



# REAL ESTATE NEWS

Issue 22 December 2016

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Board of Directors  
Wyatt Bates, President  
Renee Storey, Vice President  
Molly O'Banion, Secretary  
Loretta McClure, Treasurer  
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Terrie Zempster, Director  
Nancy Hawk, Director  
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MLS Board of Directors  
Nancy Hawk, President  
Sharon Karr, Vice President  
Kim Hill, Secretary  
Kathy Leesburg, Treasurer  
Jon Sinclair, Director  
Danny Gleim, Director  
Craig DeAtley, Director

**December 8 - Thursday**  
Collect all donation for the  
Nursing Home Veterans in  
Board office or Euton Realty  
- Portsmouth

**December 15 - THURSDAY**  
General Membership meeting  
will be at the NEW BOSTON  
COMMUNITY CENTER and  
Sponsored by US BANK, Lisa  
Callihan. Sandra Green,  
District 4 Vice President will  
also be swearing in the new  
officers for 2017.

**\*NOTE the DATE has been  
changed!**  
SANTA has something for all  
our REALTORS® so please  
attend

## CELEBRATE DECEMBER

*Birthday*



**Kim Bradley 1<sup>st</sup>**  
**Debbie Gilpin 9<sup>th</sup>**  
**KC Rase 12<sup>th</sup>**  
**Kim Hill 16<sup>th</sup>**

\*\*\*\*\*

*Anniversary*

NONE SUBMITTED

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### NAVICA WEBINAR INFORMATION

Since most of our Realtor®  
members are usually busy when  
webinars are scheduled (2 p.m.)  
the WEBINARS will be linked to  
our website for your convenience

[\(http://www.usaml.net/portsmouth/\)](http://www.usaml.net/portsmouth/)  
It will be posted under RESOURCES  
then Links after the training

The following is a schedule of the  
upcoming Navica webinars

**February 1** - New Member training, will  
cover Searching, E-mailing Listings,  
Printing Listings, Saving Searches, Quick  
CMA, Maintenance and more

**May 10** - Customize One Line Displays,  
Creating RPV Slide Shows and Saved  
Searches and Create Listing Flyers

**August 9** - New Member training, will  
cover Searching, E-mailing Listings,  
Printing Listings, Saving Searches, Quick  
CMA, Maintenance and more

**October 11** - Searching (Hot Sheet,  
Quick Search & Detailed  
Search)/Printing/Emailing and Advanced  
Map Search



As we come into a most celebrated holiday season I would like to take a moment to thank each of you for your participation in our Board whether it is serving as an officer, a director, serving on a committee or participating in our community events. This is a time of year when we open not only our hearts but also our pocketbooks to help those who are not as fortunate as ourselves.

We sometimes take each other for granted and even though we are competitors in our business dealings we also will jump to help each other whenever necessary.

So as we draw near to a new year I hope that each of you will take a moment to reflect on what this past year has brought to you and your family.

Please remember that you are the most important part of this organization and that your part is to not only support this organization but also to show our community that we care about them, our friends and neighbors.

With this I bid you a fond farewell and thank each of you for your support in my past years as serving as your President. I wish the best to our incoming President, Renee Storey and hope each of you will take the time to thank her and offer your support for her in her new role.

Sincerely, it has truly been an honor to serve this board. Wyatt

\*Check additional pages for updates: Legal, Board, CE



I know you are getting tired of the COE reminders but if you do not complