why Does it Matter in Real Estate?

Bias is a disproportionate weight in favor of or against an idea or thing. No one is completely free from bias, and often those feelings are innocuous. For instance, you may hold a bias against a certain college football team because it is your alma mater's football rival. Or you might think Texas barbecue is the best in the country. Typically, these biases don't keep you from becoming friends with people who attended your rival college, or from tasting the barbecue style of pitmasters from Nashville or Kansas City.

Bias becomes harmful when it results in actions that are closed-minded, prejudicial, or unfair. Biases can be innate or learned. People may develop biases for or against an individual, a group, or a belief.

Knowing what bias is and how it comes up in the practice of real estate means you will be able to spot it and intervene as appropriate. Being able to identify the three different types of bias below is a key tool in recognizing and addressing your own biases (and how they could impact your duties to your client and the ethical practice of real estate).

Take a look see if you can identify any of your own, or any that you have seen in your practice. With these descriptions in mind, walk through the activities that follow.

Cognitive Bias

Cognitive bias happens when a person recognizes the impact of biases on the judgment of others, while failing to see the impact of biases on one's own judgment.

Implicit Biases

Implicit bias often occurs unintentionally and affects judgments, behaviors, and decisions. This kind of bias occurs as the brain makes judgments based on past experiences, education, and background.

Unconscious Biases

Unconscious biases are learned attitudes or social stereotypes about an individual, a group or a belief that comes from outside one's own conscious awareness. Unconscious biases can involuntarily affect the way we think and act. Unconscious bias and beliefs often stem from one's tendency to organize social worlds by categorizing.



Matching Exercise

Draw a line from the type of bias to the correct definition.

Biases

Seeing the bias in others but failing to see the impact of biases on one's own judgment.

Cognitive Bias

This kind of bias occurs automatically as the brain makes judgments based on past experiences, education, and background.

Implicit Biases

Disproportionate weight in favor of or against an idea or thing, usually in a way that is closed-minded, prejudicial, or unfair.

Unconscious Bias

Learned attitudes or social stereotypes about certain groups of people that individuals from outside their own conscious awareness.

Mrs. Hottenshot Sells Her Home

Imogene, a licensed sales agent for Big City Realty, has a listing appointment this afternoon at a house in her farm area. She is excited about the opportunity, but a little nervous because the seller, Mrs. Hottenshot, is a referral from her mom. Mrs. Hottenshot and Imogene's mom are friends, involved in several community groups together, and have lunch together every month.

Imogene is well prepared for the appointment. Like all listing opportunities, she has provided Mrs. Hottenshot with a packet of information introducing herself and her company. Imogene included market information about the neighborhood in her presentation. She has a detailed CMA and a marketing plan to attract the most probable buyers. Although Imogene hasn't been inside Mrs. Hottenshot's home, she has sold several properties on the same cul-de-sac over the years.

When Imogene arrives at Mrs. Hottenshot's home, she gathers her materials from the car and nearly dances her way to the front door in her excitement to help one of her mom's friends. "This is going to be great," she thinks as she rings the doorbell. The two greet each other warmly. Before inviting Imogene inside, Mrs. Hottenshot

walks Imogene out into the front yard. As she points down the peaceful tree-lined street, she tells Imogene about her neighbors.

"What a great street!" thinks Imogene.

"Such a friendly neighborhood. This sale should be a snap," exclaims Imogene. "I can see how anyone would want to live here."

Mrs. Hottenshot jolts to a stop and turns to Imogene with a frown.

"I don't think you understand, Imogene," says Mrs. Hottenshot. "I need to know what potential buyers look like before they can view my home. You see, there are only people like me who live on this street. If I let the wrong kind of people buy my house, the entire street and neighborhood could be ruined. I don't want to be responsible for that. I have a responsibility to my neighbors to keep this neighborhood up."

Shocked, Imogene isn't sure how to respond. After a deafening silence, she decides to start by explaining the Fair Housing Act and how she as a license holder must act. Imogene lists the protected classes under the law.

Not to be denied her opinion, Mrs. Hottenshot continues. She proclaims with great determination, "I will only sell my house to someone who looks like me and who was born right here in our great country."



Discussion Questions

- **If you were Imogene, how would you respond to Mrs. Hottenshot?**
- **What should Imogene say to her broker**

Notes

What is Steering When Showing Properties?

Steering in real estate is about showing properties—or not showing properties—based on race, color, national origin, religion, sex, familial status, or disability. It includes directing clients to view property in certain neighborhoods or not providing information on housing available in certain areas because of a particular status.

Steering is a violation of fair housing laws. License holders must keep their biases in check and not make assumptions based on stereotypes. Consumers must be allowed to choose which communities and neighborhoods they want to live in. Here are two different examples with the same result.

Agent Kirin and Client Aaron

Sales agent Kirin is a devout Christian and active in his church. He lives in a part of town with many families who are members of the same church.

Client Aaron has asked Kirin to view rental properties, specifically some available near Kirin's neighborhood. Aaron is single, and mentioned in passing to Kirin that he is Jewish.

Although Kirin knows there are some available rental properties in his neighborhood, Kirin tells him that part of town is only families, and that Aaron would probably be more comfortable with a property closer to the local synagogue where he might "fit in better."

Aaron doesn't know what to do. He was shocked when Kirin told him he wouldn't fit in because of his religion and feels like he can't ask Kirin to show him what is available in his desired neighborhood.



Discussion Questions

- **How is this an example of steering?**
- **How could Kirin avoid steering Aaron?**
- **What would you tell Aaron to do in this scenario?**

Notes

Agent Kylie and the New Family in Town

Sales agent Kylie’s clients, a family recently immigrated from Pakistan, has asked to view rental properties close to their new workplace, as they do not want a long commute. However, Kylie is excited to show them properties in another part of town with a high population of Pakistani immigrants and a thriving Pakistani cultural center. Kylie is certain that once the family sees the two rental properties next to the cultural center, they will definitely want to take one despite the longer commute to work. Sure, there are other rental properties near the office where the family “thinks” they want to live, but she isn’t going to tell them about those. She knows they will thank her for finding a place where they will feel right at home.



Discussion Questions

- **How is this an example of steering?**
- **How is this scenario different from the one with Kirin and Aaron, and how is it similar?**
- **How could Kylie avoid steering the new family in town?**

Notes

Appraisal Bias

A person's home is often one of their most highly valued assets. However, research shows biases by appraisers can result in undervalued homes, particularly in communities with people of color. The federal government created the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE). According to the PAVE website at <https://pave.hud.gov/about>, ending bias in home valuation. This task force includes 13 federal agencies and offices and is chaired by the U.S. Department of Housing and Urban Development (HUD) and the White House Domestic Policy Council.

Texas State Agencies Partner to Address Appraisal Bias, Fair Housing Violations

A new partnership between the Texas Appraiser Licensing and Certification Board (TALCB) and the Texas Workforce Commission Civil Rights Division (TWC) benefits Texas consumers who may experience discrimination or bias in their home appraisal.

Federal and state laws prohibit discrimination by appraisers in the appraisal process. Yet, research shows there is bias in property valuations at the national level based on race, ethnicity, or national origin, particularly in majority-Black and majority-Latino neighborhoods, resulting in undervalued properties and ultimately lower financial returns on homeownership.

"Appraisal bias is a serious concern for the appraisal industry. The vast majority of appraisers work to ensure appraisals are completed objectively and without bias. As a Board, we strive to ensure fairness and thoroughness in the investigative process for all involved. Our partnership with TWC expands the resources available to achieve this goal," said TALCB Chair Sara Oates, president of Total Appraisal Management & Review in Austin.

Texas Workforce Commission (TWC), the state agency that investigates complaints alleging violations of the Texas Fair Housing

Act, and TALCB, the state agency that licenses and regulates real property appraisers, will each review complaints by consumers related to appraisals that involve possible fair housing violations.

"The partnership between TALCB and TWC ensures highly trained staff in both agencies are able to respond to possible instances of bias in appraisals of housing," said TWC Executive Director Ed Serna. "TWC remains dedicated to ensuring all Texans are protected against bias in housing sales, rentals, financing, and appraisals."

"The partnership between TWC and TALCB means Texas consumers affected by appraisal bias can trust that their complaints will be investigated from every angle by professionals with deep knowledge in both fair housing and appraiser industry standards and regulations," said TALCB Commissioner Chelsea Buchholtz. A complaint that alleges appraisal bias can go to either agency.

Appraiser Awareness: TALCB Gets Tips on Discriminatory Language

The Texas Appraiser Licensing and Certification Board (TALCB) is receiving state tips from Fannie Mae on discriminatory language in appraisals. Both organizations are working to make appraisers aware of the issue. Appraisers should exercise care to avoid comments in a report that may be perceived as biased or illegally discriminatory.

For example, describing a neighborhood as "poverty stricken with _% of Black; _% Hispanic; _% Asian" is inappropriate. Other inappropriate language, as described by the Federal Housing Finance Agency (FHFA), includes statements like "predominately Hispanic," and "residents have assimilated their culture heritage into the neighborhood."

The Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Rule requires appraisers to perform assignments ethically, with impartiality, objectivity, and independence, and without unsupported conclusions relating to characteristics such as race, color, religion, national origin, and gender.

Appraisers can earn continuing education credit for taking courses that include ethics,

Fair Housing, bias, and discrimination.

The Appraisal Standards Board adopted the Fifth Exposure Draft in April 2023 with an effective date of January 1, 2024. It changes the USPAP Ethics Rule by adding nondiscrimination provisions, along with other revisions that clarify an appraiser’s obligations related to nondiscrimination in appraisal practice.

Fair Housing Executive Order 13988 - Protection Against Sexual Orientation and Gender Identity

Following the June 2020 Supreme Court decision in *Bostock v. Clayton County* in which the Court stated that prohibition against sex discrimination included sexual orientation and gender identity, President Biden issued Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, which set a policy “to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII and other laws that prohibit discrimination on the basis of gender identity or sexual orientation.”

In accordance with the Executive Order, the HUD Fair Housing and Equal Opportunity Department (FHEO) issued a memorandum in February 2021 titled “Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act.” The memorandum stated, that due to the decision in *Bostock v. Clayton County* and Executive Order 13988, the FHEO would take actions to administer and fully enforce the Fair Housing Act to prohibit discrimination based on sexual orientation and gender identity, and address discrimination based on actual or perceived sexual orientation and gender identity under the Fair Housing Act.

It is important for all license holders in Texas to be aware of this Supreme Court ruling, the Executive Order, and the FHEO memorandum because anti-discrimination protections are now in place for individuals of all sexual orientations and gender identities regarding fair housing. See Appendix C which contains the FHEO memorandum.

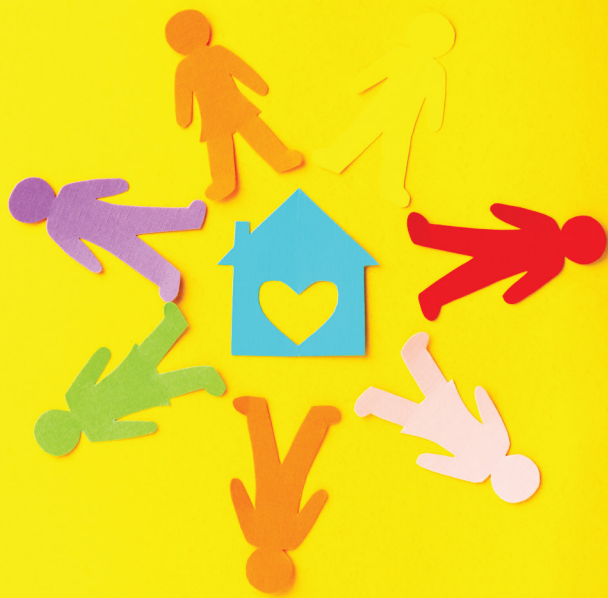
In Conclusion

License holders have an obligation as to advocate for others, and a threat to justice anywhere is a threat to justice everywhere. License holders must be engaged in assessing their own biases and assisting themselves and others to find common ground.

Notes

Chapter 4

Fair Housing: Do's and Don'ts, Property Management



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Learning Objectives

After this chapter, you will be able to

- ✓ Describe best practices for advertising and marketing related to fair housing.
- ✓ Recall resources for fair housing information and assistance.
- ✓ Understand the rights of tenants with disabilities under the Fair Housing Act.
- ✓ Understand the differences between reasonable accommodations and modifications.

Fair Housing Advertising and Marketing Prohibitions

Under the Fair Housing Act, it is illegal for anyone to:

- Advertise or make any statement that indicates a limitation or preference based on race, religion, color, sex, national origin, disability, or familial status. This prohibition against discriminatory advertising applies to all housing, including single-family and owner-occupied housing that is otherwise exempt from the Texas Fair Housing Act.
- Harass, coerce, intimidate, threaten, or interfere with anyone exercising a fair housing right or assisting others who exercise their fair housing rights.

Did you notice that we said it is illegal for anyone to do these things? By anyone, we (and the government) mean anyone. While there are certain carve outs for certain types of properties, this prohibition applies to all, including owner-occupied buildings and single-family residences.

Fair Housing Don'ts

As a license holder, you have a lot on your to-do list. But this don'ts list will keep you out of fair housing hot water.

Under the federal Fair Housing Act and Texas Fair Housing Act, no one may take any of the following actions in the sale and rental of housing based on race, color, religion, sex, national origin, disability, or familial status.

- Refuse to rent or sell housing.
- Refuse to negotiate for housing.
- Advertise housing to preferred groups of people only.
- Show apartments or homes in certain neighborhoods only.
- Say that housing is unavailable for inspection, sale or rental when in fact it is available.

- Set different terms, conditions or privileges for sale or rental of a dwelling.
- Provide different housing services or facilities.
- Deny access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.
- Refuse to make certain modifications or accommodations for people with disabilities.

Helpful Resource Alert!

The Office of the Governor is committed to ensuring Texans are treated in accordance with the law when it comes to fair housing. In fact, the Governor has an entire page that contains various resources, links, explanations, and important guidance related to fair housing in the State of Texas. You can find that page at gov.texas.gov/organization/disabilities/housing. See Appendix E for more Fair Housing resources.

Fair Housing Best Practices

Understand your responsibilities as a license holder under federal and state fair housing laws. This book contains a lot of information, but there are also a lot of resources and training modules available online through HUD and TDHCA that go into more detail. You can learn about fair housing in every area of real estate.

Provide your sponsored agents training about fair housing. If you are a broker, it is your duty to ensure your sponsored agents are current on real estate laws and regulations. It makes your sponsored agents better at what they do and more confident in identifying fair housing issues that may impact your clients.

Don't assume you know which housing choice best "fits" your client. These assumptions are often based on their

disability, familial status, or protected classes. Give your clients all the information about all of the available properties that meet their stated criteria.

Bonus tip: Focus on a client's budget and not personal assumptions on where you believe they should live. Find housing options that meet the budget and any other requested criteria.

Be mindful of sharing your personal opinion instead of facts, especially descriptions of neighborhoods, schools, or crime.

Don't be afraid to say you cannot answer certain questions. You are not allowed to answer questions like, "What kind of people live in this neighborhood?" because of fair housing laws. That is not a breach of your fiduciary duty—you are following the law.

Understand the difference between a request for reasonable accommodation and reasonable modification. Having that knowledge will help you help your client.

Make a difference! Commit to treating all your clients and parties to a transaction fairly. Do not assume that you "don't discriminate," so therefore you don't need to be worried about fair housing.

Teach those around you. A license holder committed to doing the right thing under fair housing and actively working to teach the real estate community about fair housing is a big step in the right direction.

The Fair Housing Poster

No office is complete without a few inspirational posters related to teamwork! But did you know there's another poster that is even more important than those? It's the federal Fair Housing Poster, which provides a brief summary of the Fair Housing Act and relevant HUD contact information for individuals who believe they have experienced unlawful discrimination. The poster must be prominently displayed and readily apparent to anyone seeking housing accommodations. Where you must post the poster depends on the type of property being offered sale or rent.

- **Single-family dwellings** (not being offered for sale or rental in conjunction with the sale or rental of other dwellings): There must be a Fair Housing poster at any place of business where the dwelling is offered for sale or rental (like a broker's office).
- **Other dwellings:** The Fair Housing poster must be posted at any place of business where the dwelling is offered for sale or rental and the dwelling. This is true unless the single-family dwelling is being offered for sale or rental with other dwellings and poster is maintained at model dwellings—posted at the beginning of construction and throughout construction.

There are required dimensions for the Fair Housing Poster. You can find it online on the HUD website.

Failure to properly display the Fair Housing Poster is considered *prima facie* evidence of discrimination, meaning it is presumed you discriminated against the person who made a complaint against you if you don't have the poster properly displayed. Not to get too lawyerly on you, but that is a really big deal!

Make sure you are complying! See the Fair Housing Poster in Appendix D.

U. S. Department of Housing and Urban Development



WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL FAIR HOUSING LAW
(The Fair Housing Amendments Act of 1988)

It is illegal to Discriminate Against Any Person Because of Race, Color, Religion, Sex, Handicap, Familial Status, or National Origin


- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:
1-800-669-9777 (Toll Free)
1-800-927-9275 (TTS)
www.hud.gov/fairhousing

U.S. Department of Housing and Urban Development
Assistant Secretary for Fair Housing and Equal Opportunity
Washington, D.C. 20410

Previous editions are obsolete.

Form HUD-928.1 (02/2017)

To: TREC
Cc:
Subject: Resources for Fair Housing Information
From:  Hide My Email

Dear TREC,


I am an engaged broker and would like to ensure I understand fair housing in Texas. This is especially true as I am getting more and more requests from my newly sponsored sales agents to engage in leasing and property management.

I just got an email from one of my agents that says, "Turns out real estate isn't just going to make me an automatic millionaire and I need to pay my own rent, so I was thinking I would try out some leasing and property management, boss. Is that cool?"

Help! Where can I go to learn more about fair housing in Texas?

Sincerely,

Engaged Broker

To: Engaged Broker
Cc:
Subject: Resources for Fair Housing Information
From:  Hide My Email

Dear Engaged Broker,

Thank you for being an engaged broker! The decision to sponsor agents is a big one for your business, and it comes with a lot of responsibility, so much so that TREC even wrote a whole class on broker responsibility---but you probably already know that!

Making sure that you and your sponsored agents understand fair housing in Texas is crucial. The [Texas Department of Housing and Community Affairs](#) offers a lot of resources on fair housing in Texas, including trainings and presentations that are easily accessed. [The Texas Workforce Commission](#) also has quite a bit of information on its website related to fair housing.

Additionally, the federal government has a whole host of resources available on multiple websites related to fair housing both as it relates to leasing/property management and to the sale of real property. A great place to start is the [U.S. Department of Housing and Urban Development](#). Your city may even have additional resources.

This information is also a great resource for clients, customers, friends, and family to learn about fair housing and to access a variety of programs to help consumers when it comes to housing needs.

With an attitude like yours, you will only be on TREC's radar when it's time to renew your license!

TREC

Resources for Fair Housing Information

This exchange between the Engaged Broker and TREC contains helpful links to the Texas Department of Housing and Community Affairs (tdhca.state.tx.us/), the Texas Workforce Commission (twc.texas.gov), and the U.S. Department of Housing and Urban Development (hud.gov) websites providing fair housing information and assistance. However, did you know that counties and municipalities in Texas may have additional housing discrimination laws to protect additional groups that may exceed federal protections? For example, veterans are a protected status in San Antonio. The Austin Municipal Code includes gender identity, creed, age, and student status as protected classes. To find out about existing additional protections in your county or municipality, contact your local Legal Aid Office using TexasLawHelp.org.

Fair Housing and Rental Properties

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, and familial status. You may have missed the "rental" component of that in the chapter before, but it is crucial that license holders engaging in leasing and property management understand rental properties are governed by the Fair Housing Act.

If you don't understand these concepts and how they apply in the rental market, you could be on a dangerous path and ultimately harm consumers.

Even if leasing and property management is not your area of practice, make sure you pay close attention. You never know when your area of practice is going to change. Plus, being knowledgeable in fair housing in any type of brokerage activity will only make you a better license holder who can spot discrimination and speak up!

Two separate laws provide rights for people with disabilities: The Americans with Disabilities Act (ADA) and the state and federal Fair Housing Act. This section will focus on the Fair Housing Act because it applies to private property.

Fair Housing and Disability Rights

What is a Disability?

Under the Fair Housing Act, a *disability* means a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of the impairment, or being regarded as having an impairment.

Below are some specific prohibitions related to disability under the Fair Housing Act. Every license holder should be mindful of these rights for renters with disabilities.

- Housing providers may not refuse to rent housing to a person with a disability because of that disability.
- Housing providers may not have tenant selection criteria, fees, or conditions that are different from those applied or provided to people without disabilities.
- Housing providers cannot require people with disabilities to only live on certain floors or certain areas of the community.
- Housing providers cannot refuse to make repairs or limit access to public or common areas, parking privileges, or services available to other residents.

Reasonable Accommodation Requests

People with disabilities have a right to request a *reasonable accommodation*, which is a change in rules, policies, practices, or services necessary so someone with a disability has an equal opportunity to use and enjoy a dwelling, including public and common-use areas. When feasible, housing providers like landlords and property managers are required to provide reasonable accommodations when tenants or prospective tenants make a request because of their disability. Costs associated with reasonable accommodation requests are at the landlord's expense.

However, there has to be a connection between the requested accommodation and the disability. Just because someone has a disability and makes a request doesn't mean

Reasonable Modification Requests

Some prospective or current tenants may request a reasonable modification. A reasonable modification under the Fair Housing Act is a structural change made to an existing premises, occupied or to be occupied by a person with a disability, in an effort to afford such person full enjoyment of the premises.

Examples of modifications that typically are reasonable include widening doorways to make rooms more accessible for people using wheelchairs, installing grab bars in bathrooms, adding a ramp to make a primary entrance accessible, or altering a walkway to provide access to a public or common-use area.

Importantly, the Fair Housing Act provides that the tenant is generally responsible for costs associated with a reasonable modification.

it has to be granted. Here are other tips about reasonable accommodation requests.

- Requests can be verbal or written.
- There are no specific words, like reasonable accommodation, that must be included in a request.
- Requests can be from the person with the disability, by a family member of that person, or someone else requesting it on a person's behalf.

If a request meets all the requirements but the property owner or manager still refuses to make a reasonable accommodation, this could be unlawful discrimination.



What Would You Do? Fair Housing Edition

What Would You Do? was a popular television reality show. Using the knowledge you have gained, how would you react to the following episodes of *What Would You Do? - Fair Housing Edition*?

Episode One

Mary-Anne drives by a lovely one-story home in a coveted cul-de-sac with a for lease sign in the yard and snaps a picture to schedule a showing. With her lease ending soon, Mary-Anne feels the property is too good for her and her son to miss out on.

Mary-Anne's son David is an Olympian who would like to be within 15 minutes driving time from his training gym.

Mary-Anne meets the agent at the property, tours the home, and falls in love. David's gym is just one exit from the home. She is on a video call with David, who is at practice, throughout the process to let him see the home. They both agree to file an application right away. David says he will head straight to the home after practice to view it himself before submitting their paperwork.

Everything is good until David makes his way into the living room where Mary-Anne and real estate agent Judy are talking. David introduces himself to Judy and tells her he competes in wheelchair archery.

Judy's smile begins to falter when David asks whether the landlord will allow them to make modifications to the home while renting, including adding a ramp to the front door to make it easier for him to access the home.

Judy knows that her clients said they want to "maintain the integrity of the neighborhood" and would be very hesitant to allow certain modifications.



Discussion Questions

- **How should Judy approach this situation?**

Notes

Episode Two

Malika and Darius Daniels, a Black couple, are looking to buy three residential investment properties to lease. The husband-and-wife team already own five properties and share over 15 years of leasing experience between them. They arrive to tour the Lantana Lofts with agent Kevin Nguyen, a Realtor who seems uninterested in showing the couple the three available units.

Malika loves the units and tells Darius they should put an offer in on all three. He agrees and lets Kevin know. Kevin expresses concerns over whether Malika and Darius will be able to qualify for the financing. Darius suspects something is amiss but assures Kevin that they can afford the units and are purchasing with cash.

Kevin then says that he is reluctant to sell to the couple because he does not feel they will fit in. He says he advertised the property as being in a “vibrant Vietnamese community ... mere minutes from Asiatown,” which set off alarm bells in the couple’s heads. Before they leave, Kevin insists that they visit another property down the road before submitting an offer with him.

On the car ride to the next property, Darius tells Malika he feels they are being discriminated against, and she agrees they should look into filing a complaint.



Discussion Questions

- **If you were Darius or Malika, would you move forward with filing a complaint?**
- **What federal or state fair housing laws, TREC Rules, or NAR Code of Ethics violations may Kevin be facing?**

Notes

Episode Three

Victor wants a change of scenery and is looking for a new property before his lease ends. He finds an option online and contacts Jose, a license holder and the property owner. During the walkthrough, Jose, who is Latino like Victor, told Victor he usually has white tenants because he never has problems with them. Victor assured Jose he would take good care of the unit if approved. Jose told him everyone says that before moving in.

Though anxious of remarks during the showing, Victor submitted his rental application. After completing the initial steps, Victor asked Jose to provide him with an approval letter to receive payment assistance for his security deposit. Jose refused, which keeps Victor from renting.



Discussion Questions

- **If you were Victor, what would be your next steps?**
- **Why do you think Jose refused to provide Victor with the approval letter?**
- **What type of bias did Jose have against Victor?**

Notes



Assistance Animal Requests

Animals that provide assistance, perform tasks for the benefit of a person with a disability, or provide emotional support that alleviates one or more identified effects of a person's disability are considered assistance animals. People with assistance animals can request a reasonable accommodation to allow their assistance animal to live with them. This is true even in properties that have a "no pets policy." According to HUD, an assistance animal is not a pet. Under the law, assistance animals do not have to have a certificate or specific training.

No Pets Means No Pets?

Sales agent Nicola's client Anna has an assistance animal named Rocko. Nicola doesn't know exactly what the large dog does, but she knows Rocko assists Anna with her disability.

Nicola shows her client a property that seems ideal. She later finds out that property

has a strict no pets policy, even for assistance animals. Nicola has a feeling this is illegal, but she has only ever seen dogs used as service animals for blind people, so maybe Rocko isn't considered an assistance animal.

Better to be safe than sorry in this tough rental market, she thinks. She advises her client to move on in her search, because no pets means no pets.



Discussion Questions

- **What should Nicola have done in this scenario?**

The scenario discussed in "No Pets Means No Pets?" is an example of where the prospective tenant had a right to request a reasonable accommodation for her assistance animal.

Let's change that scenario up a bit and make it so that the landlord allowed pets but charged a monthly "pet rent."

In that case, the landlord would have likely needed to make a change to the "pet rent" policy to exempt Anna's assistance animal from the pet rent as a reasonable accommodation.

Notes



Laws Related to Fair Housing From the 88th Texas Legislature

House Bill 567: The Crown Act (Creating a Respectful and Open World for Natural Hair)

The Texas Fair Housing Act was amended to add a new section related to racial discrimination based on hair texture or protective hairstyle. Section 301.0045 of the Property Code states that discrimination because of race or on the basis of race under the Texas Fair Housing Act includes discrimination because of or on the basis of a person's hair texture or protective hairstyle commonly or historically associated with race. It also states that "protective hairstyle" includes braids, locks, and twists.

House Bill 1193: Section 8 and Property Owners' Associations

As a result of House Bill 1193, property owners' associations cannot prohibit a property owner from leasing to a tenant based on the tenant's method of payment, like Section 8. Section 8 is a federal housing voucher program designed to assist low-income families, the elderly, and people with disabilities afford

housing by subsidizing a portion of their rent.

This legislation came after a North Texas association drew criticism for adopting a policy banning Section 8 tenants. This policy would have displaced nearly 600 residents, 93% of which were Black. Subsequently, both the Department of Housing and Urban Development (HUD) and the U.S. Department of Justice had begun investigating whether this policy violated the federal Fair Housing Act.

House Bill 1193, which amends Chapter 202 of the Texas Property Code, applies to all property owners' associations, including condominiums.

Am I an Expert on Fair Housing Now?

These last two chapters have touched on some very important topics related to fair housing. However, fair housing is complex and ever evolving in both practice and the law. The more you know about fair housing, the better. Continue learning about fair housing so you are compliant in your practice and so you can spot issues when you see them.

Remember, fair housing is fair for everyone!

Legal Update I: Appendices



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Appendix A – Redline Promulgated Forms and Addenda



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

11-07-2022[11-08]



NOTICE: Not For Use For Condominium Transactions

1. PARTIES: The parties to this contract are _____
(Seller) and _____ (Buyer).
Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: The land, improvements and accessories are collectively referred to as the Property (Property).

A. LAND: Lot _____ Block _____, _____
Addition, City of _____, County of _____,
Texas, known as _____
(address/zip code), or as described on attached exhibit.

B. IMPROVEMENTS: The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property attached to the above described real property.

C. ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, security systems that are not fixtures, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories. "Controls" includes Seller's transferable rights to the (i) software and applications used to access and control improvements or accessories, and (ii) hardware used solely to control improvements or accessories.

D. EXCLUSIONS: The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____.

E. RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing\$ _____
The term "Cash portion of the Sales Price" does not include proceeds from borrowing of any kind or selling other real property except as disclosed in this contract.

B. Sum of all financing described in the attached: Third Party Financing Addendum,
 Loan Assumption Addendum, Seller Financing Addendum\$ _____

C. Sales Price (Sum of A and B)\$ _____

4. LEASES: Except as disclosed in this contract, Seller is not aware of any leases affecting the Property. After the Effective Date, Seller may not, without Buyer's written consent, create a new lease, amend any existing lease, or convey any interest in the Property. (Check all applicable boxes)

A. RESIDENTIAL LEASES: The Property is subject to one or more residential leases and the Addendum Regarding Residential Leases is attached to this contract.

B. FIXTURE LEASES: Fixtures on the Property are subject to one or more fixture leases (for example, solar panels, propane tanks, water softener, security system) and the Addendum Regarding Fixture Leases is attached to this contract.

C. NATURAL RESOURCE LEASES: "Natural Resource Lease" means an existing oil and gas, mineral, water, wind, or other natural resource lease affecting the Property to which Seller is a party.

(1) Seller has delivered to Buyer a copy of all the Natural Resource Leases.

(2) Seller has not delivered to Buyer a copy of all the Natural Resource Leases. Seller shall provide to Buyer a copy of all the Natural Resource Leases within 3 days after the Effective Date. Buyer may terminate the contract within _____ days after the date the Buyer receives all the Natural Resource Leases and the earnest money shall be refunded to Buyer.

Initialed for identification by Buyer _____ and Seller _____

TREC NO. 20-17[16]

2021 (Address of Property)

5. EARNEST MONEY AND TERMINATION OPTION:

- A. DELIVERY OF EARNEST MONEY AND OPTION FEE: Within 3 days after the Effective Date, Buyer must deliver to _____ (Escrow Agent) [as-escrow agent,] at _____ (address): \$ _____ as earnest money and \$ _____ as the Option Fee. The earnest money and Option Fee shall be made payable to Escrow Agent [escrow-agent] and may be paid separately or combined in a single payment.
- (1) Buyer shall deliver additional earnest money of \$ _____ to Escrow Agent [escrow-agent] within _____ days after the Effective Date of this contract.
 - (2) If the last day to deliver the earnest money, Option Fee, or the additional earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money, Option Fee, or the additional earnest money, as applicable, is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday.
 - (3) The amount(s) Escrow Agent [escrow-agent] receives under this paragraph shall be applied first to the Option Fee, then to the earnest money, and then to the additional earnest money.
 - (4) Buyer authorizes Escrow Agent [escrow-agent] to release and deliver the Option Fee to Seller at any time without further notice to or consent from Buyer, and releases Escrow Agent [escrow-agent] from liability for delivery of the Option Fee to Seller. The Option Fee will be credited to the Sales Price at closing.
- B. TERMINATION OPTION: For nominal consideration, the receipt of which Seller acknowledges, and Buyer's agreement to pay the Option Fee within the time required, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If Buyer gives notice of termination within the time prescribed: (i) the Option Fee will not be refunded and Escrow Agent [escrow-agent] shall release any Option Fee remaining with Escrow Agent [escrow-agent] to Seller; and (ii) any earnest money will be refunded to Buyer.
- C. FAILURE TO TIMELY DELIVER EARNEST MONEY: If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money.
- D. FAILURE TO TIMELY DELIVER OPTION FEE: If no dollar amount is stated as the Option Fee or if Buyer fails to deliver the Option Fee within the time required, Buyer shall not have the unrestricted right to terminate this contract under this paragraph 5.
- E. TIME: **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

6. TITLE POLICY AND SURVEY:

- A. TITLE POLICY: Seller shall furnish to Buyer at Seller's Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
- (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 3.
 - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
 - (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
 - (6) The standard printed exception as to marital rights.
 - (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
 - (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
 - (i) will not be amended or deleted from the title policy; or
 - (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.
 - (9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.
- B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

- (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date.
- (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
- (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity:

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or survey[Survey] is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or survey[Survey] or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, survey[Survey], or Exception Document(s) is delivered to Buyer.

E. TITLE NOTICES:

- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, or operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

- (3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services,

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Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

- (4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, Seller must give Buyer written notice as required by §5.014, Property Code. An addendum containing the required notice shall be attached to this contract.
- (8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

(11) REQUIRED NOTICES: The following notices have been given or are attached to this contract (for example, MUD, WCID, PID notices):

7. PROPERTY CONDITION:

- A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.
- B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):
(Check one box only)
 - (1) Buyer has received the Notice.
 - (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.
 - (3) The Seller is not required to furnish the notice under the Texas Property Code.

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- C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.
- D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.
(Check one box only)
- (1) Buyer accepts the Property As Is.
- (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

- E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, [÷ (i)] Seller shall complete all agreed repairs and treatments prior to the Closing Date [÷] and obtain any [(ii) all] required permits. The [must be obtained, and] repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. Seller shall: (i) provide Buyer with copies of documentation from the repair person(s) showing the scope of work and payment for the work completed; and (ii) at Seller's expense, arrange for the transfer of [At Buyer's election,] any transferable warranties [received by Seller] with respect to the repairs and treatments [will be transferred] to Buyer at closing [Buyer's expense]. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete the repairs and treatments.
- G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.
- H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a provider or administrator licensed by the Texas Department of Licensing and Regulation [residential service company]. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$ _____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. BROKERS AND SALES AGENTS:

- A. BROKER OR SALES AGENT DISCLOSURE: Texas law requires a real estate broker or sales agent who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the broker or sales agent owns more than 10%, or a trust for which the broker or sales agent acts as a trustee or of which the broker or sales agent or the broker or sales agent's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____
- B. BROKERS' FEES: All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. CLOSING:

- A. The closing of the sale will be on or before _____, 20____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.
- B. At closing:
- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
 - (2) Buyer shall pay the Sales Price in good funds acceptable to the Escrow Agent [escrow agent].
 - (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits,

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releases, loan documents, transfer of any warranties, and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.

- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

(5) Private transfer fees (as defined by Chapter 5, Subchapter G of the Texas Property Code) will be the obligation of Seller unless provided otherwise in this contract. Transfer fees assessed by a property owners' association are governed by the Addendum for Property Subject to Mandatory Membership in a Property Owners Association.

10. POSSESSION:

- A. BUYER'S POSSESSION: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**
- B. SMART DEVICES: "Smart Device" means a device that connects to the internet to enable remote use, monitoring, and management of: (i) the Property; (ii) items identified in any Non-Realty Items Addendum; or (iii) items in a Fixture Lease assigned to Buyer. At the time Seller delivers possession of the Property to Buyer, Seller shall:
- (1) deliver to Buyer written information containing all access codes, usernames, passwords, and applications Buyer will need to access, operate, manage, and control the Smart Devices; and
 - (2) terminate and remove all access and connections to the improvements and accessories from any of Seller's personal devices including but not limited to phones and computers.

11. SPECIAL PROVISIONS: (This paragraph is intended to be used only for additional informational items. An informational item is a statement that completes a blank in a contract form, discloses factual information, or provides instructions. Real estate brokers and sales agents are prohibited from practicing law and shall not add to, delete, or modify any provision of this contract unless drafted by a party to this contract or a party's attorney.) ~~[(Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)]~~ _____

12. SETTLEMENT AND OTHER EXPENSES:

- A. The following expenses must be paid at or prior to closing:
- (1) Expenses payable by Seller (Seller's Expenses):
 - (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
 - (b) Seller shall also pay an amount not to exceed \$_____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.
 - (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.
- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

- 13. PRORATIONS:** Taxes for the current year, interest, rents, and regular periodic maintenance fees, assessments, and dues (including prepaid items) [~~and rents~~] will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- 14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
- 15. DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
- 16. MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
- 17. ATTORNEY'S FEES:** A Buyer, Seller, Listing Broker, Other Broker, or Escrow Agent [~~escrow agent~~] who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
- 18. ESCROW:**
- A. ESCROW: The Escrow Agent [~~escrow agent~~] is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as Escrow Agent [~~escrow agent~~]. Escrow Agent [~~agent~~] may require any disbursement made in connection with this contract to be conditioned on Escrow Agent's [~~escrow agent's~~] collection of good funds acceptable to Escrow Agent [~~escrow agent~~].
- B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, Escrow Agent [~~escrow agent~~] may: (i) require a written release of liability of the Escrow Agent [~~escrow agent~~] from all parties before releasing any earnest money; and (ii) require payment of unpaid expenses incurred on behalf of a party. Escrow Agent [~~agent~~] may deduct authorized expenses from the earnest money payable to a party. "Authorized expenses" means expenses incurred by Escrow Agent [~~escrow agent~~] on behalf of the party entitled to the earnest money that were authorized by this contract or that party.
- C. DEMAND: Upon termination of this contract, either party or the Escrow Agent [~~escrow agent~~] may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the Escrow Agent [~~escrow agent~~]. If either party fails to execute the release, either party may make a written demand to the Escrow Agent [~~escrow agent~~] for the earnest money. If only one party makes written demand for the earnest money, Escrow Agent [~~escrow agent~~] shall promptly provide a copy of the demand to the other party. If Escrow Agent [~~escrow agent~~] does not receive written objection to the demand from the other party within 15 days, Escrow Agent [~~escrow agent~~] may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and Escrow Agent [~~escrow agent~~] may pay the same to the creditors. If Escrow Agent [~~escrow agent~~] complies with the provisions of this paragraph, each party hereby releases Escrow Agent [~~escrow agent~~] from all adverse claims related to the disbursement of the earnest money.
- D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the Escrow Agent [~~escrow agent~~] within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. NOTICES: Escrow Agent's [~~agent's~~] notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by Escrow Agent [~~escrow agent~~].

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at: _____

To Seller at: _____

Phone: () _____

Phone: () _____

E-mail/Fax: _____

E-mail/Fax: _____

E-mail/Fax: _____

E-mail/Fax: _____

[With a copy to Buyer's agent at:](#)

[With a copy to Seller's Agent at:](#)

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- Third Party Financing Addendum
- Seller Financing Addendum
- Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- Buyer's Temporary Residential Lease
- Loan Assumption Addendum
- Addendum for Sale of Other Property by Buyer
- Addendum for Reservation of Oil, Gas and Other Minerals
- Addendum for "Back-Up" Contract
- Addendum for Coastal Area Property
- Addendum for Authorizing Hydrostatic Testing
- Addendum Concerning Right to Terminate Due to Lender's Appraisal
- Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- Seller's Temporary Residential Lease
- Short Sale Addendum
- Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- Addendum for Property in a Propane Gas System Service Area
- Addendum Regarding Residential Leases
- Addendum Regarding Fixture Leases
- Addendum containing Notice of Obligation to Pay Improvement District Assessment
- Other (list): _____

23. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate [brokers and sales agents](#) [~~license holders~~] from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____

Seller's Attorney is: _____

Phone: () _____

Phone: () _____

Fax: () _____

Fax: () _____

E-mail: _____

E-mail: _____

**EXECUTED the _____ day of _____, 20____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)**

Buyer

Seller

Buyer

Seller



The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (<http://www.trec.texas.gov>) TREC NO. 20-~~17~~ ~~[16]~~. This form replaces TREC NO. 20-~~16~~ ~~[15]~~.

BROKER INFORMATION
 (Print name(s) only. Do not sign)

Other Broker Firm _____ License No. _____ Listing Broker Firm _____ License No. _____

represents Buyer only as Buyer's agent
 Seller as Listing Broker's subagent

represents Seller and Buyer as an intermediary
 Seller only as Seller's agent

Associate's Name _____ License No. _____ Listing Associate's Name _____ License No. _____

Team Name _____ Team Name _____

Associate's Email Address _____ Phone _____ Listing Associate's Email Address _____ Phone _____

Licensed Supervisor of Associate _____ License No. _____ Licensed Supervisor of Listing Associate _____ License No. _____

Other Broker's Address _____ Phone _____ Listing Broker's Office Address _____ Phone _____

City _____ State _____ Zip _____ City _____ State _____ Zip _____

Selling Associate's Name _____ License No. _____

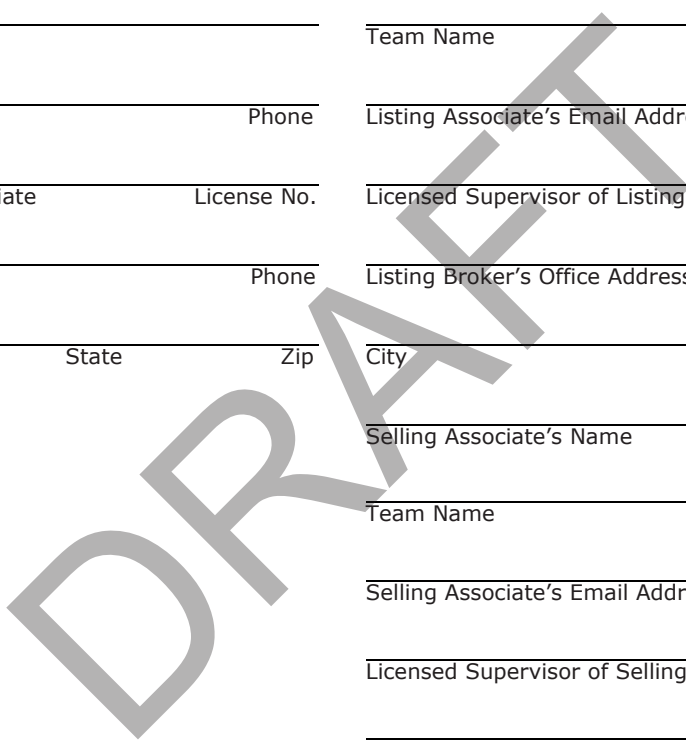
Team Name _____

Selling Associate's Email Address _____ Phone _____

Licensed Supervisor of Selling Associate _____ License No. _____

Selling Associate's Office Address _____

City _____ State _____ Zip _____



Disclosure: Pursuant to a previous, separate agreement (such as a MLS offer of compensation or other agreement between brokers), Listing Broker has agreed to pay Other Broker a fee (_____). This disclosure is for informational purposes and does not change the previous agreement between brokers to pay or share a commission.

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____
is acknowledged.

Escrow Agent _____ Date _____

EARNEST MONEY RECEIPT

Receipt of \$ _____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of \$ _____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____



FARM AND RANCH CONTRACT

NOTICE: Designed For Use In Sales Of Existing Farms Or Ranches Of Any Size. Not For Use In Complex Transactions.



1. PARTIES: The parties to this contract are _____

(Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: The land, improvements, accessories and crops except for the exclusions and reservations, are collectively referred to as the Property (Property).

A. LAND: The land situated in the County (or Counties) of _____

Texas, described as follows: _____

or as described on attached exhibit, also known as _____ (address/zip code), together with all rights, privileges, and appurtenances pertaining thereto[~~including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships~~].

B. IMPROVEMENTS:

- (1) FARM and RANCH IMPROVEMENTS: The following permanently installed and built-in items, if any: windmills, tanks, barns, pens, fences, gates, sheds, outbuildings, and corrals.
(2) RESIDENTIAL IMPROVEMENTS: Any[The] houses[house], garages[garage], and all other fixtures and improvements attached to the above-described real property, including without limitation, the following permanently installed and built-in items, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property attached to the above described real property.

C. ACCESSORIES:

- (1) FARM AND RANCH ACCESSORIES: The following described related accessories: (check boxes of conveyed accessories) [] portable buildings [] hunting blinds [] game feeders [] livestock feeders and troughs [] irrigation equipment [] fuel tanks [] submersible pumps [] pressure tanks [] corrals [] gates [] chutes [] other: _____

- (2) RESIDENTIAL ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, security systems that are not fixtures, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories. "Controls" includes Seller's transferable rights to the (i) software and applications used to access and control improvements or accessories, and (ii) hardware used solely to control improvements or accessories.

D. CROPS: Unless otherwise agreed in writing, Seller has the right to harvest all growing crops until delivery of possession of the Property.

E. EXCLUSIONS: The following improvements, accessories, and crops will be retained by Seller and must be removed prior to delivery of possession: _____

F. RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing \$ _____ The term "Cash portion of the Sales Price" does not include proceeds from borrowing of any kind or selling other real property except as disclosed in this contract.

B. Sum of all financing described in the attached: [] Third Party Financing Addendum, [] Loan Assumption Addendum, [] Seller Financing Addendum .. \$ _____

C. Sales Price (Sum of A and B) \$ _____

D. The Sales Price [] will [] will not be adjusted based on the survey required by Paragraph 6C. If the Sales Price is adjusted, the Sales Price will be adjusted[calculated] based on the difference between _____ acres and the acreage set forth in the survey required by Paragraph 6C. The difference in acreage (either increased or decreased) shall be multiplied by the sum[basis] of [\$] _____ per acre and either added to or subtracted from the Sales Price stated in Paragraph 3C. If the Sales Price is adjusted by more than 10%, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is 10% or less, the adjustment will be made to the amount in [] 3A [] 3B [] proportionately to 3A and 3B.

4. LEASES: Except as disclosed in this contract, Seller is not aware of any leases affecting the Property. After the Effective Date, Seller may not, without Buyer's written consent, create a new lease, amend any existing lease, or convey any interest in the Property. (Check all applicable boxes)

- A. RESIDENTIAL LEASES: The Property is subject to one or more residential leases and the Addendum Regarding Residential Leases is attached to this contract.
- B. FIXTURE LEASES: Fixtures on the Property are subject to one or more fixture leases (for example, solar panels, propane tanks, water softener, security system) and the Addendum Regarding Fixture Leases is attached to this contract.
- C. NATURAL RESOURCE LEASES: "Natural Resource Lease" means an existing oil and gas, mineral, water, [~~wind~~], or other natural resource lease affecting the Property to which Seller is a party.
 - (1) Seller has delivered to Buyer a copy of all the Natural Resource Leases.
 - (2) Seller has not delivered to Buyer a copy of all the Natural Resource Leases. Seller shall provide to Buyer a copy of all the Natural Resource Leases within 3 days after the Effective Date. Buyer may terminate the contract within _____ days after the date the Buyer receives all the Natural Resource Leases and the earnest money shall be refunded to Buyer.
- D. SURFACE LEASES: "Surface Lease" means an existing lease for the surface only of the Property (for example, grazing leases, hunting leases, agricultural leases, recreational leases, wind leases, solar leases, timber or forestry leases). (Check all applicable boxes)
 - (1) Seller has delivered to Buyer a copy of all written Surface Leases.
 - (2) Seller provides Buyer with notice of the following oral Surface Lease(s), identifying the type of lease, name of the tenant(s), rental amount, and term: _____
 - (3) Seller has not delivered to Buyer all Surface Leases (whether written or oral). Seller shall provide to Buyer a copy of all the written Surface Leases and notice of all oral Surface Leases, identifying the type of lease, the name of the tenant(s), rental amount, and term, within 3 days after the Effective Date. Buyer may terminate the contract within _____ days after the date the Buyer receives all the Surface Leases and the earnest money shall be refunded to Buyer.

5. EARNEST MONEY AND TERMINATION OPTION:

- A. DELIVERY OF EARNEST MONEY AND OPTION FEE: Within 3 days after the Effective Date, Buyer must deliver to _____ (Escrow Agent) [~~as escrow agent~~] at _____ (address): \$ _____ as earnest money and \$ _____ as the Option Fee. The earnest money and Option Fee shall be made payable to escrow agent and may be paid separately or combined in a single payment.
 - (1) Buyer shall deliver additional earnest money of \$ _____ to Escrow Agent[~~escrow agent~~] within _____ days after the Effective Date of this contract.
 - (2) If the last day to deliver the earnest money, Option Fee, or the additional earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money, Option Fee, or the additional earnest money, as applicable, is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday.
 - (3) The amount(s) Escrow Agent[~~escrow agent~~] receives under this paragraph shall be applied first to the Option Fee, then to the earnest money, and then to the additional earnest money.
 - (4) Buyer authorizes Escrow Agent[~~escrow agent~~] to release and deliver the Option Fee to Seller at any time without further notice to or consent from Buyer, and releases Escrow Agent[~~escrow agent~~] from liability for delivery of the Option Fee to Seller. The Option Fee will be credited to the Sales Price at closing.
- B. TERMINATION OPTION: For nominal consideration, the receipt of which Seller acknowledges, and Buyer's agreement to pay the Option Fee within the time required, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If Buyer gives notice of termination within the time prescribed: (i) the Option Fee will not be refunded and Escrow Agent[~~escrow agent~~] shall release any Option Fee remaining with Escrow Agent[~~escrow agent~~] to Seller; and (ii) any earnest money will be refunded to Buyer.
- C. FAILURE TO TIMELY DELIVER EARNEST MONEY: If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money.
- D. FAILURE TO TIMELY DELIVER OPTION FEE: If no dollar amount is stated as the Option Fee or if Buyer fails to deliver the Option Fee within the time required, Buyer shall not have the unrestricted right to terminate this contract under this Paragraph 5.
- E. TIME: **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

6. TITLE POLICY AND SURVEY:

- A. TITLE POLICY: Seller shall furnish to Buyer at Seller's Buyer's expense an owner policy of title insurance (Title Policy) issued by: _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the

provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

- (1) The standard printed exception for standby fees, taxes and assessments.
- (2) Liens created as part of the financing described in Paragraph 3.
- (3) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (4) The standard printed exception as to marital rights.
- (5) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- (6) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
 - (i) will not be amended or deleted from the title policy; or
 - (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.
- (7) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land survey or acceptable to the Title Company and Buyer's lender(s). (Check one box only):

- (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** The existing survey will will not be recertified to a date subsequent to the Effective Date of this contract at the expense of Buyer Seller. If the existing survey is not approved by the Title Company or Buyer's lender(s), a new survey will be obtained at the expense of Buyer Seller no later than 3 days prior to Closing Date.
- (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
- (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.
- (4) No survey is required.

D. OBJECTIONS: Buyer may object in writing to (i) defects, exceptions, or encumbrances to title disclosed on the survey other than items 6A(1) through (5) above; or disclosed in the Commitment other than items 6A(1) through (7) above; (ii) any portion of the Property lying in a special flood hazard area (Zone V or A) as shown on the current Federal Emergency Management Agency map; or (iii) any exceptions which prohibit the following use or activity: _____

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or survey[Survey] is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or survey[Survey] or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, survey[Survey], or Exception Document(s) is delivered to Buyer.

E. EXCEPTION DOCUMENTS: Prior to the execution of the contract, Seller has provided Buyer with copies of the Exception Documents listed below or on the attached exhibit. Matters reflected in the Exception Documents listed below or on the attached exhibit will be permitted exceptions in the Title Policy and will not be a basis for objection to title:

| <u>Document</u> | <u>Date</u> | <u>Recording Reference</u> |
|-----------------|-------------|----------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

F. SURFACE LEASES: ~~[Prior to the execution of the contract, Seller has provided Buyer with copies of written leases and given notice of oral leases (Leases) listed below or on the attached exhibit.]~~
The following Surface Leases will be permitted exceptions in the Title Policy and will not be a basis for objection to title: _____

G. TITLE NOTICES:

- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (3) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (4) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (5) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (6) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, Seller must give Buyer written notice as required by §5.014, Property Code. An addendum containing the required notice shall be attached to this contract.
- (7) TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The Property is is not located in a Texas Agricultural Development District. For additional information contact the Texas Department of Agriculture
- (8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."
- (11) REQUIRED NOTICES: The following notices have been given or are attached to this contract (for example, MUD, WCID, PID notices):

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

NOTICE: Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):
(Check one box only)

- (1) Buyer has received the Notice
 (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate

this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.

- (3) The Texas Property Code does not require this Seller to furnish the Notice.
- C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.
- D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.
- (Check one box only)
- (1) Buyer accepts the Property As Is.
- (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

(Do not insert general phrases, such as "subject to inspections," that do not identify specific repairs and treatments.)

- E. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, [÷ (+)] Seller shall complete all agreed repairs and treatments prior to the Closing Date[÷] and obtain any [(#) all] required permits. The [must be obtained, and] repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. Seller shall: (i) provide Buyer with copies of documentation from the repair person(s) showing the scope of work and payment for the work completed; and (ii) at Seller's expense, arrange for the transfer of [At Buyer's election,] any transferable warranties [received by Seller] with respect to the repairs [will be transferred] to Buyer at closing[Buyer's expense]. If Seller fails to complete any agreed repairs prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete repairs.
- F. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.
- H. SELLER'S DISCLOSURE [DISCLOSURES]: [~~Except as otherwise disclosed in this contract, Seller has no knowledge of the following:~~]
- (1) Seller is is not aware of any flooding of the Property which has had a material adverse effect on the use of the Property.[÷]
 - (2) Seller is is not aware of any pending or threatened litigation, condemnation, or special assessment affecting the Property.[÷]
 - (3) Seller is is not aware of any environmental hazards that materially and adversely affect the Property.[÷]
 - (4) Seller is is not aware of any dumpsite, landfill, or underground tanks or containers now or previously located on the Property.[÷]
 - (5) Seller is is not aware of any wetlands, as defined by federal or state law or regulation, affecting the Property.[÷-or]
 - (6) Seller is is not aware of any threatened or endangered species or their habitat affecting the Property.
 - (7) Seller is is not aware that the Property is located wholly partly in a floodplain.
 - (8) Seller is is not aware that a tree or trees located on the Property has oak wilt.
- If Seller is aware of any of the items above, explain (attach additional sheets if necessary):
- I. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a provider or administrator licensed by the Texas Department of Licensing and Regulation [residential service company]. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**
- J. GOVERNMENT PROGRAMS: The Property is subject to the government programs listed below or on the attached exhibit: _____

Seller shall provide Buyer with copies of all governmental program agreements. Any allocation or proration of payment under governmental programs is made by separate agreement between the parties which will survive closing.

8. BROKERS AND SALES AGENTS:

BROKER OR SALES AGENT DISCLOSURE: Texas law requires a real estate broker or sales agent who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the broker or sales agent owns more than 10%, or a trust for which the broker or sales agent acts as a

trustee or of which the broker or sales agent or the broker or sales agent's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____

B. BROKERS' FEES: All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20_____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6, an assignment of Leases, and furnish tax statements or certificates showing no delinquent taxes on the Property.

(2) Buyer shall pay the Sales Price in good funds acceptable to the Escrow Agent[~~escrow agent~~].

(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents, transfer of any warranties, and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.

(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

(5) Private transfer fees (as defined by Chapter 5, Subchapter G of the Texas Property Code) will be the obligation of Seller unless provided otherwise in this contract. Transfer fees assessed by a property owners' association are governed by the Addendum for Property Subject to Mandatory Membership in a Property Owners Association.

10. POSSESSION:

A. BUYER'S POSSESSION: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. SMART DEVICES: "Smart Device" means a device that connects to the internet to enable remote use, monitoring, and management of: (i) the Property; (ii) items identified in any Non-Realty Items Addendum; or (iii) items in a Fixture Lease assigned to Buyer. At the time Seller delivers possession of the Property to Buyer, Seller shall:

(1) deliver to Buyer written information containing all access codes, usernames, passwords, and applications Buyer will need to access, operate, manage, and control the Smart Devices; and

(2) terminate and remove all access and connections to the improvements and accessories from any of Seller's personal devices including but not limited to phones and computers.

11. SPECIAL PROVISIONS: (This paragraph is intended to be used only for additional informational items. An informational item is a statement that completes a blank in a contract form, discloses factual information, or provides instructions. Real estate brokers and sales agents are prohibited from practicing law and shall not add to, delete, or modify any provision of this contract unless drafted by a party to this contract or a party's attorney.) [~~(Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)~~]

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed \$_____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses) Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or

FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, interest, rents, and regular periodic maintenance fees, assessments, and dues (including prepaid items) ~~[and rents]~~ will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year. Rentals which are unknown at time of closing will be prorated between Buyer and Seller when they become known.

B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Assessments are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer, (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or Escrow Agent~~[escrow agent]~~ who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The Escrow Agent~~[escrow agent]~~ is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as Escrow Agent~~[escrow agent]~~. Escrow Agent~~[agent]~~ may require any disbursement made in connection with this contract to be conditioned on Escrow Agent's~~[escrow agent's]~~ collection of good funds acceptable to Escrow Agent~~[escrow agent]~~.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, Escrow Agent~~[escrow agent]~~ may: (i) require a written release of liability of the Escrow Agent~~[escrow agent]~~ from all parties before releasing any earnest money; and (ii) require payment of unpaid expenses incurred on behalf of a party. Escrow Agent~~[agent]~~ may deduct authorized expenses from the earnest money payable to a party. "Authorized expenses" means expenses incurred by Escrow Agent~~[escrow agent]~~ on behalf of the party entitled to the earnest money that were authorized by this contract or that party.

C. DEMAND: Upon termination of this contract, either party or the Escrow Agent~~[escrow agent]~~ may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the Escrow Agent~~[escrow agent]~~. If either party fails to execute the release, either party may make a written demand to the Escrow Agent~~[escrow agent]~~ for the earnest money. If only one party makes written demand for the earnest money, Escrow Agent~~[escrow agent]~~ shall promptly provide a copy of the demand to the other party. ~~[If escrow agent does not receive written objection to the demand from the other party.]~~ If Escrow Agent~~[escrow agent]~~ does not receive written objection to the demand from the other

party within 15 days, Escrow Agent[~~escrow agent~~] may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and Escrow Agent[~~escrow agent~~] may pay the same to the creditors. If Escrow Agent[~~escrow agent~~] complies with the provisions of this paragraph, each party hereby releases Escrow Agent[~~escrow agent~~] from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the Escrow Agent[~~escrow agent~~] within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow Agent's[~~escrow agent's~~] notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by Escrow Agent[~~escrow agent~~].

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at: _____

To Seller at: _____

Phone: () _____

Phone: () _____

E-mail/Fax: _____

E-mail/Fax: _____

E-mail/Fax: _____

E-mail/Fax: _____

With a copy to Buyer's agent at: _____

With a copy to Seller's Agent at: _____

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- Third Party Financing Addendum
- Seller Financing Addendum
- Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- Buyer's Temporary Residential Lease
- Loan Assumption Addendum
- Addendum for Sale of Other Property by Buyer
- Addendum for "Back-Up" Contract
- Addendum for Coastal Area Property
- Addendum for Authorizing Hydrostatic Testing
- Addendum Concerning Right to Terminate Due to Lender's Appraisal
- Addendum for Reservation of Oil, Gas and Other Minerals
- Addendum containing Notice of Obligation to Pay Improvement District Assessment
- Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- Seller's Temporary Residential Lease
- Short Sale Addendum
- Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- Addendum for Property in a Propane Gas System Service Area
- Addendum Regarding Residential Leases
- Addendum Regarding Fixture Leases
- Other (list): _____

08-2021)(Address of Property)

23. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate brokers and sales agents [~~license holders~~] from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____

Seller's Attorney is: _____

Phone: () _____

Phone: () _____

Fax: () _____

Fax: () _____

E-mail: _____

E-mail: _____

**EXECUTED the _____ day of _____, 20_____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)**

Buyer

Seller

Buyer

Seller

DRAFT



The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (<http://www.trec.texas.gov>) TREC NO. 25-15[14]. This form replaces TREC NO. 25-14[13].

RATIFICATION OF FEE

Listing Broker has agreed to pay Other Broker _____ of the total Sales Price when Listing Broker's fee is received. Escrow Agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.

Other Broker: _____ Listing Broker: _____
 By: _____ By: _____

BROKER INFORMATION AND AGREEMENT FOR PAYMENT OF BROKERS' FEES

| | | | |
|--|-------------------|--|-------------------|
| Other Broker _____ | License No. _____ | Listing or Principal Broker _____ | License No. _____ |
| Associate's Name _____ | License No. _____ | Listing Associate's Name _____ | License No. _____ |
| Team Name _____ | | Team Name _____ | |
| Associate's Email Address _____ | Phone _____ | Listing Associate's Email Address _____ | Phone _____ |
| Licensed Supervisor of Associate _____ | License No. _____ | Licensed Supervisor of Listing Associate _____ | License No. _____ |
| Other Broker's Office Address _____ | Phone _____ | Listing Broker's Office Address _____ | Phone _____ |
| City _____ State _____ Zip _____ | | City _____ State _____ Zip _____ | |

represents Buyer only as Buyer's agent
 Seller as Listing Broker's subagent

Selling Associate _____ License No. _____
 Team Name _____
 Selling Associate's Email Address _____ Phone _____
 Licensed Supervisor of Selling Associate _____ License No. _____
 Selling Associate's Office Address _____
 City _____ State _____ Zip _____

represents Seller only
 Buyer only
 Seller and Buyer as an intermediary

Upon closing of the sale by Seller to Buyer of the Property described in the contract to which this fee agreement is attached: (a) Seller Buyer will pay Listing/Principal Broker a cash fee of \$ _____ or _____% of the total Sales Price; and (b) Seller Buyer will pay Other Broker a cash fee of \$ _____ or _____% of the total Sales Price. Seller/Buyer authorizes and directs Escrow Agent to pay the brokers from the proceeds at closing.

DO NOT SIGN IF THERE IS A SEPARATE AGREEMENT FOR PAYMENT OF BROKERS' FEES. Brokers' fees are negotiable. Brokers' fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested or maintained by the Texas Real Estate Commission.

Seller _____ Buyer _____
 Seller _____ Buyer _____

[Do not sign if there is a separate written agreement for payment of Brokers' fees.]

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____
is acknowledged.

Escrow Agent _____ Date _____

EARNEST MONEY RECEIPT

Receipt of \$ _____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of \$ _____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____



RESIDENTIAL CONDOMINIUM CONTRACT (RESALE)

NOTICE: Not For Use Where Seller Owns Fee Simple Title To Land Beneath Unit

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY AND CONDOMINIUM DOCUMENTS:

A. The Condominium Unit, improvements and accessories described below are collectively referred to as the Property (Property).

(1) CONDOMINIUM UNIT: Unit _____, in Building _____ of _____, a condominium project, located at _____ (address/zip code), City of _____, County of _____

Texas, described in the Condominium Declaration and Plat and any amendments thereto of record in said County; together with such Unit's undivided interest in the Common Elements designated by the Declaration, including those areas reserved as Limited Common Elements appurtenant to the Unit and such other rights to use the Common Elements which have been specifically assigned to the Unit in any other manner. Parking areas assigned to the Unit are: _____

(2) IMPROVEMENTS: All fixtures and improvements attached to the above described real property including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, shrubbery, landscaping, outdoor cooking equipment, and all other property attached to the above described Condominium Unit.

(3) ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, security systems that are not fixtures, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories. "Controls" includes Seller's transferable rights to the (i) software and applications used to access and control improvements or accessories, and (ii) hardware used solely to control improvements or accessories.

(4) EXCLUSIONS: The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____

B. The Declaration, Bylaws and any Rules of the Association are called "Documents". (Check one box only):

(1) Buyer has received a copy of the Documents. Buyer is advised to read the Documents before signing the contract.

(2) Buyer has not received a copy of the Documents. Seller, at Seller's expense, shall deliver the Documents to Buyer within _____ days after the Effective Date of the contract. Buyer may ~~terminate~~cancel the contract ~~within 7 days~~ [before the sixth day] after Buyer receives the Documents by ~~giving~~ [hand-delivering or mailing] written notice of ~~termination~~ [cancellation] to Seller ~~[by certified United States mail, return receipt requested]~~. If Buyer ~~terminates~~ [cancels] the contract pursuant to this paragraph, ~~[the contract will terminate and]~~ the earnest money will be refunded to Buyer. ~~Buyer retains rights to terminate under Section 82.156, Texas Property Code.~~

C. The Resale Certificate from the condominium owners association (the Association) is called the "Certificate". The Certificate must be in a form promulgated by TREC or required by the parties. The Certificate must have been prepared, at Seller's expense, no more than 3 months before the date it is delivered to Buyer and must contain at a minimum the information required by Section 82.157, Texas Property Code.

(Check one box only):

(1) Buyer has received the Certificate.

(2) Buyer has not received the Certificate. Seller shall deliver the Certificate to Buyer within _____ days after the Effective Date of the contract. Buyer may ~~terminate~~cancel the contract ~~within 7 days~~ [before the sixth day] after the date Buyer receives the Certificate by ~~giving~~ [hand-delivering or mailing] written notice of ~~termination~~ [cancellation] to Seller ~~[by certified United States mail, return receipt requested]~~. If Buyer ~~terminates~~ [cancels] the contract pursuant to this paragraph, ~~[the contract will terminate and]~~ the earnest money will be refunded to Buyer. ~~Buyer retains rights to terminate under Section 82.156, Texas Property Code.~~

(3) Buyer has received Seller's affidavit that Seller requested information from the Association concerning its financial condition as required by the Texas Property Code, and that the Association did not provide a Certificate or information required in the Certificate. Buyer and Seller agree to waive the requirement to furnish the Certificate.

D. If the Documents reveal that the Property is subject to a right of refusal under which the Association or a member of the Association may purchase the Property, the Effective Date shall be amended to the date that Buyer receives a copy of the Association's certification that: (i) Seller has complied with the requirements under the right of refusal; and (ii) all

persons who may exercise the right of refusal have not exercised or have waived the right to buy the Property. If Buyer does not receive the Association's certification within _____ days after the Effective Date or if the right of refusal is exercised, this contract shall terminate and the earnest money shall be refunded to Buyer.

3. SALES PRICE:

- A. Cash portion of Sales Price payable by Buyer at closing..... \$ _____
The term "Cash portion of the Sales Price" does not include proceeds from borrowing of any kind or selling other real property except as disclosed in this contract.
- B. Sum of all financing described in the attached: Third Party Financing Addendum, Loan Assumption Addendum, Seller Financing Addendum ... \$ _____
- C. Sales Price (Sum of A and B)..... \$ _____

4. LEASES: Except as disclosed in this contract, Seller is not aware of any leases affecting the Property. After the Effective Date, Seller may not, without Buyer's written consent, create a new lease, amend any existing lease, or convey any interest in the Property. (Check all applicable boxes)

- A. RESIDENTIAL LEASES: The Property is subject to one or more residential leases and the Addendum Regarding Residential Leases is attached to this contract.
- B. FIXTURE LEASES: Fixtures on the Property are subject to one or more fixture leases (for example, solar panels, propane tanks, water softener, security system) and the Addendum Regarding Fixture Leases is attached to this contract.

5. EARNEST MONEY AND TERMINATION OPTION.

- A. DELIVERY OF EARNEST MONEY AND OPTION FEE: Within 3 days after the Effective Date, Buyer must deliver to _____ (Escrow Agent) [~~as escrow agent,~~] at _____ (address): \$ _____ as earnest money and \$ _____ as the Option Fee. The earnest money and Option Fee shall be made payable to Escrow Agent[~~escrow agent~~] and may be paid separately or combined in a single payment.
 - (1) Buyer shall deliver additional earnest money of \$ _____ to Escrow Agent [~~escrow agent~~] within _____ days after the Effective Date of this contract.
 - (2) If the last day to deliver the earnest money, Option Fee, or the additional earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money, Option Fee, or the additional earnest money, as applicable, is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday.
 - (3) The amount(s) Escrow Agent[~~escrow agent~~] receives under this paragraph shall be applied first to the Option Fee, then to the earnest money, and then to the additional earnest money.
 - (4) Buyer authorizes Escrow Agent[~~escrow agent~~] to release and deliver the Option Fee to Seller at any time without further notice to or consent from Buyer, and releases Escrow Agent[~~escrow agent~~] from liability for delivery of the Option Fee to Seller. The Option Fee will be credited to the Sales Price at closing.
- B. TERMINATION OPTION: For nominal consideration, the receipt of which Seller acknowledges, and Buyer's agreement to pay the Option Fee within the time required, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If Buyer gives notice of termination within the time prescribed: (i) the Option Fee will not be refunded and Escrow Agent[~~escrow agent~~] shall release any Option Fee remaining with Escrow Agent[~~escrow agent~~] to Seller; and (ii) any earnest money will be refunded to Buyer.
- C. FAILURE TO TIMELY DELIVER EARNEST MONEY: If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money.
- D. FAILURE TO TIMELY DELIVER OPTION FEE: If no dollar amount is stated as the Option Fee or if Buyer fails to deliver the Option Fee within the time required, Buyer shall not have the unrestricted right to terminate this contract under this Paragraph 5.
- E. TIME: **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

6. TITLE POLICY:

- A. TITLE POLICY: Seller shall furnish to Buyer at Seller's Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
 - (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 3.
 - (4) Terms and provisions of the Documents including the assessments and platted easements.
 - (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.

- (6) The standard printed exception as to marital rights.
- (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
- (9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.
- B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- C. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity: _____

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment and Exception Documents. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment or Exception Document(s) is delivered to Buyer.

- D. TITLE NOTICES:
 - (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
 - (2) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
 - (3) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
 - (4) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
 - (5) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
 - (6) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, Seller must give Buyer written notice as required by §5.014, Property Code. An addendum containing the required notice shall be attached to this contract.

- (7) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (8) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (9) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

(10) REQUIRED NOTICES: The following notices have been given or are attached to this contract (for example, MUD, WCID, PID notices):

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect .

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):

(Check one box only)

- (1) Buyer has received the Notice.
- (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.
- (3) The Texas Property Code does not require this Seller to furnish the Notice.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(Check one box only)

- (1) Buyer accepts the Property As Is.
- (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

Do not insert general phrases, such as "subject to inspections," that do not identify specific repairs and treatments.)

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, [÷ (÷)] Seller shall complete all agreed repairs and treatments prior to the Closing Date[÷] and obtain any [(ii) -aH] required permits. The [must be obtained, and] repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. Seller shall: (i) provide Buyer with copies of documentation from the repair person (s) showing the scope of work and payment for the work completed; and (ii) at Seller's expense, arrange for the transfer of [At Buyer's election,] any transferable warranties received [received by Seller] with respect to the repairs and treatments [will be transferred] to Buyer at closing [Buyer's expense]. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a provider or administrator licensed by the Texas Department of Licensing and Regulation [residential service company]. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$ _____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. BROKERS AND SALES AGENTS:

A. BROKER OR SALES AGENT DISCLOSURE: Texas law requires a real estate broker or sales agent who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the broker or sales agent owns more than 10%, or a trust for which the broker or sales agent acts as a trustee or of which the broker or sales agent or the broker or sales agent's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____

B. BROKERS' FEES: All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20____, or within 7 days after objections to matters disclosed in the Commitment have been cured, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
- (2) Buyer shall pay the Sales Price in good funds acceptable to the Escrow Agent [escrow agent].
- (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents, transfer of any warranties, and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
- (5) Private transfer fees (as defined by Chapter 5, Subchapter G of the Texas Property Code) will be the obligation of Seller unless provided otherwise in this contract. This paragraph does not apply to fees assessed by the Association.

10. POSSESSION:

A. BUYER'S POSSESSION: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. SMART DEVICES: "Smart Device" means a device that connects to the internet to enable remote use, monitoring, and management of: (i) the Property; (ii) items identified in any Non-Realty Items Addendum; or (iii) items in a Fixture Lease assigned to Buyer. At the time Seller delivers possession of the Property to Buyer, Seller shall:

- (1) deliver to Buyer written information containing all access codes, usernames, passwords, and applications Buyer will need to access, operate, manage, and control the Smart Devices; and
- (2) terminate and remove all access and connections to the improvements and accessories from any of Seller's personal devices including but not limited to phones and computers.

11. SPECIAL PROVISIONS: (This paragraph is intended to be used only for additional informational items. An informational item is a statement that completes a blank in a contract form, discloses factual information, or provides instructions. Real estate brokers and sales agents are prohibited from practicing law and shall not add to, delete, or modify any provision of this contract unless drafted by a party to this contract or a party's attorney.) ~~[(Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)]~~ _____

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

- (1) Expenses payable by Seller (Seller's Expenses):
 - (a) Releases of existing liens, including prepayment penalties and recording fees; lender, FHA, or VA completion requirements; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
 - (b) Seller shall also pay an amount not to exceed \$ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA,

Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

- (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.
- (3) Buyer shall pay any and all Association fees, deposits, reserves and other charges resulting from the transfer of the Property not to exceed \$_____ and Seller shall pay any excess. This paragraph does not apply to: (i) regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated by Paragraph 13, and (ii) costs and fees provided by Paragraph 2.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, rents, and regular periodic maintenance fees, ~~[regular condominium]~~ assessments, and dues (including prepaid items) ~~[and rents]~~ will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year. Cash reserves from regular condominium assessments for deferred maintenance or capital improvements established by the Association will not be credited to Seller. Any special condominium assessment due and unpaid at closing will be the obligation of Seller.

14. CASUALTY LOSS: If any part of the Unit which Seller is solely obligated to maintain and repair under the terms of the Declaration is damaged or destroyed by fire or other casualty, Seller shall restore the same to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer, (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. If any part of the Common Elements or Limited Common Elements appurtenant to the Unit is damaged or destroyed by fire or other casualty loss, Buyer will have 7 days from receipt of notice of such casualty loss within which to notify Seller in writing that the contract will be terminated unless Buyer receives written confirmation from the Association that the damaged condition will be restored to its previous condition within a reasonable time at no cost to Buyer. Unless Buyer gives such notice within such time, Buyer will be deemed to have accepted the Property without confirmation of such restoration. Seller will have 7 days from the date of receipt of Buyer's notice within which to cause to be delivered to Buyer such confirmation. If written confirmation is not delivered to Buyer as required above, Buyer may terminate this contract and the earnest money will be refunded to Buyer. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or Escrow Agent~~[escrow agent]~~ who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

- A. ESCROW: The Escrow Agent~~[escrow agent]~~ is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as Escrow Agent~~[escrow agent]~~. Escrow Agent~~[agent]~~ may require any disbursement made in connection with this contract to be conditioned on Escrow Agent's~~[escrow agent's]~~ collection of good funds acceptable to Escrow Agent~~[escrow agent]~~.
- B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, Escrow Agent~~[escrow agent]~~ may: (i) require a written release of liability of the Escrow Agent~~[escrow agent]~~ from all parties before releasing any earnest money; and (ii) require payment of unpaid expenses incurred on behalf of a party. Escrow Agent~~[agent]~~ may deduct authorized

expenses from the earnest money payable to a party. "Authorized expenses" means expenses incurred by Escrow Agent[escrow-agent] on behalf of the party entitled to the earnest money that were authorized by this contract or that party.

- C. DEMAND: Upon termination of this contract, either party or the Escrow Agent[escrow-agent] may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the Escrow Agent[escrow-agent]. If either party fails to execute the release, either party may make a written demand to the Escrow Agent[escrow-agent] for the earnest money. If only one party makes written demand for the earnest money, Escrow Agent[escrow-agent] shall promptly provide a copy of the demand to the other party. If Escrow Agent[escrow-agent] does not receive written objection to the demand from the other party within 15 days, Escrow Agent[escrow-agent] may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and Escrow Agent[escrow-agent] may pay the same to the creditors. If Escrow Agent[escrow-agent] complies with the provisions of this paragraph, each party hereby releases Escrow Agent[escrow-agent] from all adverse claims related to the disbursement of the earnest money.
- D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the Escrow Agent[escrow-agent] within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. NOTICES: Escrow Agent's[escrow-agent's] notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by Escrow Agent[escrow-agent].

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

| | |
|---|--|
| To Buyer at: _____ | To Seller at: _____ |
| _____ | _____ |
| Phone: () _____ | Phone: () _____ |
| E-mail/Fax: _____ | E-mail/Fax: _____ |
| E-mail/Fax: _____ | E-mail/Fax: _____ |
| <u>With a copy to Buyer's agent at:</u> | <u>With a copy to Seller's Agent at:</u> |
| _____ | _____ |

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and

- | | |
|---|---|
| <input type="checkbox"/> Third Party Financing Addendum <input type="checkbox"/> Loan Assumption Addendum <input type="checkbox"/> Buyer's Temporary Residential Lease <input type="checkbox"/> Seller's Temporary Residential Lease <input type="checkbox"/> Addendum for Sale of Other Property by Buyer <input type="checkbox"/> Addendum for "Back-Up" Contract <input type="checkbox"/> Seller Financing Addendum <input type="checkbox"/> Addendum for Coastal Area Property <input type="checkbox"/> Short Sale Addendum <input type="checkbox"/> Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law <input type="checkbox"/> Addendum for Authorizing Hydrostatic Testing <input type="checkbox"/> Addendum Concerning Right to Terminate Due to Lender's Appraisal | <input type="checkbox"/> Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum <input type="checkbox"/> Addendum for Property Located Seaward of the Gulf Intracoastal Waterway <input type="checkbox"/> Addendum for Release of Liability on Assumption of FHA, VA, or Conventional Loan Restoration of Seller's Entitlement for VA Guaranteed Loan <input type="checkbox"/> Addendum for Property in a Propane Gas System Service Area <input type="checkbox"/> Addendum Regarding Residential Leases <input type="checkbox"/> Addendum Regarding Fixture Leases <input type="checkbox"/> Addendum containing Notice of Obligation to Pay Improvement District Assessment <input type="checkbox"/> Other (list): _____ _____ |
|---|---|

23. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate brokers and sales agents [~~license holders~~] from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____

Seller's Attorney is: _____

Phone: () _____

Phone: () _____

Fax: () _____

Fax: () _____

E-mail: _____

E-mail: _____

**EXECUTED the _____ day of _____, 20_____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)**

Buyer _____

Seller _____

Buyer _____

Seller _____



The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (<http://www.trec.texas.gov>) TREC NO. 30-16[15]. This form replaces TREC NO. 30-15[14].

BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm _____ License No. _____

represents Buyer only as Buyer's agent
 Seller as Listing Broker's subagent

Listing Broker Firm _____ License No. _____

represents Seller and Buyer as an intermediary
 Seller only as Seller's agent

Associate's Name _____ License No. _____

Team Name _____

Associate's Email Address _____ Phone _____

Licensed Supervisor of Associate _____ License No. _____

Other Broker's Address _____ Phone _____

City _____ State _____ Zip _____

Listing Associate's Name _____ License No. _____

Team Name _____

Listing Associate's Email Address _____ Phone _____

Licensed Supervisor of Listing Associate _____ License No. _____

Listing Broker's Office Address _____ Phone _____

City _____ State _____ Zip _____

Selling Associate's Name _____ License No. _____

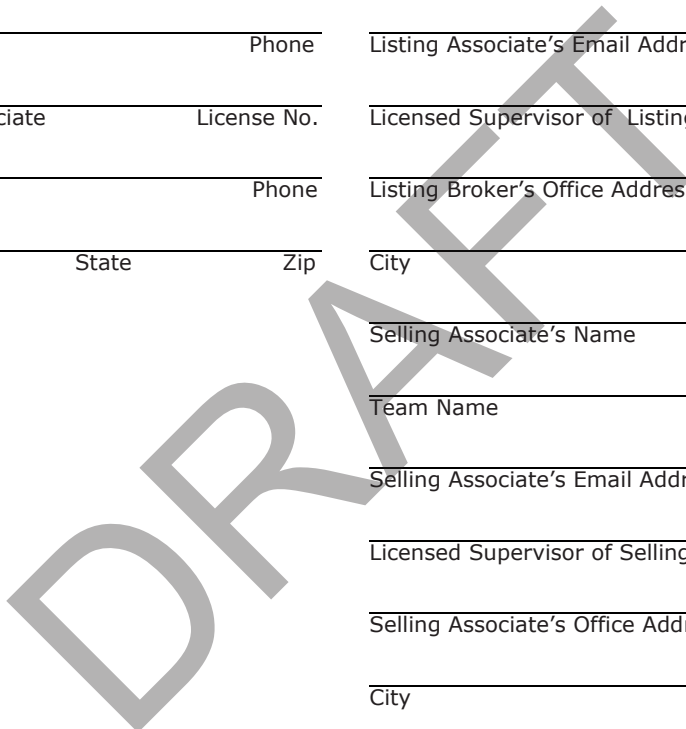
Team Name _____

Selling Associate's Email Address _____ Phone _____

Licensed Supervisor of Selling Associate _____ License No. _____

Selling Associate's Office Address _____

City _____ State _____ Zip _____



Disclosure: Pursuant to a previous, separate agreement (such as a MLS offer of compensation or other agreement between brokers), Listing Broker has agreed to pay Other Broker a fee (_____). This disclosure is for informational purposes and does not change the previous agreement between brokers to pay or share a commission.

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____
is acknowledged.

Escrow Agent _____ Date _____

EARNEST MONEY RECEIPT

Receipt of \$ _____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of \$ _____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time _____

Address _____ Phone _____

City _____ State _____ Zip _____ Fax _____



AMENDMENT TO CONTRACT CONCERNING THE PROPERTY AT

(Street Address and City)

Seller and Buyer amend the contract as follows: (check each applicable box)

- (1) The Sales Price in Paragraph 3 of the contract is:
A. Cash portion of Sales Price payable by Buyer at closing
B. Sum of financing described in the contract
C. Sales Price (Sum of A and B)
(2) In addition to any repairs and treatments otherwise required by the contract, Seller, at Seller's expense, shall complete the following repairs and treatments:
(3) The date in Paragraph 9 of the contract is changed to
(4) The amount in Paragraph 12A(1)(b) of the contract is changed to
(5) The cost of lender required repairs and treatment, as itemized on the attached list, will be paid as follows:
(6) Buyer has paid Seller an additional Option Fee of \$
(7) Buyer waives the unrestricted right to terminate the contract for which the Option Fee was paid.
(8) The date for Buyer to give written notice to Seller that Buyer cannot obtain Buyer Approval as set forth in the Third Party Financing Addendum is changed to
(9) Other Modifications: (Real estate brokers and sales agents are prohibited from practicing law. [Insert only factual statements and business details applicable to this sale.]

CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate brokers and sales agents from giving legal advice. READ THIS FORM CAREFULLY.

EXECUTED the ___ day of ___, 20__ . (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer

Seller

Buyer

Seller



This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 39-9[8]. This form replaces TREC No. 39-8[7].



SELLER FINANCING ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT

(Address of Property)

Agreements for Seller Financing can be complicated and may be subject to laws regulating loans. CONSULT AN ATTORNEY AND A FINANCIAL PROFESSIONAL BEFORE SIGNING. Seller may have accounting or reporting obligations concerning the Seller Financing. TREC rules prohibit real estate brokers and agents from giving legal advice. READ THIS ADDENDUM CAREFULLY.

A. CREDIT DOCUMENTATION. To establish Buyer's creditworthiness, Buyer shall deliver to Seller within _____ days after the Effective Date[~~effective date~~] of this contract, credit report verification of employment, including salary verification of funds on deposit in financial institutions current financial statement and _____.

Buyer hereby authorizes any credit reporting agency to furnish copies of Buyer's credit reports to Seller at Buyer's sole expense.

B. BUYER'S CREDIT APPROVAL. If the credit documentation described in Paragraph A is not delivered within the specified time, Seller may terminate this contract by notice to Buyer given at any time before all of the required credit documentation is furnished[~~within 7 days after expiration of the time for delivery~~], and the earnest money will be paid to Seller. If the credit documentation is [~~timely~~] delivered, and Seller determines in Seller's sole discretion that Buyer's credit is unacceptable, Seller may terminate this contract by notice to Buyer within 7 days after expiration of the time for delivery or its actual delivery, whichever is later, and the earnest money will be refunded to Buyer. If Seller does not terminate this contract, Seller will be deemed to have approved Buyer's creditworthiness.

C. PROMISSORY NOTE. The promissory note in the amount of \$ _____ (Note), included in Paragraph 3B of the contract payable by Buyer to the order of Seller will bear interest at the rate of _____% per annum and be payable at the place designated by Seller. Buyer may prepay the Note in whole or in part at any time without penalty. Any prepayments are to be applied to the payment of the installments of principal last maturing and interest will immediately cease on the prepaid principal. The Note will contain a provision for payment of a late fee of 5% of any installment not paid within 10 days of the due date. Matured unpaid amounts will bear interest at the rate of 18%[~~1 1/2%~~] per annum[~~month~~] or at the highest lawful rate, whichever is less. The Note will be payable as follows: (check one box only)

(1) In one payment due _____ after the date of the Note with interest payable at maturity monthly quarterly [~~-~~] (check one box only).

(2) In monthly installments of \$ _____ including interest plus interest (check one box only) beginning _____ after the date of the Note and continuing monthly thereafter for _____ months when the balance of the Note will be due and payable.

(3) Interest only in monthly installments for the first _____ month(s) and thereafter in installments of \$ _____ including interest plus interest (check one box only) beginning _____ after the date of the Note and continuing monthly thereafter for _____ months when the balance of the Note will be due and payable.

D. DEED OF TRUST. The deed of trust securing the Note will provide for the following:

(1) PROPERTY TRANSFERS: (check one box only)

(a) Consent Not Required: The Property may be sold, conveyed or leased without the consent of Seller, provided any subsequent buyer assumes the Note.

(Address of Property)

- (b) Consent Required: If all or any part of the Property is sold, conveyed, leased for a period longer than 3 years, leased with an option to purchase, or otherwise sold (including any contract for deed), without Seller's prior written consent, which consent may be withheld in Seller's sole discretion, Seller may declare the balance of the Note to be immediately due and payable. The creation of a subordinate lien, any conveyance under threat or order of condemnation, any deed solely between buyers, or the passage of title by reason of the death of a buyer or by operation of law will not entitle Seller to exercise the remedies provided in this paragraph.

NOTE: Under (a) or (b), Buyer's liability to pay the Note will continue unless Buyer obtains a release of liability from Seller.

(2) CASUALTY INSURANCE: The deed of trust will provide that Buyer shall shall not obtain casualty insurance naming Seller as a mortgagee loss payee effective on the date of closing.

(3)[(-2)] TAX AND INSURANCE ESCROW: (check one box only)

- (a) Escrow Not Required: Buyer shall furnish Seller, before each year's ad valorem taxes become delinquent, evidence that all ad valorem taxes on the Property have been paid. Buyer shall annually furnish Seller evidence of any required paid-up casualty insurance ~~[naming Seller as a mortgagee loss payee].~~
- (b) Escrow Required: With each installment Buyer shall deposit in escrow with Seller a pro rata part of the estimated annual ad valorem taxes and any required casualty insurance premiums for the Property. Buyer shall pay any deficiency within 30 days after notice from Seller. Buyer's failure to pay the deficiency will be a default under the deed of trust. Buyer is not required to deposit any escrow payments for taxes and any required insurance that are deposited with a superior lienholder. ~~[The casualty insurance must name Seller as a mortgagee loss payee.]~~ Seller will provide Buyer with an annual accounting of the escrow account, use escrow deposits to pay taxes and any required insurance premiums in a timely manner if and to the extent funds are available in the escrow account, and hold the escrow deposit in a separate account. The escrow account will will not be serviced by a third-party servicer at Seller's expense. Buyer Seller will pay the cost of escrow service.

(4)[(-3)] PRIOR LIENS: Any default under any lien superior to the lien securing the Note will be a default under the deed of trust securing the Note.

Buyer

Seller

Buyer

Seller



The form of this contract has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 26-8[7]. This form replaces TREC No. 26-7[6].



ADDENDUM FOR PROPERTY SUBJECT TO MANDATORY MEMBERSHIP IN A PROPERTY OWNERS ASSOCIATION (NOT FOR USE WITH CONDOMINIUMS) ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT



(Street Address and City)

(Name of Property Owners Association, (Association) and Phone Number)

A. SUBDIVISION INFORMATION: "Subdivision Information" means: (i) a current copy of the restrictions applying to the subdivision and bylaws and rules of the Association, and (ii) a resale certificate, all of which are described by Section 207.003 of the Texas Property Code.

(Check only one box):

- 1. Within ___ days after the effective date of the contract, Seller shall obtain, pay for, and deliver the Subdivision Information to the Buyer.
2. Within ___ days after the effective date of the contract, Buyer shall obtain, pay for, and deliver a copy of the Subdivision Information to the Seller.
3. Buyer has received and approved the Subdivision Information before signing the contract.
4. Buyer does not require delivery of the Subdivision Information.

The title company or its agent is authorized to act on behalf of the parties to obtain the Subdivision Information ONLY upon receipt of the required fee for the Subdivision Information from the party obligated to pay.

B. MATERIAL CHANGES. If Seller becomes aware of any material changes in the Subdivision Information, Seller shall promptly give notice to Buyer. Buyer may terminate the contract prior to closing by giving written notice to Seller if: (i) any of the Subdivision Information provided was not true; or (ii) any material adverse change in the Subdivision Information occurs prior to closing, and the earnest money will be refunded to Buyer.

C. FEES AND DEPOSITS FOR RESERVES: [Except as provided by Paragraphs A and D,] Buyer shall pay any and all Association fees, deposits, reserves, and other charges associated with the transfer of the Property not to exceed \$___ and Seller shall pay any excess. This paragraph does not apply to: (i) regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated by Paragraph 13, and (ii) costs and fees provided by Paragraphs A and D.

D. AUTHORIZATION: Seller authorizes the Association to release and provide the Subdivision Information and any updated resale certificate if requested by the Buyer, the Title Company, or any broker to this sale. If Buyer does not require the Subdivision Information or an updated resale certificate, and the Title Company requires information from the Association (such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal), Buyer Seller shall pay the Title Company the cost of obtaining the information prior to the Title Company ordering the information.

NOTICE TO BUYER REGARDING REPAIRS BY THE ASSOCIATION: The Association may have the sole responsibility to make certain repairs to the Property. If you are concerned about the condition of any part of the Property which the Association is required to repair, you should not sign the contract unless you are satisfied that the Association will make the desired repairs.

Buyer

Seller

Buyer

Seller



The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (www.trec.texas.gov) TREC No. 36-10[9]. This form replaces TREC No. 36-9[8].



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)



THIRD PARTY FINANCING ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

(Street Address and City)

1. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer's lender. (Check applicable boxes):

A. CONVENTIONAL FINANCING:

(1) A first mortgage loan in the principal amount of \$_____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

(2) A second mortgage loan in the principal amount of \$_____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

B. TEXAS VETERANS LOAN: A loan(s) from the Texas Veterans Land Board of \$_____ for a period in the total amount of _____ years at the interest rate established by the Texas Veterans Land Board.

C. FHA INSURED FINANCING: A Section _____ FHA insured loan of not less than \$_____ (excluding any financed MIP), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

D. VA GUARANTEED FINANCING: A VA guaranteed loan of not less than \$_____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

E. USDA GUARANTEED FINANCING: A USDA-guaranteed loan of not less than \$_____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

F. REVERSE MORTGAGE FINANCING: A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of \$_____ (excluding any financed PMI premium or other costs), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan. The reverse mortgage loan will will not be an FHA insured loan.

G. OTHER FINANCING: A loan not of a type described above from _____ (name of lender) in the principal amount of \$_____ due in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges not to exceed _____% of the loan. Buyer does does not waive all rights to terminate the contract under Paragraph 2B of this addendum for the loan described in this paragraph.

2. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Buyer Approval and Property Approval are obtained. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

(Address of Property)

A. BUYER APPROVAL (Check one box only):

- This contract is subject to Buyer obtaining Buyer Approval. If Buyer cannot obtain Buyer Approval, Buyer may give written notice to Seller within _____ days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the contract shall no longer be subject to the Buyer obtaining Buyer Approval. Buyer Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history.
- This contract is not subject to Buyer obtaining Buyer Approval.

B. PROPERTY APPROVAL: If Buyer's lender determines that the Property does not satisfy lender's underwriting requirements for the loan (including but not limited to appraisal, insurability, and lender required repairs) Buyer, not later than 3 days before the Closing Date, may terminate this contract by giving Seller: (i) notice of termination; and (ii) a copy of a written statement from the lender setting forth the reason(s) for lender's determination. If Buyer terminates under this paragraph, the earnest money will be refunded to Buyer. If Buyer does not terminate under this paragraph, Property Approval is deemed to have been obtained.

3. SECURITY: If required by Buyer's lender, each[Each] note for the financing described above must be secured by vendor's and deed of trust liens.

4. FHA/VA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____ or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The 3-day notice of termination requirements in 2.B. does not apply to this Paragraph 4.

- A. The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.
- B. If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.
- C. If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Prices, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

5. AUTHORIZATION TO RELEASE INFORMATION:


- A. Buyer authorizes Buyer's lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.
- B. Seller and Buyer authorize Buyer's lender, title company, and Escrow Agent [escrow agent] to disclose and furnish a copy of the closing disclosures and settlement statements [~~provided in relation to the closing of this sale~~] to the parties' respective brokers and sales agents provided under Broker Information.

Buyer

Seller

Buyer

Seller



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ADDENDUM REGARDING RESIDENTIAL LEASES



CONCERNING THE PROPERTY AT: _____
(Street Address and City)

"Residential Lease" means any lease of the Property to a tenant including any addendum, amendment, or move-in condition form.

Seller may not execute any new Residential Lease or amend any Residential Lease without Buyer's written consent. Existing Residential Leases will have the following status at closing. (Check only A or B)

- A. Termination of Residential Leases: All Residential Leases must be terminated by closing. Seller shall deliver possession of the Property in accordance with Paragraph 10 of the contract with no tenant or other person in possession or having rights to occupy the Property. **[Notice: This paragraph will not amend or terminate any existing lease. Consult an attorney and refer to the Residential Leases for rights to terminate before agreeing to this provision.]**
- B. Assignment and Assumption of Residential Leases: Existing Residential Leases shall be assigned by Seller and assumed by Buyer at closing.
 - (1) Delivery of Residential Leases: [~~(Check one box only)~~]
 - (a) Buyer has received a copy of all Residential Leases.
 - (b) Buyer has not received a copy of all Residential Leases. Seller shall provide a copy of the Residential Leases within 3 days after the Effective Date. Buyer may terminate the contract within _____ days after the date the Buyer receives the Residential Leases and the earnest money shall be refunded to Buyer.
 - (c) Seller provides Buyer with notice of the following oral Residential Lease(s) (or on the attached exhibit), identifying the name of the tenant(s), rental amount, and term:

 - (2) At closing, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. At closing, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.
 - (3) Except as described below, and to Seller's knowledge for each Residential Lease:
 - (a) the Residential Lease is in full force and effect;
 - (b) no tenant is in default or in violation of the Residential Lease;
 - (c) no tenant has prepaid any rent;
 - (d) no tenant is entitled to any offset against rent;
 - (e) there are no outstanding tenant claims against Seller involving the Property;
 - (f) there are no pending disputes with any tenant or prior tenant; and
 - (g) there are no other agreements, options, or rights outside the Lease between Landlord and Tenant regarding the Property.

Explain if any of the above is not accurate (attach additional sheets if necessary): _____

(4) Seller will promptly notify Buyer if Seller learns that any statement in Paragraph B(3) becomes untrue after the Effective Date. Seller shall cure the condition making the statement untrue within 7 days after providing the notice to Buyer. If the statement remains untrue beyond the 7-day period, Buyer may, as Buyer's sole remedy, terminate the contract within 5 days after the expiration of the 7-day period, by delivering notice to the Seller and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract within the time required, Buyer waives the right to terminate. The Closing Date will be extended daily as necessary to afford the parties their rights and time to provide notices under this paragraph.

Buyer

Seller

Buyer

Seller



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ADDENDUM REGARDING FIXTURE LEASES



CONCERNING THE PROPERTY AT: _____
(Street Address and City)

A. Leased Fixtures are those fixtures in or on the Property that Seller leases and does not own, specifically the: solar panels, propane tanks, water softener, security system, _____ (collectively, the Leased Fixtures). All rights to the Leased Fixtures are governed by Fixture Leases.

(1) At closing, Buyer shall assume[7] and Seller shall assign to Buyer the following Fixture Leases [at closing, except the following]: solar panel lease, propane tank lease, water softener lease, security system lease, _____. Buyer shall pay the first \$_____ of any cost necessary to assume or receive an assignment of the Fixture Leases and Seller shall pay the remainder. Buyer and Seller agree to sign any documents required by the lessor in the Fixture Leases to assume or assign the Fixture Leases.

(2) Prior to closing, Seller will will not remove the Leased Fixtures covered by the Fixture Leases that Buyer does not assume. Seller will repair any damage to the Property caused by any removal. Notice: Any Leased Fixture remaining in the Property are subject to the rights of the lessor under the Fixture Lease.

B. Delivery of Fixture Leases: [~~Check one box only~~]

- (1) Buyer has received a copy of all Fixture Leases Buyer has agreed to assume.
- (2) Buyer has not received a copy of all Fixture Leases Buyer has agreed to assume. Seller shall provide a copy of the Fixture Leases within 5 days after the Effective Date. Buyer may terminate the contract within 7 days after the date the Buyer receives the Fixture Leases and the earnest money shall be refunded to Buyer.
- (3) Seller provides Buyer with notice of the following oral Fixture Lease(s) (or on the attached exhibit), identifying the name of the lessee(s), rental amount, and term:

C. At closing, there will be no liens or security interests against Leased Fixtures which will not be satisfied out of the sales proceeds except for Leased Fixtures covered by Fixture Leases Buyer agrees to assume.


Notice: Seller and Buyer should consult with the lessor and their attorneys regarding the assignment, assumption, or termination of any Fixture Leases.

Buyer

Seller

Buyer

Seller

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LOAN ASSUMPTION ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT

(Address of Property)

A. CREDIT DOCUMENTATION. To establish Buyer's creditworthiness, Buyer shall deliver to Seller within _____ days after the Effective Date[~~effective date~~] of this contract credit report verification of employment, including salary verification of funds on deposit in financial institutions current financial statement and _____.

Buyer hereby authorizes any credit reporting agency to furnish copies of Buyer's credit reports to Seller and the noteholder(s) of the loan(s) being assumed at Buyer's sole expense.

B. BUYER'S CREDIT APPROVAL. If the credit documentation described in Paragraph A is not delivered to Seller within the specified time, Seller may terminate this contract by notice to Buyer given at any time before all of the required credit documentation is furnished [~~within 7 days after expiration of the time for delivery~~], and the earnest money will be paid to Seller. If the credit documentation is [~~timely~~] delivered, and Seller determines in Seller's sole discretion that Buyer's credit is unacceptable, Seller may terminate this contract by notice to Buyer within 7 days after expiration of the time for delivery or its actual delivery, whichever is later, and the earnest money will be refunded to Buyer. If Seller does not terminate this contract within the time specified, Seller will be deemed to have approved Buyer's creditworthiness.

C. ASSUMPTION. At Closing, Buyer will assume in writing the following[~~Buyer's assumption of an~~] existing note(s)[~~note~~] and [~~includes~~] all obligations imposed by the deed(s)[~~deed~~] of trust securing the notes[~~note~~] assumed[:~~-~~]

- (1) The unpaid principal balance of a first lien promissory note payable to _____ which unpaid balance at closing will be \$ _____. The total current monthly payment including principal, interest and any reserve deposits is \$ _____. Buyer's initial payment will be the first payment due after closing.
- (2) The unpaid principal balance of a second lien promissory note payable to _____ which unpaid balance at closing will be \$ _____. The total current monthly payment including principal, interest and any reserve deposits is \$ _____. Buyer's initial payment will be the first payment due after closing.

If the unpaid principal balance of any assumed loan as of the Closing Date varies from the loan balance stated above, the cash payable at closing Sales Price will be adjusted by the amount of any variance. If the total principal balance of all assumed loans varies in an amount greater than \$[~~500~~] _____ at closing, either party may terminate this contract and the earnest money will be refunded to Buyer unless the other party elects to pay the excess of the variance. Within 7 days after the Effective Date, Seller will deliver to Buyer copies of the note(s) to be assumed, the deed(s) of trust, and the most recent loan statement(s) from the lender.

D. LOAN ASSUMPTION TERMS. Buyer may terminate this contract and the earnest money will be refunded to Buyer if the noteholder requires:

- (1) payment of an assumption fee in excess of \$ _____ in C(1) or \$ _____ in C(2) and Seller declines to pay such excess, or
- (2) an increase in the interest rate to more than _____% in C(1) or _____% in C(2), or
- (3) any other modification of the loan documents.

E. CONSENT BY NOTEHOLDER. If the noteholder fails to consent to the assumption of the loan, either Seller or Buyer may terminate this contract by notice to the other party and the earnest money will be refunded to the Buyer.

F. SELLER'S LIENS. Unless Seller is released from liability on any assumed note, a vendor's lien and deed of trust to secure assumption will be required. The vendor's lien will automatically be released on delivery of an executed release by noteholder.

G. TAX AND INSURANCE ESCROW. If noteholder maintains an escrow account for ad valorem taxes, casualty insurance premiums or mortgage insurance premiums, Seller shall transfer the escrow account to Buyer without any deficiency. Buyer shall reimburse Seller for the amount in the transferred accounts.

H. AUTHORIZATION TO RELEASE INFORMATION:

- (1) The lender(s) of note(s) being assumed are authorized to furnish to Seller or Buyer or their representatives information relating to the status of the consent to the assumption.
- (2) Seller and Buyer authorize the lender(s) of note(s) being assumed, Title Company, and Escrow Agent to disclose and furnish a copy of the closing disclosures and settlement statements to the parties' respective brokers and sales agents provided under Broker Information.

NOTICE TO BUYER: If you are concerned about the possibility of future adjustments, monthly payments, interest rates or other terms, do not sign the contract without examining the notes and deeds of trust.

NOTICE TO SELLER: Your liability to pay the notes assumed by Buyer will continue unless you obtain a release of liability from the noteholders. If you are concerned about future liability, you should use the TREC Release of Liability Addendum.

DUE ON SALE NOTICE: Any note to be assumed or the deed of trust securing the note may contain a provision, commonly known as a "due on sale" clause, stating that the noteholder may declare the note to be immediately due and payable upon conveyance of an interest in the Property. If the noteholder fails to consent to the sale and assumption of the loan, the noteholder may have the right to declare the entire note to be immediately due and payable in full.

DRAFT

Buyer

Seller

Buyer

Seller



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ADDENDUM FOR RESERVATION OF OIL, GAS, AND OTHER MINERALS



ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT

(Street Address and City)

NOTICE: For use ONLY if Seller reserves all or a portion of the Mineral Estate.

- A. "Mineral Estate" means all oil, gas, and other minerals in and under and that may be produced from the Property, any royalty under any existing or future mineral lease covering any part of the Property, executive rights (including the right to sign a mineral lease covering any part of the Property), implied rights of ingress and egress, exploration and development rights, production and drilling rights, mineral lease payments, and all related rights and benefits. The Mineral Estate does NOT include water, sand, gravel, limestone, building stone, caliche, surface shale, near-surface lignite, and iron, but DOES include the reasonable use of these surface materials for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals from the Property.
- B. *Subject to Section C below*, the Mineral Estate owned by Seller, if any, will be conveyed unless reserved as follows (check one box only):
 - (1) Seller reserves all of the Mineral Estate owned by Seller.
 - (2) Seller reserves an undivided _____ interest in the Mineral Estate owned by Seller. *NOTE: If Seller does not own all of the Mineral Estate, Seller reserves only this percentage or fraction of Seller's interest.*
- C. Seller does does not waive ~~[reserve and retain implied]~~ rights of ingress and egress and of reasonable use of the Property (including surface materials) that are part of the Mineral Estate for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals. *NOTE: Surface rights that may be held by other owners of the Mineral Estate who are not parties to this transaction (including existing mineral lessees) will NOT be affected by Seller's election. Seller's failure to complete Section C will be deemed an election to convey all surface rights described herein.*
- D. If Seller does not reserve all of Seller's interest in the Mineral Estate, Seller shall, within 7 days after the Effective Date, provide Buyer with the current contact information of any existing mineral lessee known to Seller.

IMPORTANT NOTICE: The Mineral Estate affects important rights, the full extent of which may be unknown to Seller. A full examination of the title to the Property completed by an attorney with expertise in this area is the only proper means for determining title to the Mineral Estate with certainty. In addition, attempts to convey or reserve certain interest out of the Mineral Estate separately from other rights and benefits owned by Seller may have unintended consequences. Precise contract language is essential to preventing disagreements between present and future owners of the Mineral Estate.

If Seller or Buyer has any questions about their respective rights and interests in the Mineral Estate and how such rights and interests may be affected by this contract, they are strongly encouraged to consult an attorney with expertise in this area.

CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate brokers and sales agents ~~[licensees]~~ from giving legal advice. READ THIS FORM CAREFULLY.

Buyer

Seller

Buyer

Seller



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Appendix B – Loan Assumption Addendum

Loan assumptions haven't been a common choice for buyers for several years. It is a tool now being used with mixed results, and one used to commit mortgage fraud. Read the addendum carefully. Familiarize yourself with the *Addendum for Release of Liability on Assumed Loan* (TREC 12-3), which will often be required in conjunction with the *Loan Assumption Addendum* (TREC 41-3).

VA and FHA loans are generally assumable. The terms and conditions of a loan assumption are up to the loan servicer. VA requires a .5% assumption fee and FHA allows a \$900 assumption fee. Other fees, interest rates, and terms would need to be obtained from the loan servicer. Loans backed by government sponsored enterprises (GSEs), like Fannie Mae and Freddie Mac, generally do not allow assumptions of their loans. As a listing agent, be prepared to discuss this possibility with the seller. The first action the seller should take is contacting the current mortgage company and obtaining in writing information about whether the loan can be assumed and under what terms and conditions. While a mortgage statement the seller receives may provide loan information, this statement likely does not have an accurate payoff amount, and rarely do statements show any forbearance a seller may have taken in years past. Forbearance should show up on a payoff letter, so the seller needs to request one. Another task for the listing agent is to ensure the seller obtains a copy of the note(s), the deed(s) of trust, and a payoff quote from the lender. These documents must be provided to the buyer within seven days of the effective date of the contract.

The form contemplates requirements for whether there is an escrow account. If there is no escrow account, the amount of property taxes will be prorated to the closing date. If there is an escrow account, the balance will be transferred to the buyer "with no deficiency" and the buyer will reimburse the seller for the amount transferred. "With no deficiency" requires some effort to ensure all fees and taxes being escrowed are calculated properly.

How will the buyer make up the difference between the sales price and the assumed loan? Will they be paying cash, or will they require a

lender who will loan them a second mortgage? A prudent agent will have a list of lenders who perform this type of lending. The lenders will have their own fees, which will be required. In some cases, each lender (the assumption lender and the second lender) do not share appraisals, therefore two appraisals may be ordered at the expense of either the seller or the buyer. The original loan service provider must approve the second lien.

Generally, all these tasks cause an assumption transaction to take longer than a new loan process. Parties should be prepared for the assumption process to take 60 to 90 days or longer.

How is this tool being used as a mortgage fraud? The market has produced a series of potential "creative" financing ideas. For example, the seller contacts the mortgage service provider to inform it that the seller is going to move the property into an LLC, LP, corporation, or trust. After that is complete, the seller sells the interest in the entity to another person without informing the mortgage service provider of this change. Ask your favorite lender if this action would constitute a mortgage fraud.

Another example is when the seller and buyer agree to have an attorney draft a "wrap" note instead of an assumption. If you are wondering what that means, let's say the seller owes a mortgage service provider \$275,000 on a property whose value is \$525,000. The buyer has \$50,000 to put down. In spite of the fact that the loan has a "due on sale" clause, an attorney drafts a note for \$475,000 which "wraps" the \$275,000 and the \$200,000 additional money required to purchase the property. The buyer will then be paying the mortgage service provider on the \$275,000 note and paying the seller on the \$200,000 note. Sounds like an amazing way to close some transactions, but maybe not. Due on sale clauses are in most deeds of trust written in Texas for the last 25 years, so that means if the lender finds out the seller sold the property without paying off the loan, the lender may call the note due and payable within 30 days of learning of the sale. This is a hard secret to keep. Don't do it.

Appendix C – Memorandum from HUD



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

ASSISTANT SECRETARY FOR
FAIR HOUSING AND EQUAL OPPORTUNITY

February 11, 2021

MEMORANDUM FOR: Office of Fair Housing & Equal Opportunity
Fair Housing Assistance Program Agencies
Fair Housing Initiatives Program Grantees

A handwritten signature in cursive script, appearing to read "Jeanine M. Worden".

FROM: Jeanine M. Worden, Acting Assistant Secretary for Fair Housing & Equal Opportunity

SUBJECT: Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act

On January 20, 2021, President Biden issued [Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#). The Executive Order addresses the Supreme Court's recent decision in *Bostock v Clayton County*, which held that the prohibitions against sex discrimination in the workplace contained in Title VII of the Civil Rights Act of 1964 extend to and include discrimination on the basis of sexual orientation and gender identity. Relying on this landmark decision, the Executive Order directs every federal agency to assess all agency actions taken under federal statutes that prohibit sex discrimination and to fully enforce those statutes to combat discrimination based on sexual orientation and gender identity. HUD's Office of General Counsel has concluded that the Fair Housing Act's sex discrimination provisions are comparable to those of Title VII and that they likewise prohibit discrimination because of sexual orientation and gender identity. Therefore, I am directing HUD's Office of Fair Housing and Equal Opportunity (FHEO) to take the actions outlined in this memo to administer and fully enforce the Fair Housing Act to prohibit discrimination because of sexual orientation and gender identity.

At the core of this Department's housing mission is an endeavor to ensure that all people peacefully enjoy a place they call home, where they are safe and can thrive, free from discrimination and fear. Yet, this ideal remains unrealized for lesbian, gay, bisexual, transgender, and queer-identifying persons, who have been denied the constitutional promise of equal protection under the law throughout most of American history. Courts and governments have routinely withheld legal legitimacy from loving couples because of their sex and denied many persons the freedom to express a gender that defies norms. These injustices have perpetuated across our civic institutions: the workplace, the marketplace, places of education, and many others. But among the most personal and fundamental of these institutions is housing, where, when granted the protection of fair housing law, we all can enjoy the happiness and freedom to love whom we choose and to safely express who we are.

We know this discrimination is real and urgently requires enforcement action. HUD-funded housing discrimination studies indicate that same-sex couples and transgender persons in

communities across the country experience demonstrably less favorable treatment than their straight and cisgender counterparts when seeking rental housing.

Over the past 10 years, the Department has sought to address housing discrimination on the basis of sexual orientation and gender identity to the extent possible in a dynamic public policy and legal landscape. Beginning in 2012, HUD promulgated a series of rules to ensure that every person has equal access to HUD programs without being arbitrarily excluded, regardless of their sexual orientation, gender identity, or marital status. In its 2016 harassment rule, HUD reaffirmed its legal interpretation that the Fair Housing Act's protection from discrimination because of sex included discrimination because of gender identity. Also in 2016, FHEO instructed regional offices that discrimination because of real or perceived gender identity is sex discrimination under the Fair Housing Act, and that discrimination against persons because of sexual orientation may be sex-based discrimination when motivated by perceived nonconformity with gender stereotypes.

This limited enforcement of the Fair Housing Act's sex discrimination prohibition, while a step forward, is insufficient to satisfy the Act's purpose of providing fair housing throughout the United States to the full extent permitted by the United States Constitution. It is also inconsistent with the Supreme Court's interpretation of discrimination because of sex under *Bostock*, and it fails to fully enforce the provisions of the Fair Housing Act to combat discrimination on the basis of sexual orientation and gender identity in accordance with Executive Order 13988. For these reasons, I have determined that the following actions are necessary.

Effective immediately, FHEO shall accept for filing and investigate all complaints of sex discrimination, including discrimination because of gender identity or sexual orientation, that meet other jurisdictional requirements. Where reasonable cause exists to believe that discrimination because of sexual orientation or gender identity has occurred, FHEO will refer a determination of cause for charge by HUD's Office of General Counsel. Moreover, if discrimination because of gender identity or sexual orientation occurs in conjunction with discrimination because of another protected characteristic, all such bases shall be included within the complaint, investigated, and charged where reasonable cause exists. Similarly, FHEO shall conduct all other activities involving the application, interpretation, and enforcement of the Fair Housing Act's prohibition on sex discrimination to include discrimination because of sexual orientation and gender identity.

This memorandum also affects state and local agencies that enter into agreements with the Department under the Fair Housing Assistance Program (FHAP), pursuant to which such agencies process discrimination complaints under laws that the Department certifies as "substantially equivalent" to the Fair Housing Act. In order for FHAP agencies' laws to remain substantially equivalent, they must be administered consistent with *Bostock*. To be consistent with *Bostock*, the state or local law either must explicitly prohibit discrimination because of gender identity and sexual orientation or must include prohibitions on sex discrimination that are interpreted and applied to include discrimination because of gender identity and sexual orientation. HUD will provide further instruction and technical assistance to FHAP agencies on the implementation of *Bostock*.

Similarly, organizations and agencies that receive grants through HUD's Fair Housing Initiative Program (FHIP), in carrying out activities under these grant agreements, must interpret sex

discrimination under the Fair Housing Act to include discrimination because of sexual orientation and gender identity. FHIP provides funds to public and private not-for-profit entities to conduct various activities to prevent or eliminate discriminatory housing practices. These activities provide important support to the full enforcement of the Fair Housing Act by informing the public about fair housing rights and obligations; detecting discriminatory conduct through investigation and testing; and assisting persons to file complaints and obtain relief through legal and administrative forums. HUD will provide further instruction and technical assistance to FHIP organizations on the implementation of this order.

In accordance with this directive to fully enforce the Fair Housing Act's prohibitions against discrimination because of sex, including sexual orientation and gender identity, FHEO Regional Offices, FHAP agencies and FHIP grantees are instructed to review, within 30 days, all records of allegations of discrimination (inquiries, complaints, phone logs, etc.) received since January 20, 2020. They are instructed to notify persons who alleged discrimination because of gender identity or sexual orientation that their claims may be timely and jurisdictional for filing.

The Department is committed to delivering the full promise of the Fair Housing Act. Our FHEO offices across the country are open and ready to assist persons who believe they have experienced discrimination because of sexual orientation or gender identity. We will collaborate with our FHIP and FHAP partners, particularly over the next several months, to fully engage our fair housing enforcement, advocacy, and public education efforts across the housing market to prevent and combat discrimination because of sexual orientation and gender identity. I am deeply proud of the Department's commitment to fair housing and the enormous contribution our FHIP and FHAP partnerships bring to the nation's fair housing mission. Together, I know we will forge a path to the eradication of housing discrimination for all.

Appendix D – Fair Housing Poster

U. S. Department of Housing and Urban Development



**EQUAL HOUSING
OPPORTUNITY**

We Do Business in Accordance With the Federal Fair Housing Law

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)
www.hud.gov/fairhousing

**U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410**

Appendix E – Fair Housing Resources

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Race v. Color

dol.gov/agencies/eta/apprenticeship/eo/protected/race-color

National Origin v. Ancestry

schorrlaw.com/practice-areas/discrimination/race-national-origin-and-ancestry-discrimination/

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HUD Secretary Marcia Fudge video

youtube.com/embed/_7Osd-lbbXE?start=39

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FHFA Advisory Bulletin

www.fhfa.gov/SupervisionRegulation/AdvisoryBulletins/AdvisoryBulletinDocuments/AB%202021-04%20Enterprise%20Fair%20Lending%20and%20Fair%20Housing%20Compliance.pdf

Appraisal Foundation Fifth Exposure Draft

appraisalfoundation.sharefile.com/share/view_s5e32cc6ece0342ffb16ecfd5fb99877f

Fair Housing Executive Order 13988

whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/

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HUD Information About Assistance Animals

hud.gov/program_offices/fair_housing_equal_opp/assistance_animals

HUD Memo on Assistance Animals

hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf

A collection of light-colored wooden blocks arranged on a yellow background to form the outline of a house. Two rectangular blocks are stacked vertically at the top left. Two longer blocks are positioned diagonally to form the roofline. Two vertical blocks are positioned at the bottom left and bottom right to form the pillars. The text and logo are centered within this house-shaped frame.

Legal Update II

Student Manual



Edition 11
2024-2025

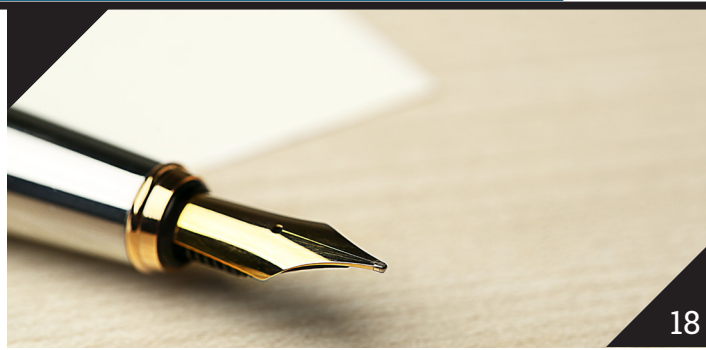
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Learning Objectives

After this chapter, you will be able to

- ✓ Define the three Canons of Professional Ethics and Canons under Chapter 531 of the TREC rules.
- ✓ Explain how types of agency relationships are created in Texas.
- ✓ Summarize how license holder-to-license holder communications about commissions can be a violation of antitrust laws.

Chapter 531 Canons of Professional Ethics and Conduct: An Overview

Section 531.2, Fidelity

A license holder, while acting as an agent for another, is a fiduciary. Special obligations are imposed when such fiduciary relationships are created. They demand that the duty of a license holder is to

- Represent the interests of the clients, with this position clear to all parties in a real estate transaction.
- Treat other parties to a transaction fairly.
- Be faithful and observant to trust placed in the license holder.
- Be scrupulous and meticulous in performing the license holder's functions.
- Place no personal interest above that of the client.

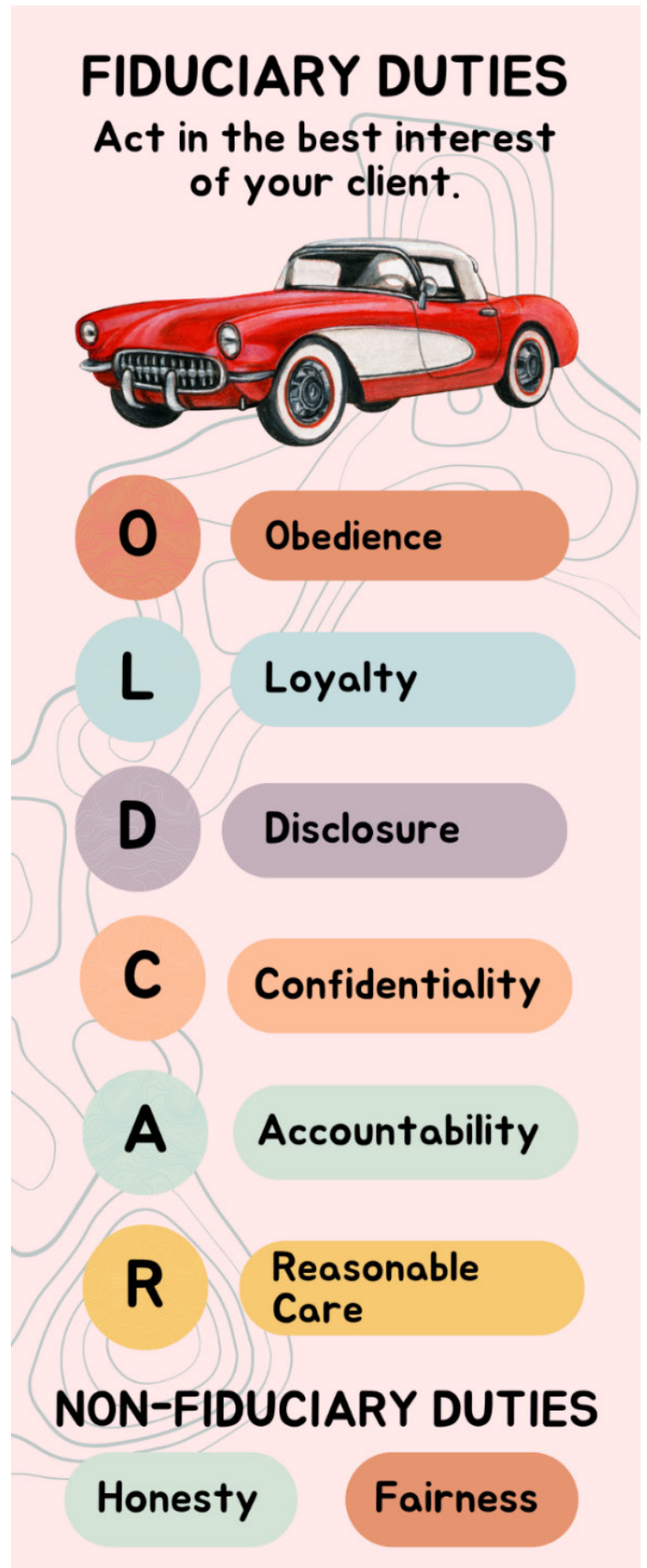
Section 531.3, Integrity

A license holder has a special obligation to exercise integrity in the discharge of the license holder's responsibilities, including employment of prudence and caution so as to avoid misrepresentation, in any way, by acts of commission or omission.

Section 531.4, Competency

It is the obligation of a license holder to be knowledgeable and competent as a real estate brokerage practitioner. The license holder must

- Be informed on local market issues and conditions affecting real estate in the geographic area where a license holder provides services to a client
- Be informed on national, state, and local issues and developments in the real estate industry
- Exercise judgment and skill in the performance of brokerage activities
- Be educated in the characteristics involved in the specific type of real estate being brokered for others.



Integrity – Three Scenarios

Read the following scenarios and answer the discussion questions.

Scenario 1: A Tale of Time Management

Sales agent Austin had too many tasks and not enough time. As he rushed to wrap up one appointment for a showing at 2 p.m., he came up with an idea he thought would save time. Austin called his best friend Oscar, who works for a ride-hailing company. “If I pay you for the time,” Austin said, “Would you take my phone to unlock a lockbox, take the key out, and hand it to my client who will be at the home at 2 p.m.? Feel free to leave after handing over the key.” Oscar agreed.

Although the seller wasn't at home, her video doorbell alerted her to a man who came to the front door, opened the lockbox, and handed the key to two unknown people who were Austin's clients. His clients used the key

to open the door and walked inside the house. The man who opened the lockbox left after handing over the key. Indoor cameras showed the clients looking around the house, opening doors and kitchen drawers, and generally giving the house the once over. Nothing appeared to be damaged or taken, but the seller felt violated. She called Austin's broker and asked how this could have happened.

Smile, You're on Screen!

License holders should conduct themselves as if they are always on camera, and not just because of smart home devices or social media apps. License holders are expected to conduct themselves with fidelity, integrity, and competency whether cameras are rolling.



Discussion Questions

- **Did Austin act with integrity?**
- **What potential consequences could Austin face?**
- **What should Austin do differently in this scenario?**

Notes

Competency - A Story and a Skit



Activity

Use role playing by asking or assigning class participants to the roles of the Narrator, Dolly, and Eileen, and then answer the discussion question together.

Narrator: Dolly Boyd, a sales agent, grew up in Beaumont. She moved away to Lubbock as soon as she could to attend Texas Tech University. While there, Dolly got her real estate sales agent license and did leasing for Texas Tech students.

Dolly did quite well. When she graduated from Texas Tech in 2014, she moved to Shallowater, Texas, (not far from Lubbock) where she joined her mother-in-law Eileen Boyd at Boyd Properties. She has been very successful in the area selling homes and land.

Recently, Dolly's cousin Loretta Stepp called her because she wants to buy a home in Beaumont and wants Dolly to represent her. Loretta hasn't decided if she wants to buy a resale or a new home.

Dolly really wants to help her cousin but does not know what to do. Although she has been back to Beaumont every year for the holidays, there has been lots of growth since she left Beaumont.

Finally, Dolly decides to talk to Eileen and see what Eileen thinks about Dolly representing someone for a purchase in Beaumont.

Here is what ensued ...

Dolly: "Hey Eileen, my cousin, Loretta ... you remember Loretta, don't cha? She was at the wedding when Beau and I got married and she comes to Thanksgiving, too. You've seen her there several times."

Eileen: "Yes, I remember Loretta and her long black hair. What's up with her?"

Dolly: "Well, she wants to buy a house and wants me to represent her."

Eileen: "Oh MY, she is moving to Shallowater? I had no idea she wanted to move up here."

Dolly: "No, no, no she wants to buy a house in Beaumont."

Eileen: "BEAUMONT?!"

Dolly: "Yes, ma'am!"

Eileen: "Dolly, we need to talk about this and think this through. Is she wanting a resale or a new home?"

Dolly: "She doesn't know yet, but I think it will be a pretty good sale."

Eileen: "Dolly, that is an entirely different MLS from what we participate in, how will you gain access to these properties?"

Dolly: "Well, I hadn't thought about that. But I can stay with my Mama when I go down there."

Eileen: "Dolly, does Loretta have any special requests for a home she might be interested in?"

Dolly: "Oh yes, she wants backyard chickens and to have a guest house for me and Beau to stay in when we come down."

Eileen: "Where will you research whether that will be allowed in the area? Do you know about their homeowner's associations? And have you ever researched city ordinances, like when you were doing leasing in Lubbock? Did you ever have to figure out if a tenant had a special request, and find out whether that could be done in the apartment complex?"

Dolly: "No, I just took them to the apartment people, and they gave them the information

All About Agency Relationships

An agency relationship is a fiduciary relationship between two parties and based on trust. In a fiduciary relationship, license holders have a duty to work in the best interest of their client and above any personal interest—but not above the law.

In Texas, real estate license holders represent parties in a real estate transaction, such as a buyer, seller, landlord, or tenant.

Texas does not have the practice of transactional brokerage nor non-representational brokerage, though some states do.

Implied Agency



Express Agency



How Is an Agency Relationship Created?

The *Information About Brokerage Services* (IABS) form tells consumers that they should create an agency relationship in writing using listing agreements, buyer/tenant agreements, and property management agreements. These are called express agreements. An oral agreement is also an express agreement, so an agency relationship may be created orally.

However, sometimes agency isn't created through an express agreement but is implied because of someone's actions or words. This could occur when a party believes an agent represents her because of what the agent has said or acts an agent has performed for her.



Activity

Ask or assign class participants to the roles of the Narrator, Patricia, and Carlos, and then answer discussion questions together.

Narrator: Carlos is a buyer who called Patricia after seeing her for sale sign in the yard of one of her listings. Patricia and Carlos have had several conversations over the phone and via email about the property. Since Patricia will be holding an open house at the home in the morning, she tells Carlos to come by then and she will show him the property.

Patricia: So, what do you think of the home, Carlos? Isn't it everything I told you it would be?

Carlos: I love it! Thanks for everything, Patricia! You've been a great help. You've answered all my questions and given me options about what I should do. I don't know what I could've done without you. So, what do I need to do next?

Patricia: Let's look at some numbers, you know, comps in the area. I'll get you the disclosures and then we can put our heads together to make an offer that will get your goals met. I'm just about to close up the open house, so why don't we meet back at my office in an hour and get started right away?

Carlos: That sounds great! I'll see you in an hour.



Discussion Questions

- **Who does Patricia represent?**
- **What may Patricia have done or said that would make Carlos believe she represents him?**
- **What potential issues could Patricia have based on this scenario?**

Notes

Tips for Agency Relationships

Although not required by law nor promulgated by TREC, many brokerages have representation agreements clients sign that clarify the agency relationship. These agreements are between a broker and a client, not a sales agent and a client.

It may be a good practice for brokers who use these agreements to regularly review and explain them to their sponsored agents and detail how you want the forms completed.

Importantly, a broker cannot sue for a commission unless there is a written agreement signed by the party responsible to pay the commission.

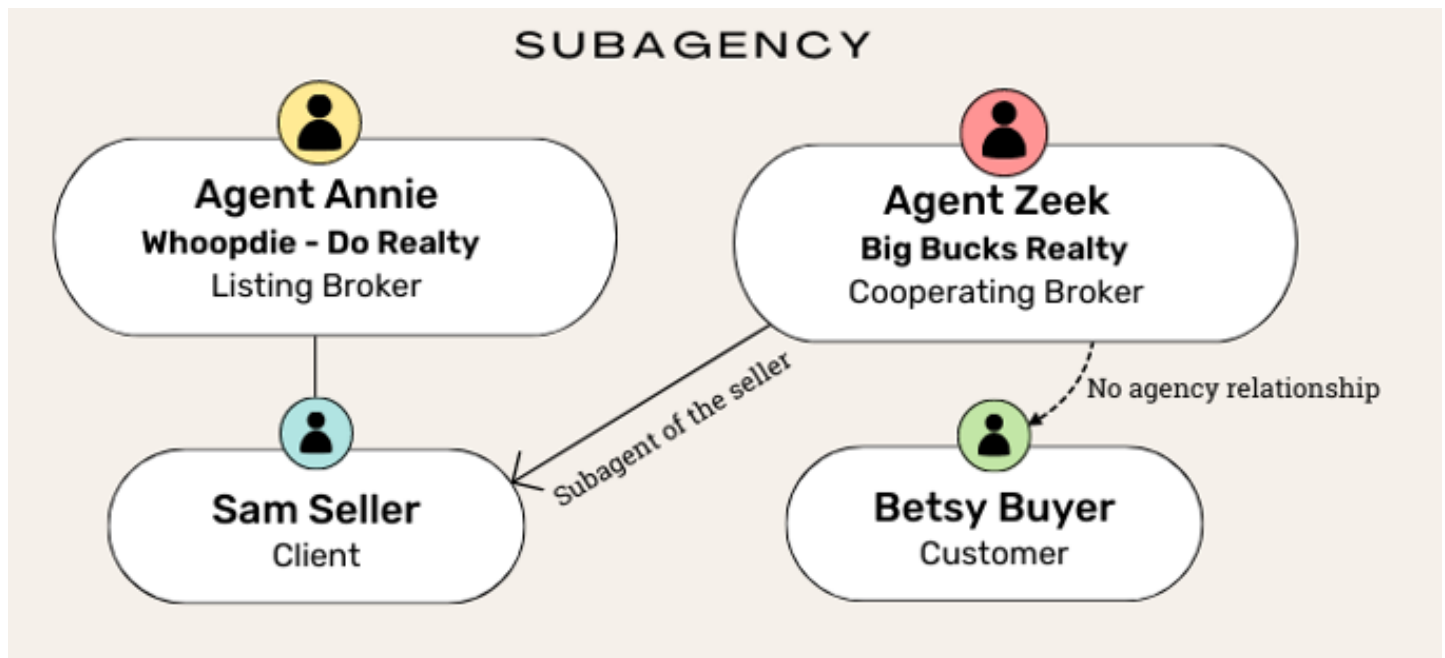
In addition to walking through these types of agreements, brokers can train agents using scripts, role playing, or dialogues to discuss how to create agency with a potential buyer, seller, landlord, or tenant.

Subagency

A broker who sells the listing of another broker is called the cooperating broker. The cooperating broker typically represents the buyer—hopefully through a written agreement—who is purchasing the listing.

If the cooperating broker hasn't established an agency relationship with the buyer, and without any objection from the listing broker, the cooperating broker would become the subagent of the seller.

This means the cooperating broker, although working with the buyer, would not actually represent the buyer. Instead, the buyer would be a customer. The broker would still need to treat the buyer fairly and honestly, however.



Confusing? Imagine being the buyer in this situation. The cooperating broker needs to clearly disclose the relationship to the buyer.

In a subagency situation, the cooperating broker's loyalty would be to the seller. Aside from what would be protected by law, all information the cooperating broker learned from the buyer would be disclosed to the seller client. In this situation, buyers need to be careful about what information they provide to the cooperating broker about negotiations.

The possibility of subagency may be a conversation a listing agent would have with the seller at the listing table. A broker may have a policy as to whether the broker will allow an agent to act as a subagent or whether the broker will accept an offer of subagency from a cooperating broker.

A Buyer Avoiding Commitment

Bethany is an experienced buyer’s agent. Keiko is interested in purchasing a property. Bethany and Keiko have been communicating on and off over the last four months, and while she likes working with Bethany, Keiko doesn’t want to commit to an agency relationship—not even orally. This week Bethany showed Keiko a new property and Keiko has decided it is the one! Keiko is ready to make an offer and wants to move quickly.



Discussion Questions

- **Once Keiko says she is ready to make an offer, what should Bethany explain to Keiko about agency relationships?**
- **What does Bethany need to tell the listing broker about her relationship with Keiko?**

Notes

Be Cautious About Commission Conversations

The first antitrust legislation, called the Sherman Act, was passed in 1890. It is not named for Sherman, Texas, but for Senator John Sherman, the law's principal author. This law is still relevant to the real estate industry.

So, how is a law from the 1800s relevant in 2024? If a license holder is having lunch with some real estate friends from several brokerages, a conversation about how much you all should "charge" for a listing is **not appropriate**. In fact, it would violate federal antitrust laws. A conversation, email, or text of that nature **should never occur**.

Every time you attend a meeting or a social event with license holders from other companies, you are halfway to the definition of a violation of antitrust. Why? You are a "group of competitors." If you begin to discuss commission rates or why one should not show a license holder or a company's listing, you will have traveled the rest of the way to an antitrust violation.

Avoid Trouble With Antitrust Laws

Imagine you are at that luncheon with a group of competitors, and someone begins a conversation about commissions their company charges and asks what everyone else's broker requires. Or someone says, "Don't do business with Jean-Luc Picard!" **You need to do something to make it known and remembered that you cannot participate in this conversation.**

Consider slapping the table hard with a big noise, announce the time, tell everyone you are leaving, and this conversation could violate antitrust laws. No one will forget what you did and said.

Does this sound like an exaggeration? It's not. If an antitrust complaint is filed, this will be your defense. It is very likely your friends will be glad that you took action to remind them of antitrust.

There is No Such Thing as A "Standard Commission"

There is no such thing as a "standard commission" for all license holders. TREC does not set nor recommend nor suggest what brokers can charge for their services.

All license holders should remove the words "standard commission" from your language, your marketing, your conversation, and your mind. The compensation a broker receives is an agreement between the broker and the consumer and is no one else's business.

NAR members can learn more here: nar.realtor/competition-in-real-estate

But My Broker Sets Our Rates?

A broker can set commission rates for their company in their policies and procedures. These policies should be clear and specific with explanations and perhaps, examples.

A broker might have policies on fees based on the sales or lease price, or property type, or any other criteria the broker chooses to use. A broker might set the fee for their brokerage and let the landlord or seller select the cooperative fee for the buyer or tenant's broker.

The policy should cover referral agreements and fees. Training and scripts for how to discuss fees with clients and customers could also be valuable to license holders. There should be clarity in policy about when and if the broker's fee schedule can be changed and how it could be changed. Check with your broker about fees in order to be compliant with your broker's policy.

Chapter 2

TREC Disclosures



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- 26 Explaining the *Consumer Protection Notice*
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How to File a Complaint
Real Estate Trust Account
TREC’s Contact Information
- 29 Criminal Disclosure
- 30 What is the RAP BACK Program?

Learning Objectives

After this chapter, you will be able to

- ✓ Understand the specific information contained in each section of the of the IABS.
- ✓ Explain the mechanisms for acceptable delivery and posting of the Consumer Protection Notice.
- ✓ Given a criminal incident, assess if or when a license holder must disclose it as part of their criminal history.
- ✓ Recall the name of the program TREC uses during the license renewal process to check criminal related activity.

Explaining the *Information About Brokerage Services* Form

A license holder who is having substantive communication with someone about a possible real estate transaction regarding specific property is required to give to that party a written notice that is called *Information About Brokerage Services*. The license holder could

- Hand it to the party
- Attach it to or provide a link (above the signature line) in an email, mention that you are attaching or linking it in the body of the email, and send to the party
- Provide it in the body of the email
- Send it by mail.

Regardless, license holders must give the *Information About Brokerage Services* form (IABS) to the individuals with whom they are having a conversation about real property.

According to Texas Occupations Code Chapter 1101.558 (b-1): At the time of a license holder's first substantive communication with a party relating to a proposed transaction regarding specific real property, the license holder shall provide to the party written notice in at least a 10-point font that:

- (1) describes the ways in which a broker can represent a party to a real estate transaction, including as an intermediary;
- (2) describes the basic duties and obligations a broker has to a party to a real estate transaction that the broker represents; and
- (3) provides the name, license number, and contact information for the license holder and the license holder's supervisor and broker, if applicable.

The IABS is required to be given because it provides valuable information about the duties and obligations that a broker has to a party that the broker represents and describes the ways in which a broker can represent a party in a real estate transaction. It's pretty important information.



Activity

Imagine a first-time buyer receiving a copy of the IABS from a license holder. Let's look at a scenario.

Lucia: It has been really nice talking to you today, Zoe. I am glad I could give you information about the house on Twelfth St. and the other on C Ave. The Texas Real Estate Commission says I have to give you a form called Information About Brokerage Services since we talked about a specific property. My broker needs a copy with your initials on it. I brought two so you could keep one.

Zoe: What does it say? Can I read it first?

Lucia: Sure! It's just information. You aren't agreeing to anything. By initialing, you are just showing that you received it. I'll need you to initial a copy for our company's records.

Zoe: (Hesitantly initials the IABS) OK, here you go ...

The IABS Section by Section

Let's take a detailed look at the *Information About Brokerage Services* form (TREC IABS 1-0). The IABS is divided into five sections covering

- Real estate license holder types
- Brokers legally required duties
- Representation
- Written agreements and commissions
- Contact information for brokers and sales agents.

Each section gives someone the opportunity to learn what a license holder may do when representing a party in a real estate transaction.

Even before explaining the different types of representation, the IABS states that the broker is the person responsible for all the brokerage activities and that the sales agent works on behalf of the broker.



Information About Brokerage Services

Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

11-2-2015



TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - o that the owner will accept a price less than the written asking price;
 - o that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - o any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

| | | | |
|--|----------------------|----------------|----------------|
| _____ Licensed Broker /Broker Firm Name or Primary Assumed Business Name | _____ License No. | _____ Email | _____ Phone |
| _____ Designated Broker of Firm | _____ License No. | _____ Email | _____ Phone |
| _____ Licensed Supervisor of Sales Agent/ Associate | _____ License No. | _____ Email | _____ Phone |
| _____ Sales Agent/Associate's Name | _____ License No. | _____ Email | _____ Phone |

Buyer/Tenant/Seller/Landlord Initials

Date

Regulated by the Texas Real Estate Commission

Information available at www.trec.texas.gov

IABS 1-0

TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker; Answer the client's questions and

- present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

The IABS lists the broker's minimum duties required by law. A license holder giving an IABS to a buyer, seller, landlord, or tenant can explain license they hold and their obligations to clients of the broker. This conversation is a great introduction to the third section of the IABS about ways license holders can represent parties in a real estate transaction.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

This third section introduces representation and agency agreements. It lists the parties a license holder can represent in a real estate transaction:

- An owner (the seller or landlord)
- A buyer or tenant

The IABS explains that representation begins with an agreement. TREC, through the language in the IABS, recommends that buyers, sellers, landlords, and tenants create agency in writing.

As a practice, a license holder could show the person a copy of the agency agreement while discussing the creation of representation and the use of written agreements. Putting a checkmark in the margin next to the type of agency the license holder would like to create does not suffice as an agency agreement.



Below is the text from the third section of the IABS:

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: For a broker to act as an intermediary, the broker must have written consent from all parties to the transaction. The agreement must state who will pay the broker and the broker's obligations as an intermediary.

The IABS also defines an interesting relationship. It's **subagency**, which was covered in Chapter 1.

The broker must represent someone in the transaction. If the broker is working with an unrepresented buyer, then the broker would place the seller's interest first and not the buyer's interest. Here is how The Real Estate License Act (TRELA) describes a **subagent**:

Sec 1101.002(8)a license holder who:

- Represents a principal through cooperation with and the consent of a broker representing the principal; and
- Is not sponsored by or associated with the principal's broker.

Notice the language in the IABS:

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

This section of the IABS is advice to the consumer and the broker about having all your agreements in writing which will lessen the possibility of a conflict or misunderstanding.

LICENSE HOLDER CONTACT INFORMATION

The final section of the IABS is the License Holder Contact Information. This section must be fully completed before giving the IABS to someone. Each pertinent line must include name, license number, email address, and phone number.

Notice that the IABS states that it does not create any obligation to use the services of the broker.

The *Information About Brokerage Services* form is a well-designed document that, when properly presented, leads to a detailed discussion of the roles and responsibilities of license holders. It facilitates conversation about representation and the benefits of using written representation agreements.

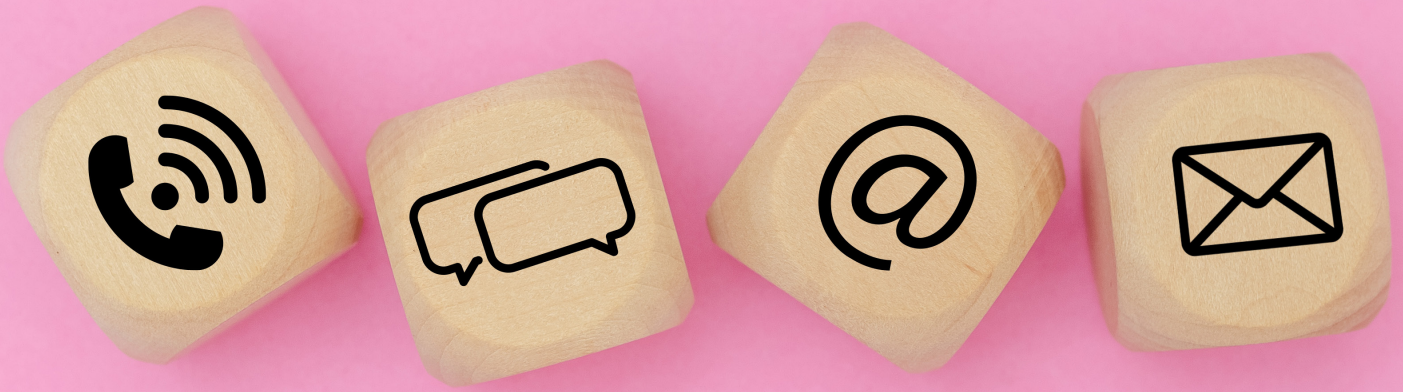
Brokers and team leaders could provide time for agents to practice delivery of the IABS. This could lead to better-informed clients by giving them a greater understanding of the relationship between them and their broker and sales agent.

Not Sure What Goes Where in the IABS?

- **Read the IABS carefully.** Often the answers to your questions are clarified in the text of a form.
- **Ask your broker.** Your broker is responsible for ensuring you understand how to appropriately deliver the IABS.
- **Review the 2023-2024 Broker Responsibility Student Manual.** You will find more details there.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

| | | | |
|--|-------------|-------|-------|
| Licensed Broker /Broker Firm Name or Primary Assumed Business Name | License No. | Email | Phone |
| Designated Broker of Firm | License No. | Email | Phone |
| Licensed Supervisor of Sales Agent/ Associate | License No. | Email | Phone |
| Sales Agent/Associate's Name | License No. | Email | Phone |
| Buyer/Tenant/Seller/Landlord Initials | | | Date |



“Help! I Need to Speak to Someone in Charge!”

Section 1101.558 of The Real Estate License Act (TRELA) and TREC Rule 531.20 require brokers and sales agents to post and provide the *Information About Brokerage Services* (IABS) form to protect the consumer. It is intended to provide the consumer with information that both explains the role of license holders and give the consumer relevant contact information. The IABS form is an important tool for the consumer because it provides them with relevant information related to regulated brokerage activity in Texas and what the consumer should expect from a license holder.

Remember, what seems like basic knowledge to you as a license holder on the broker/agent relationship and responsibilities is often new information to the consumer. As such, it is crucial this information is provided in accordance with law and rule.

Importantly, the IABS contains a section at the bottom of the form titled License Holder Contact Information. This section is intended to provide the consumer with the name and contact information of all license holders related to the transaction. Such information is particularly useful to a consumer when he or she needs to get ahold of those ultimately responsible for the brokerage activity at issue.

License holders can use the contact information listed to reach out to the appropriate license holder at issue in the event there is a need. This can be

an important tool to utilize when trying to contact the broker/brokerage, when necessary, on behalf of your client.

Because the broker is ultimately responsible for brokerage activity conducted under the license, brokers must ensure the IABS of all sponsored sales agents are correctly filled out, posted, and communicated in accordance with state law and TREC rule. Failure to do so can result not only in a failed transaction but can also lead to a TREC enforcement action.

TREC takes communication and broker responsibility seriously. Make sure you do, too.

Unsolicited Advice from Your Mother ... and TREC

Make sure to keep your email address current with TREC so you receive important communications about your license. Plus, you could face disciplinary action if you don't keep your contact information up to date. TREC Rule 535.21 requires license holders to update their contact information with TREC within 10 days of it changing.

And while you're at it, make sure to eat your vegetables!





Explaining the *Consumer Protection Notice*

The *Consumer Protection Notice* (TREC CN 1-5) is a form that TREC promulgates that contains information a consumer should know about the Texas Real Estate Commission. It's divided into sections. TREC requires all license holders to display it in a readily noticeable location in every office the broker has. TREC also requires each license holder to provide a link to the notice on the homepage of websites used to conduct brokerage activities. Here's the rule:

Section 531.18, Consumer Information

- (a) The Commission adopts by reference the Consumer Protection Notice, TREC No. CN 1-5. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.texas.gov.
- (b) Each license holder shall provide the notice adopted under subsection (a) by:
- (1) displaying it in a readily noticeable location in each place of business the broker maintains; and
 - (2) providing a link to it in a readily noticeable place on the homepage of each business website, labeled:
 - (A) "Texas Real Estate Commission Consumer Protection Notice", in at least 10 point font; or
 - (B) "TREC Consumer Protection Notice", in at least 12 point font.
- (c) For purposes of this section, business website means a website on the internet that:
- (1) is accessible to the public;
 - (2) contains information about a license holder's real estate brokerage services; and
 - (3) the content of the website is controlled by the license holder.
- (d) For purposes of providing the link required under subsection (b)(2) on a social media platform, the link may be located on:
- (1) the account holder profile; or
 - (2) a separate page or website through a direct link from the social media platform or account holder profile.

TREC Enforcement staff check to see whether license holders are properly providing the IABS and the *Consumer Protection Notice* in every complaint it receives—even if the subject matter of the complaint isn't about the CPN or IABS. That's just one more reason why you should make sure you understand how to comply with these rules.

Section 1

**THE TEXAS REAL ESTATE COMMISSION (TREC) REGULATES
REAL ESTATE BROKERS AND SALES AGENTS, REAL ESTATE INSPECTORS,
EASEMENT AND RIGHT-OF-WAY AGENTS,
AND TIMESHARE INTEREST PROVIDERS**

**YOU CAN FIND MORE INFORMATION AND
CHECK THE STATUS OF A LICENSE HOLDER AT**

WWW.TREC.TEXAS.GOV

Section 2

YOU CAN SEND A COMPLAINT AGAINST A LICENSE HOLDER TO TREC

A COMPLAINT FORM IS AVAILABLE ON THE TREC WEBSITE

Section 3

**TREC ADMINISTERS THE REAL ESTATE RECOVERY TRUST ACCOUNT WHICH MAY BE
USED TO SATISFY A CIVIL COURT JUDGMENT AGAINST A BROKER, SALES AGENT, OR
EASEMENT OR RIGHT-OF-WAY AGENT, IF CERTAIN REQUIREMENTS ARE MET.**

**REAL ESTATE INSPECTORS ARE REQUIRED TO MAINTAIN ERRORS AND OMISSIONS
INSURANCE TO COVER LOSSES ARISING FROM THE PERFORMANCE OF A REAL ESTATE
INSPECTION IN A NEGLIGENT OR INCOMPETENT MANNER.**

**PLEASE NOTE: INSPECTORS MAY LIMIT LIABILITY THROUGH PROVISIONS IN THE CONTRACT
OR INSPECTION AGREEMENT BETWEEN THE INSPECTOR AND THEIR CLIENTS. PLEASE BE
SURE TO READ ANY CONTRACT OR AGREEMENT CAREFULLY. IF YOU DO NOT UNDERSTAND
ANY TERMS OR PROVISIONS, CONSULT AN ATTORNEY.**

Section 4

**IF YOU HAVE QUESTIONS OR ISSUES ABOUT THE ACTIVITIES OF
A LICENSE HOLDER, THE COMPLAINT PROCESS, OR THE
RECOVERY TRUST ACCOUNT, PLEASE VISIT THE WEBSITE OR CONTACT TREC AT**

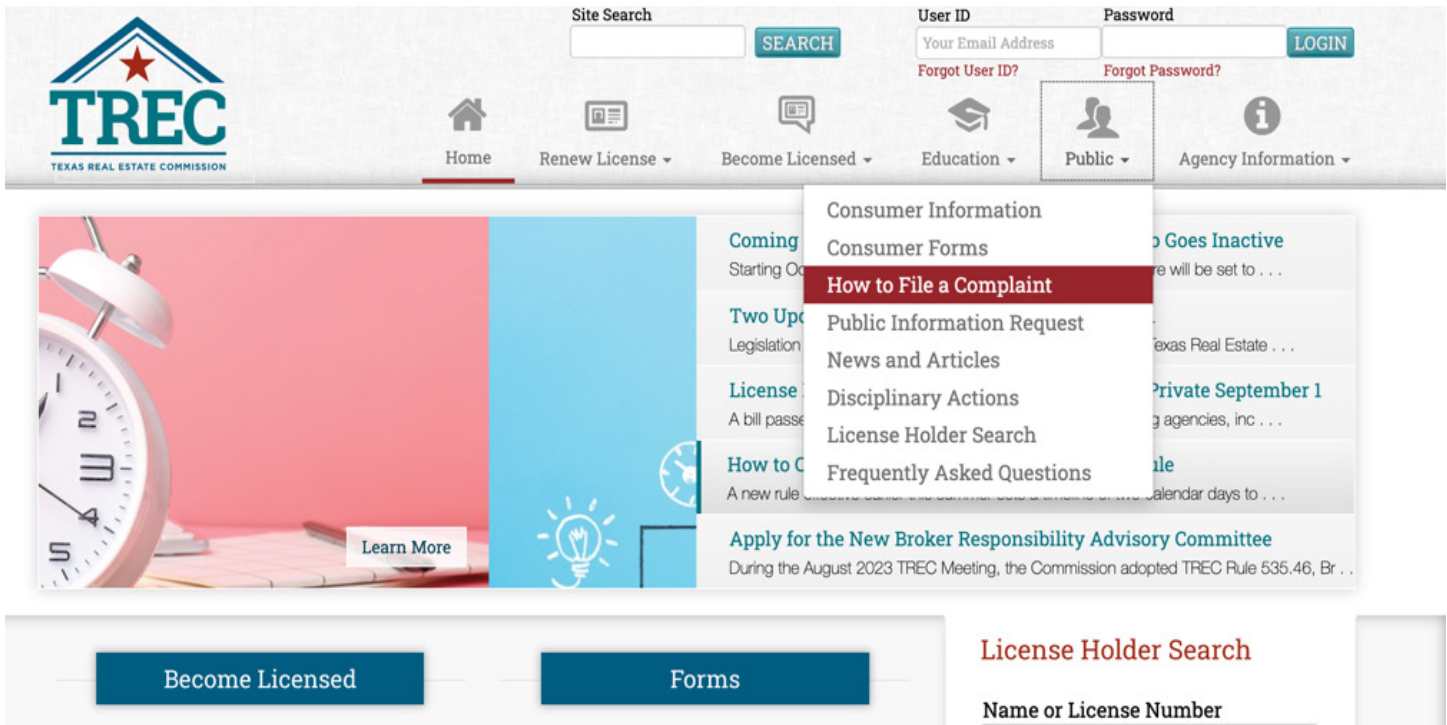


TEXAS REAL ESTATE COMMISSION

P.O. BOX 12188

AUSTIN, TEXAS 78711-2188

(512) 936-3000



Who TREC Regulates

The first part of the *Consumer Protection Notice* lists the professionals TREC regulates. Real estate brokers and sales agents are on the list. Real estate inspectors, easement or right-of-way agents, and timeshare interest providers are also on the list.

How to File a Complaint

The *Consumer Protection Notice* informs the public how to file a complaint against license holders. It's simple: Go to trec.texas.gov > *Public* > *How to File a Complaint*. You will find information on who, what, why, when, and how to file a complaint, plus a complaint form to download complete, and return to TREC. The *How to File a Complaint* section includes:

- Who can be subject to a TREC complaint?
- Who can file a complaint?
- How to file a complaint
- Download Complaint Form

TREC complaints and the complaint process will be addressed more in Chapter 4.

Real Estate Recovery Trust Account

TREC administers a real estate recovery trust account that is used to satisfy a civil

court judgment against a broker, sales agent, or easement or right-of-way agent. There are specific requirements that must be met before a judgment may be satisfied.

The recovery account funds are “funds of last resort” used to pay a judgment when a license holder cannot pay it. The recovery account payment limits are \$125,000 per transaction with a maximum of \$250,000 per license holder for multiple transactions.

The Real Estate Recovery Trust Account and Fund webpage at trec.texas.gov/public/real-estate-recovery-funds has information about the account as well.

Effective January 1, 2024, House Bill 1363 eliminated the real estate inspection recovery fund. This was done in recognition that the statute requires inspectors to carry liability insurance and the fact that the recovery fund has only paid out three claims in the last 10 years.

TREC's Contact Information

TREC is available and open to the public. The last section of the *Consumer Protection Notice* encourages people to call if they have questions. TREC wants to hear from those who have had issues with how license holders conduct their business and has its contact information on the form and on its website.



Criminal Disclosure

Q. Oh no! I got in trouble with the law. What do I do and how will this impact my license?

A. TREC's consumer protection responsibilities include reviewing all criminal history for each person applying for a new license. Additionally, TREC Enforcement staff review the criminal history of all current license holders, even those whose licenses are set to inactive. This review is done to ensure license holders maintain the requisite honesty, trustworthiness, and integrity required by law.

Having a criminal conviction does not automatically mean you lose your license; however, failure to disclose certain criminal convictions is a violation of Chapter 1101. TREC Enforcement staff will pursue such a violation, so it is important that license holders understand when they need to

disclose information to the Commission. The following questions and answers should provide clarification if you find yourself in this situation.

Q. I was just arrested, what now?

A. If you have just been arrested, charged, or indicted for an offense, there is no requirement to disclose at this time. If you disclose the arrest, charge, or indictment before the criminal matter is final this will not satisfy your disclosure requirement according to The Real Estate License Act (TRELA). You will need to disclose this criminal information once it becomes final as detailed below. TREC does not have authority to proceed with opening an investigation into the criminal offense **until that matter is concluded by the criminal court.** The criminal proceedings could take months or years to complete.

Q. The criminal case is final. What now?

A. Section 1101.652(a)(1) of TREL A gives the Commission authority to suspend or revoke a license holder who has entered a plea of guilty or *nolo contendere* or has been convicted of a felony or any criminal offense that involves fraud (including misdemeanors). Additionally, under Section 1101.652(a)(7), license holders are required to notify the Commission not later than the 30th day after the final conviction or the entry of the plea of guilty or *nolo contendere*. Notifying the Commission timely is key to avoid further disciplinary action.

Criminal backgrounds are checked as part of the renewal process. This does not excuse a license holder from notifying the Commission timely. If you are placed on community supervision or receive a deferred adjudication for the felony or criminal offense involving fraud, you are still obligated to notify the Commission within 30 days.

If a license holder commits a felony or a criminal offense involving fraud, their license could be subject to suspension or revocation. Depending on the offense, the Commission may probate the suspension or revocation.

Q. I renewed my license and I forgot to disclose a felony or fraud-based criminal offense, what happens now?

A. All renewals ask: "Have you had any instance of entering a plea of guilty or *nolo contendere* to, have been found guilty of, or been convicted of a felony, regardless of an order granting probation, community supervision, deferred adjudication, or suspending the imposition of sentence that has not previously been reported to the Texas Real Estate Commission?"

If you answer "Yes" to this question you will need to fill out the Background History form. After filling out the Background History form, make sure the judgment for the criminal case is attached to the form. If you incorrectly answer "No" to this question, it could be considered a violation of TREL A and subject you to discipline and administrative penalties. It is a license holder's responsibility to retrieve the criminal documents for TREC

staff to review. If you have previously notified TREC of this felony or fraud offense, you do not need to answer "yes" or fill out the background history form.

Q. What if I get my criminal offense expunged?

A. Your criminal record might still show up on our background check. The Enforcement Division staff may ask for the expunction order to confirm.

Q. What happens if I go to prison for my offense?

A The Commission is required by law to revoke the license of a person who goes to prison for a felony offense. The revocation is non-discretionary and retroactive to the date the person went to prison. The person is not entitled to a hearing for these matters.



What is the RAP BACK Program?

Record of Arrest and Prosecution BACK program (RAP BACK) is an FBI service that allows authorized users to receive notifications of criminal related activity on a person's criminal history. This service allows TREC to better monitor for criminal convictions of license holders. However, it does not satisfy the disclosure requirement of notifying TREC within 30 days after the felony or fraud based criminal case is final.

Chapter 3 Representing Veterans and Military Service Members



- 32 History of the VA Loan
 - How VA Loans Work
 - VA Loan Basics for Beginners
- 33 11 Benefits of a VA Loan
- 35 Texas Military Snapshot Infographic
- 36 Texas Veteran Land Board Lending Program

Learning Objectives

After this chapter, you will be able to

- ✓ Understand the requirements of the VA loan program.
- ✓ Describe how VA loans are different than conventional home loans.
- ✓ Identify differences between the VA loan program and the Texas Veteran Land Board loan program.



The History of the VA Loan

The VA-Guaranteed Home Loan program was created as part of the Servicemen's Readjustment Act of 1944, which was signed into law by President Franklin D. Roosevelt. The purpose of the VA loan program was to help returning World War II veterans purchase homes. The VA loan program provided veterans with favorable loan terms, including no down payment, low interest rates, and no private mortgage insurance.

Initially, the VA loan program was only available to World War II veterans, but it was later expanded to include veterans of the Korean War and the Vietnam War. In the 1990s, Congress expanded the VA loan program to include all veterans who served on active duty, regardless of when they served. Today, the VA loan program remains an important part of the benefits package provided to veterans, and it is administered by the U.S. Department of Veterans Affairs (VA).

Over the years, the VA loan program has helped millions of veterans become homeowners. In addition to providing favorable loan terms, the VA loan program also provides veterans with counseling and assistance to help them manage their finances and avoid foreclosure. The VA loan program is an important part of the government's commitment to helping veterans achieve the American Dream of homeownership.

How VA Loans Work

VA loans are made by private lenders such as banks, mortgage companies, and credit unions. However, these lenders offer VA loans under guidelines set by the VA. The VA does not directly lend money to borrowers, but it does provide a guarantee to the lender if the borrower defaults on the loan. This guarantee reduces risks for lenders and allows them to offer more favorable terms to borrowers.

To be eligible for a VA loan, borrowers must meet certain requirements, including having served in the U.S. military, being the spouse of a veteran who died while on active duty or as a result of a service-connected disability, or being an active-duty service member. Borrowers must also meet certain credit and income requirements set by the lender.

VA Loan Basics for Beginners

Qualifications

Veteran borrowers must meet income qualifications that have been set by the VA. The two qualifications are residual income and debt-to-income ratio.

Residual Income

Residual income is the amount of discretionary money a veteran has left over each month after paying for fixed expenses. Fixed expenses can include installment and revolving loan payments, childcare costs, and estimated utility costs.

Residual income is based on region and number of dependents.

Debt-to-Income Ratio

VA loans, like FHA loans, have relaxed lending guidelines. This includes higher debt-to-income ratios (DTI). The DTI for VA financing is a ratio between total monthly debt payments to gross monthly income. The DTI for a VA loan is 41%. This is higher than both conventional and FHA loans but is secondary in importance to residual income in the qualification.

Funding Fee

VA loans require borrowers to pay a funding fee, which is a one-time fee that helps to offset the cost of the program. The fee is based on the loan amount, the type of loan, and the borrower's military service.

Appraisal Process

When a VA borrower applies for a home loan, a VA-approved appraiser will assess the value of the property to ensure that it meets the minimum property requirements, including that it is safe, sound, and sanitary, and is worth the amount of the loan.

Occupancy Requirements

VA loans require borrowers to occupy the home as their primary residence, and the loan cannot be used to purchase a vacation home or investment property.

11 Benefits of a VA Loan

Age is just a number. Eligible veterans are able to pursue a VA loan no matter their age and can reuse the benefit multiple times.

100% financing. VA loans allow eligible borrowers to purchase a home with no down payment as long as the sales price is at or below the home's appraised value.

Competitive terms. Borrowers using the VA benefits may receive more competitive terms from private banks, mortgage lenders, and credit unions, and sometimes lower interest rates.

No PMI or MIP. For conventional loans, lenders often require private mortgage insurance (PMI) if a borrower puts down less than 20% of the total loan amount as a down payment. PMI is intended to protect the lender if a borrower stops paying on the loan.

The Federal Housing Administration (FHA) requires borrowers to pay to self-insure an FHA loan against future loss through mortgage insurance premiums (MIP).

Unlike these loans, VA loans do not have these requirements, which equals long-term savings for the borrower.

No minimum credit score. VA loans have more flexible qualification requirements than traditional loans, which can make it easier for veterans with less-than-perfect credit to qualify for a mortgage. However, most lenders will use a credit score to determine the borrower's interest rate.

No loan limit. As of 2020, eligible veterans, service members, and survivors with full entitlement do not have loan limits and the VA guarantees to the lender that if the borrower defaults on a loan that's more than \$144,000, the VA will pay up to 25% of the loan amount.

Borrowers have full entitlement if they meet any of these requirements (at least one of these must be true):

- You've never used your home loan benefit
- You've paid a previous VA loan in full and sold the property (in this case, you'd have your full entitlement restored)
- You've used your home loan benefit but had a foreclosure or short sale and repaid in full.

Additional termination options. Federal law requires the "amendatory clause," sometimes referred to as an escape clause, for VA borrowers. Amongst other things, this clause makes it so the buyer is not obligated to purchase the property if the appraised value is less than the amount of the loan.

In Texas, this clause is contained in Paragraph 4 of the *Third Party Financing Addendum*. Because this language is required for VA loans and ties back to the appraised value of a home, license holders cannot use the *Appraisal Contingency Addendum* when the borrower is using a VA loan.



However, under the amendatory clause, a VA buyer can elect to pay more than the appraised value *after* the appraised value is known in accordance with federal guidelines as set out in subsections A-C of Paragraph 4 of the *Third Party Financing Addendum*. In such a case, and with certain stipulations, the buyer could agree to make up the difference between the appraised value and purchase price.

Fewer closing costs. Closing costs could be paid by the seller, lender, or any other party.

Assumability. According to the VA, if the loan is assumable, anyone can assume it as long as the borrower meets the lender's credit and income requirements. However, there are some important restrictions and requirements that apply to the assumption of a VA loan.

The seller must obtain approval from the VA or the loan servicer before assuming the loan. This ensures the new borrower meets the same eligibility requirements of

the original borrower. In addition, the new borrower must be willing to assume all the obligations of the original borrower, including timely payments.

Finally, the original borrower remains liable for the loan until it is paid in full, or until the VA releases the borrower from liability.

No early payment penalties. There are no additional payments required to pay off the loan earlier than originally scheduled.

Support from the VA. If a borrower faces hardship, such as unexpected unemployment, the VA will work with the lender to try and keep veterans and their families in their homes.

The Takeaway

Having a basic understanding of the VA loan history and benefits may be helpful for you in your practice. But remember, your client will need to discuss their personal situation with an expert.

TEXAS

MILITARY SNAPSHOT / 2021

Texas military installations play a vital role in strategic national defense and provide significant benefits to the state economy. These bases support local businesses and create jobs in a wide variety of industries.

The U.S. Department of Defense maintains 14 bases throughout

Texas, covering more than 1.4 million acres. Ten of the Comptroller's twelve economic regions include a U.S. military installation.

Military bases in the state support about 235,000 direct jobs and contribute more than \$67.6 billion to Texas' gross domestic product

annually. They support an estimated 622,000 Texas workers in some capacity, contributing about \$42.3 billion in disposable personal income.



Glenn Hegar

Texas Comptroller of Public Accounts



2021 ESTIMATED CONTRIBUTIONS TO THE TEXAS ECONOMY

235,184 DIRECT EMPLOYMENT

DIRECT AND INDIRECT EMPLOYMENT

622,790

\$42.3 Billion DISPOSABLE PERSONAL INCOME

\$114.2 Billion OUTPUT

\$67.6 Billion GROSS DOMESTIC PRODUCT

EMPLOYMENT, OUTPUT AND DISPOSABLE PERSONAL INCOME

| INSTALLATION | DIRECT EMPLOYMENT | TOTAL EMPLOYMENT | OUTPUT (IN BILLIONS) | GROSS DOMESTIC PRODUCT (IN BILLIONS) | DISPOSABLE PERSONAL INCOME (IN BILLIONS) |
|---|-------------------|------------------|----------------------|--------------------------------------|--|
| Army Futures Command | 833 | 2,201 | \$0.37 | \$0.22 | \$0.16 |
| Corpus Christi Army Depot | 3,191 | 9,344 | \$1.40 | \$0.85 | \$0.64 |
| Dyess AFB | 5,533 | 16,098 | \$3.04 | \$1.79 | \$1.15 |
| Ellington Field JRB | 414 | 1,203 | \$0.22 | \$0.13 | \$0.09 |
| Fort Bliss | 46,971 | 120,799 | \$22.94 | \$13.56 | \$7.97 |
| Fort Hood | 55,374 | 160,933 | \$28.89 | \$16.97 | \$11.22 |
| Goodfellow AFB | 9,690 | 23,897 | \$4.74 | \$2.80 | \$1.53 |
| Joint Base San Antonio | 82,639 | 211,213 | \$39.17 | \$23.32 | \$14.40 |
| Laughlin AFB | 3,290 | 8,694 | \$1.59 | \$0.95 | \$0.60 |
| NAS Corpus Christi | 8,395 | 19,815 | \$3.36 | \$2.01 | \$1.31 |
| NAS JRB Fort Worth | 5,199 | 15,164 | \$2.70 | \$1.59 | \$1.07 |
| NAS Kingsville | 1,647 | 4,442 | \$0.75 | \$0.45 | \$0.30 |
| Red River Army Depot | 3,370 | 9,059 | \$1.34 | \$0.81 | \$0.62 |
| Sheppard AFB | 8,638 | 19,928 | \$3.68 | \$2.18 | \$1.24 |
| STATEWIDE TOTALS | 235,184 | 622,790 | \$114.19 | \$67.63 | \$42.29 |

TO SEE MORE DETAILED INFORMATION ON EACH OF THESE INSTALLATIONS, VISIT:

TMPC 2021-2022 Texas Military Preparedness Commission Biennial Report:

GOV.TEXAS.GOV/ORGANIZATION/MILITARY/REPORTS

Comptroller's 2021 Economic Impact, Texas bases:

COMPTROLLER.TEXAS.GOV/ECONOMY/ECONOMIC-DATA/MILITARY/

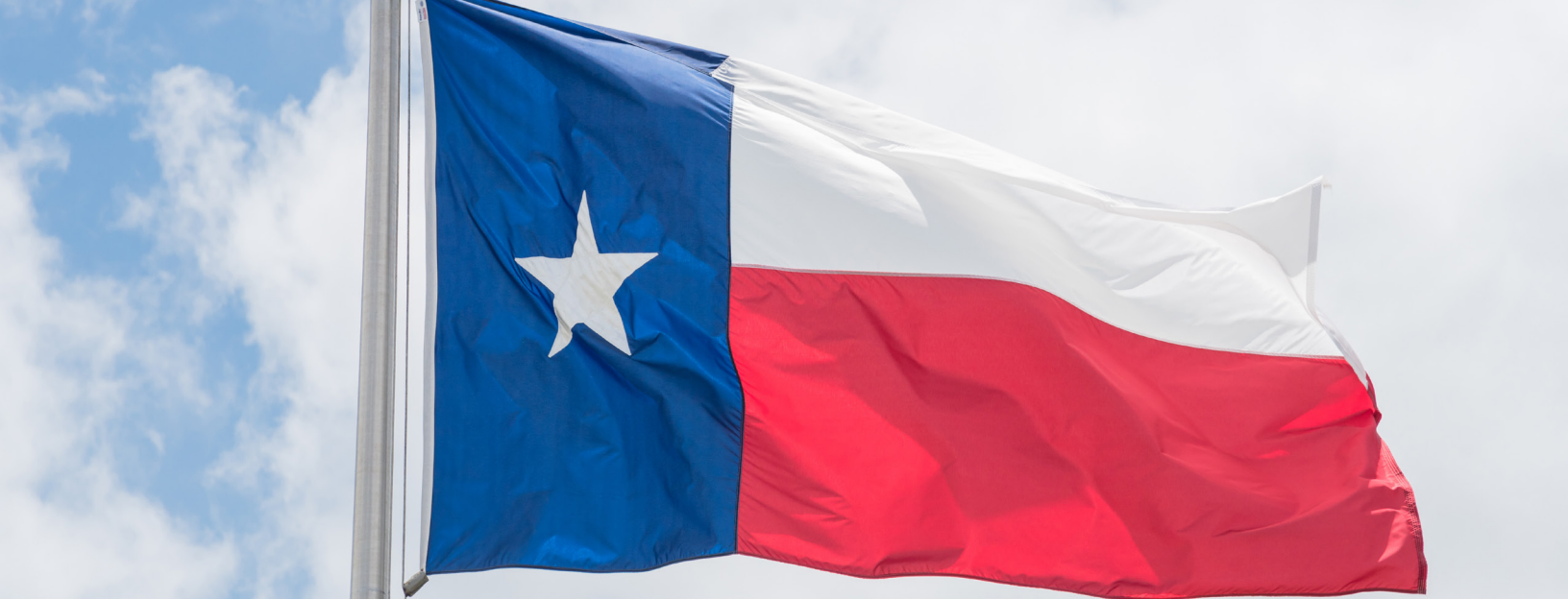
Published July 2022

Sources: Texas Military Preparedness Commission; the various U.S. Military bases in Texas; REMI; Texas Comptroller of Public Accounts

Glenn Hegar

Texas Comptroller of Public Accounts

98-986 (7/22)



Texas Veterans Land Board Lending Program

The Texas Veterans Land Board (TVLB) lending program (vlb.texas.gov) is a separate program from the VA loan program. While both programs are designed to help veterans and their families buy homes, there are some key differences between them:

Eligibility. To be eligible for a TVLB loan, borrowers must be a Texas resident and a veteran, active-duty military member, or the spouse of a veteran or service member who was killed in action. In contrast, VA loans are available to eligible veterans and active-duty military members across the country.

The TVLB also has eligibility requirements for the property the veteran wishes to purchase. The home must be the primary residence of the veteran or military member. The home must be a single-family attached or detached home, townhome, or condominium. Duplexes or other multi-family must have been constructed less than five years ago prior to the closing date of the loan. New construction must have either Energy Star certification or a HERS score or an Energy Rating Index of 75 or less. The property must remain the veteran's primary residence for at least 3 years. Finally, the veteran must occupy the property within 60 days after closing.

Loan types. The TVLB offers two types of loans: the Veterans Housing Assistance Program (VHAP) and the Veterans Land Program (VLP). The VHAP provides loans for the purchase of a home, while the VLP provides loans for the purchase of land to build a home. VA loans, on the other hand,

are specifically designed to help borrowers purchase a home.

The TVLB allows not only the use of a VA loan, but eligible borrowers may also consider and choose to borrow through a conventional loan or an FHA loan. The TVLB does not restrict the veteran from only using a VA loan to finance the purchase. Having loan options may give the veteran better purchasing power in a tight marketplace while giving the veteran choices in determining the best loan terms to choose.

Interest rates. TVLB loans typically have lower interest rates than VA loans, making them a more affordable option for some borrowers.

Fees and costs. TVLB loans may have lower fees and closing costs than VA loans, which can help borrowers save money.

Loan limits. TVLB loans have lower loan limits than VA loans, which means borrowers may not be able to borrow as much as they would with a VA loan.

Overall, both the TVLB and VA loan programs offer valuable benefits to eligible veterans and their families, and borrowers should carefully consider their options and compare the terms and requirements of each program before choosing a loan.

The TVLB is self-funded through the sale of bonds. The bond programs associated with the funding of the loans and the timely repayment of the principal and interest associated with the loans creates a self-funding program, costing no tax dollars.

Chapter 4

The Real World: Enforcement, Case Studies, and Commission Priorities



- 38 Who Handles Complaints and Discipline?
 - The Complaint Process
 - TREC Enforcement: Did You Know?
- 39 Top TREC Complaint Categories
- Common Enforcement Violations
- 40 Advertising Compliance Program
- 41 Case Studies
 - 41 Intermediary
 - 41 Showing Issues
 - 41 Rental Fraud
 - 42 Fiduciary
 - 43 Geographic Competency
- 43 Best Practices to Avoid Complaints
- 44 Commission Priorities

Learning Objectives

After this chapter, you will be able to

- ✓ Paraphrase the TREC complaint process.
- ✓ Identify the top five TREC complaint categories.
- ✓ Recall best practices for brokers to prevent complaints against license holders.
- ✓ Describe TREC's advertising compliance program.

Who Handles Complaints and Discipline?

The Enforcement Division of the Texas Real Estate Commission protects consumers by enforcing the laws and rules that regulate license holders. The Enforcement Division administers the complaint investigation and disciplinary enforcement programs. Additionally, it administers the background review for all license holders.

The Enforcement Division is comprised of attorneys, legal assistants, investigators, and other administrative staff. In 2023, there were 6,307 cases opened by Enforcement. Complaints filed against brokers and sales agents have steadily increased over the past five years.

The Complaint Process

Filing a complaint with TREC is the first step in the enforcement process. Anyone can file a complaint against a license holder, even other license holders.

Complaints must be submitted in writing and signed by the complainant. A complainant should hear back from the Enforcement Division within 30 days about whether it will proceed with opening and investigating the allegations in the complaint. If an investigation is opened, each person against whom the complaint is filed receives a copy of the complaint. Every individual subject to a complaint is required to cooperate with the investigation.

Any inquiry from TREC requires a response within 14 days. Failure to cooperate with the investigation will result in disciplinary action against the license holder. A sponsoring broker should be prepared to talk about how they supervise their sponsored sales agent, including providing policies and procedures that address the issues that are alleged in the complaint.

Following the investigation, the information collected during the investigation will be turned over to an Enforcement attorney for review. If the attorney determines that a violation occurred and there is sufficient evidence to support the violation, discipline will be pursued. Disciplinary action can

include formal reprimand, suspension, or revocation of a license, including payment of an administrative penalty. Additionally, depending on the severity of the violation an advisory letter might be issued. An advisory letter is a form of informal discipline that will remain a part of the license holder's disciplinary record. A license holder's past complaint and disciplinary history is taken into consideration and can be used against the license holder in any future complaints.

TREC Enforcement Did You Know . . . ?

Do you know these facts about TREC Enforcement?

Only 1% of license holders ever have a complaint filed against them.

Typically, 25% - 30% of cases opened for investigation result in discipline.



TREC Enforcement CANNOT provide legal advice.

Neither the Commission, nor its attorneys, can provide legal advice related to any of the following:

- Specific transactions;
- Property Code questions (such as the Seller's Disclosure Notice);
- Earnest money, contractual performance, or security deposit disputes;
- Disputes between license holders, including commissions, and other work issues;
- Business models or the structures of entities engaged in brokerage;
- Rude, unprofessional, disparaging, or offensive comments on social media UNLESS the comment/action involves discrimination in a real estate transaction.

TREC Enforcement cannot share pending case information to uninvolved parties.

Only the respondent may inquire about pending cases.



TREC publishes all formal disciplinary actions.

Discipline is published on the TREC website and it remains there for 10 years.



TREC Enforcement verifies compliance with the IABS and CPN for every complaint.

Know how to link the IABS and CPN to your websites and business social media accounts.



There are different types of disciplinary actions taken by TREC

Disciplinary action may be formal or informal. An Advisory Letter is informal discipline. Formal discipline includes Agreed Orders or a Notice of Alleged Violation (NOAV).



Top TREC Complaint Categories

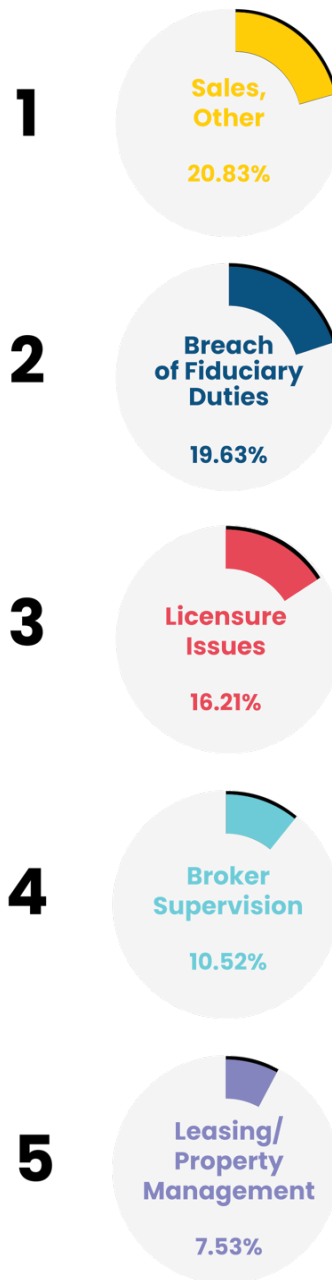
The TREC Enforcement Division compiles data monthly regarding complaints received. The chart below shows the top five complaint categories as of publication. Complaints do not always result in disciplinary action, and this chart does not reflect closed cases.

Here is a brief explanation of each category.

- 1. Sales, Other (unrelated to leasing and property management):**
Includes negligence, rebates, referrals, earnest money issues, and so forth.
- 2. Breach of Fiduciary Duty:**
Includes false promises and other fiduciary issues like the topics covered earlier in this course.
- 3. Licensure Issues:** Consists of criminal background checks that uncover criminal offenses, denials based on criminal history, licenses issued on a probationary status, and so forth.
- 4. Broker Supervision:** Remember TREC Rule 535.2, Broker Responsibility? Complaints under this category deal with alleged violations of this rule or other activities related to broker oversight.
- 5. Leasing/Property Management:** Involves issues such as negligence, referrals, misappropriation of money, and so forth.

TREC Enforcement Top Five Complaint Categories

August 2022 to August 2023



Common Enforcement Violations

- Failure to cooperate with an investigation
- Negligence or incompetence issues
- Bad faith/misrepresentation
- Unlicensed business entities
- Inactive/expired license holder activity
- Trust fund issues (property management)
- Failure to disclose criminal offenses
- Broker responsibility issues



Advertising Compliance Program

Many advertising-related complaints can be handled easily, from adding missing brokerage information on for sale signs to registering a team name or DBA after failing to do so to adding missing required links on a license holder's website. Because of these simple remedies, TREC launched the Advertising Compliance Program in 2023 to streamline processing complaints that deal only with advertising violations. The goal of the new program is to promote compliance, not punishment.

TREC Complaint Form Now Includes Advertising Checkbox

TREC Enforcement staff has modified the complaint form to add a checkbox for advertising complaints. This will allow staff to quickly identify complaints that may be eligible for processing through the Advertising Compliance Program.

To indicate you are filing an advertising complaint, check the "yes" box next to the new field "Does your complaint allege or deal with advertising issues?" on the updated complaint form.

How TREC Staff Applies the Advertising Compliance Program

Step 1: Assess the Complaint

- **If there are allegations beyond advertising**, the complaint will go through the normal complaint investigation process.
- **If the allegations are only about advertising violations**, the complaint will be handled at TREC headquarters versus being assigned to a field investigator.

Step 2: Alert the Respondent

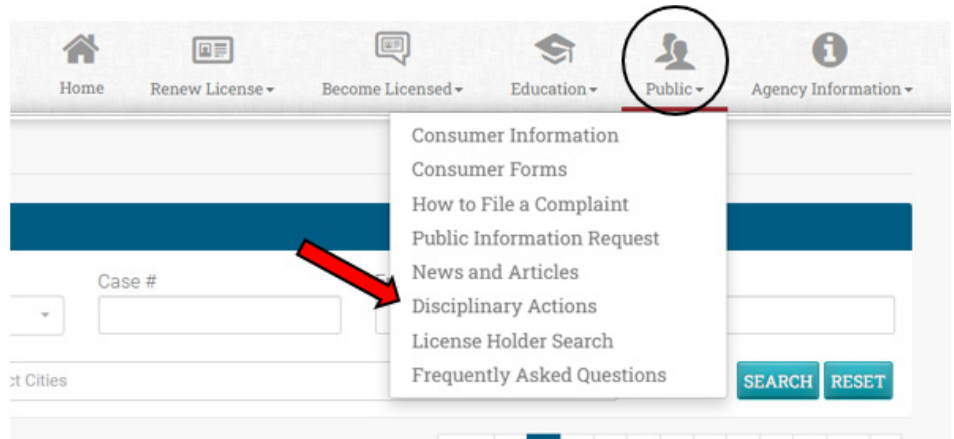
The license holder and sponsoring broker, if applicable, will be notified in writing of the issue and given 14 days to correct it. The license holder must also provide documentation to staff that the advertising violations have been corrected.

Step 3: Monitor the 14-Day Timeline

- **If license holders correct within 14 days**, the case will be dismissed as a matter settled and no formal disciplinary action would be held.
- **If license holders fail to comply with the 14-day deadline**, they would have their complaint reviewed again by a staff attorney for further action, which could include an advisory letter or formal discipline. Staff may grant additional time for compliance.

Case Studies

Seeing is believing. What follows are TREC complaints that resulted in disciplinary action. They include issues around intermediary, showings, rental fraud, fiduciary duties, and geographic competency. TREC disciplinary actions are searchable on the TREC website by selecting “Disciplinary Actions” under the *Public* menu.



Intermediary

How *Not* To Be an Intermediary 101

Facts

Agent X represents a buyer and a seller. Agent X’s sponsoring broker allowed intermediary, but only with appointments. Agent X failed to abide by the broker’s policy on intermediary and made no appointments.

The buyer discovered that Agent X had a prior relationship with the seller. Further, Agent X failed to disclose this material information to the buyer to ensure that Agent X was acting impartially as an intermediary.

Agent X had agreed to compensate the buyer if anything in house needed repairs. Prior to closing, Agent X discovered that the seller had made changes to the property. Agent X did not disclose the full extent of the changes because his prior relationship with the seller failed to allow him to act impartially.

Agent X ultimately paid for the changes to the property with his earned commission.

Disciplinary Result

Agent X entered into an agreed order with TREC resulting in a reprimand, a \$2,000 administrative penalty, and a requirement to take 30 hours of agency law. Agent X’s broker entered into an agreed order resulting in a reprimand and a \$500 administrative penalty.

Showing Issues

This House is All Over Social Media!

Facts

Agent A misrepresented to listing agent by informing the agent he was planning to show a property when he instead allowed the property to be used for a social media event and photoshoot. Agent A also left the property unsupervised.

Disciplinary Result

Agent A entered into an agreed order with TREC resulting in a two-year

probated suspension, a \$1,500 administrative penalty, and a requirement to take a 30-hour agency course.

Agent Snoopy Sam Gets Suspended

Facts

Agent Snoopy Sam entered two properties that were listed for sale and was filmed opening furniture drawers and opening items that were not fixtures of the home or property.

Disciplinary Result

Agent Snoopy Sam entered into an agreed order with TREC resulting in a four-year probated suspension and a \$2,500 administrative penalty.

Rental Fraud

Don’t Try to Snow the Snowman

Facts

On multiple occasions while representing individuals, Agent Ice would submit fraudulent documents including credit reports and

paystubs to allow unqualified clients to rent properties. Frequently, individuals listed as tenants were not the individuals who ultimately occupied the property. In most cases, the same fraudulent credit reports with same names were used in multiple transactions.

Ultimately, the owners/landlords would not receive rental payments and would need to evict the fraudulent tenants. TREC investigations determined that Agent Ice performed this fraud on multiple occasions. The broker failed to notice that rental documents repeatedly had the same tenant listed on multiple completed transactions.

Disciplinary Result

Agent Ice's license was revoked and TREC administered an administrative penalty of \$13,000. Broker entered into an agreed order with TREC resulting in a reprimand and a \$500 administrative penalty.

The Art of the Deal Scam

Facts

Agent Z established relationships with multiple unlicensed individuals. The purpose of these relationships was so they would refer unqualified tenants to Agent Z to find property to lease.

Agent Z sent out completed lease applications with inaccurate or falsified records regarding income, credit history, and prior evictions to property managers and listing agents.

Agent Z continued this fraudulent and dishonest behavior for multiple transactions. Tenants would damage the property and fail to pay rent, and the owners or property managers would be forced to evict fraudulent tenants.

Disciplinary Result

Following a State Office of Administrative Hearings (SOAH) hearing, Agent Z's license was revoked and TREC administered a \$48,750 administrative penalty. Broker entered into an agreed order with TREC resulting in a reprimand, a \$1,000 administrative penalty, and a requirement to attend the broker responsibility course.

Fiduciary Issues

Agent Failed to Extend His Fiduciary Duties

Facts

Agent All Hat was representing buyers in a transaction to purchase two adjacent parcels of land. A completed survey and other related issues were necessary by their lender to close.

Per the buyers' request, Agent All Hat submitted two extensions to the contract that the seller agreed to. Near the expiration of the second extension, the buyers asked Agent All Hat to request a third extension. Agent All Hat assured them it was not necessary and everything was on track.

The survey and other items were not completed by the expiration of the second extension of the contract, and Agent All Hat failed to present the sellers with an extension document. The sellers used the opportunity to terminate the contract and solicit from the buyers a higher sales price than the prior contract. Agent All Hat failed to attempt to secure a third extension to the contract to better protect his client.

Disciplinary Result

Agent All Hat entered an agreed order with TREC and was reprimanded, received a \$1,500 administrative penalty, and was required to take 30 hours of additional education. Broker entered an agreed order with TREC resulting in a reprimand and a \$500 administrative penalty.

Dishonesty Never Pays

Facts

Agent Yarn Spinner was representing buyers in the attempted purchase of a home. Buyers provided a finance pre-qualification letter that contained some contingencies. Agent Yarn Spinner altered the document removing the contingencies and submitted the altered letter to the seller with the buyers' offer.

The buyers never directed Agent Yarn Spinner to make these changes. The seller's agent discovered the issue only days before closing and brought it to the attention of the sellers and other parties in the transaction.

Agent Yarn Spinner admitted he altered the letter in an attempt to make his clients'

offer more attractive to the seller. Agent Yarn Spinner's broker, when notified of the issue, directed another agent to assist the buyers in completing the transaction.

Disciplinary Result

Agent Yarn Spinner entered an agreed order with TREC requiring a license suspension of four years, with three years and 10 months of the suspension probated. Agent Yarn Spinner paid an administrative penalty of \$9,000 and was required to take 30 hours of principles of real estate. Broker received an advisory letter.

Geographic Competency

A River Highway Runs Through It (or Will)

Facts

Listing agent W had no knowledge that a four-lane highway would be built adjacent to the property. Other listings for the subdivision included this information disclosing the future highway construction. The buyers purchased the property and later discovered the future construction and that it would be built 25 feet from their property line. Listing agent W admitted they were not aware of the construction project that had been planned for 20 years. The buyer's agent had no knowledge about the pending construction. Brokers for both listing and buyer's agent did not ensure their agents were competent to conduct activities, including competence in the geographic market area where the sales agents were actively performing brokerage activity.

Disciplinary Result

Listing agent W entered into an agreed order reprimanding their license, \$500 administrative penalty, and additional education. Listing agent's sponsoring broker received an advisory letter. Buyer's agent entered into an agreed order reprimanding their license, \$500 administrative penalty, and additional education. Buyer's agent broker agreed to a reprimand of their license and \$500 administrative penalty.

Know Better Than to Mess with Texas ... Historical Districts

Facts

Listing agent F had no knowledge that the property listing was in a designated historic

Best Practices to Avoid Complaints

- Offer regular training for all license holders.
- Review all contract changes and updates with license holders.
- Review and incorporate TREC disciplinary actions into coaching sessions.
- Subscribe to and read the *TREC Advisor* e-newsletter (sign up at trec.texas.gov).
- Follow TREC on the various social media outlets (like Facebook).
- Attend TREC Meetings virtually or in person.
- Review policies and procedures with everyone at least once a year.

neighborhood district that required approval for changes to the exterior of the property. The buyer purchased the property and made changes to the exterior by replacing the windows.

The buyer received notification from the historical district that the property modification was not approved by the district and the windows needed to be changed to conform with historical requirements. The buyer's agent stated they had no knowledge the property was in a historical neighborhood.

The information about the neighborhood was discoverable by an internet search and information in the MLS.

Disciplinary Result

Listing agent F entered into an agreed order reprimanding their license and was required to take additional education. Listing agent's sponsoring broker entered into agreed order reprimanding their license and a \$500 administrative penalty. Buyer's agent entered into an agreed order reprimanding their license. Additionally, agent paid a \$500 administrative penalty and was required to take additional education. Buyer's agent's sponsoring broker entered into an agreed order reprimanding their license and agreed to an administrative penalty of \$500.



Commission Priorities

The Texas Real Estate Commission is composed of nine commissioners appointed by the Office of the Governor. Six members are brokers who know the industry and understand consumer protection, and three members are public members who bring consumer perspective to the table in a different way. The Commission has been focused on three main topics:

- Broker responsibility
- Enforcement
- Outreach

What do all three of these priorities have in common? They are all related to consumer protection and education of license holders on how to practice in the State of Texas lawfully and ethically.

Broker Responsibility

Changes have been made to the Broker Responsibility Course and the Real Estate Brokerage Course that focus on the responsibilities of a broker as it relates to sponsored sales agents. Oversight of training and coaching required under TREC Rule 535.2 has been increased so that a sponsoring broker must ensure their sponsored agents are conducting themselves competently when engaging in a new type of real estate brokerage activity.

In Legal Update I, Chapter 1, you learned about the new Broker Responsibility Advisory Committee. This committee will continue to examine and make recommendations to the full Commission regarding broker responsibility based on what those members are seeing in their practice.

This topic does not have a single solution or point of resolution; however, the Commission is committed to its focus on broker responsibility and ensuring consumer protection in the state of Texas.

Enforcement

The Commission is committed to encouraging license holders and consumers to file complaints when there is a suspected violation of TREL A or TREC rules. The Commission is also working towards streamlining the complaint process to make it easier to file a complaint with the agency. Additional staffing has been added to the Enforcement Division. The Commission has also been spreading the message to come alongside license holders who are making mistakes and either help or file a complaint. Compliance with TREL A makes the industry better and it ensures consumer protection. All license holders have a role in that.

Outreach

Do you follow TREC on social media or are you signed up to receive communications from TREC? If so, you have likely noticed a shift in communication strategy. The Commission is working hard to make sure the agency reaches license holders in a multitude of ways. The Commission is also working hard to let the consumer know what it should expect from a license holder. Partnerships with local associations, the title industry, and more are spreading the word to license holders about consumer protection and issues license holders face in the "real world." Make sure that as a license holder, you are monitoring these communications, because they provide helpful information and insight into the specific areas of concern the Commission seeks to address.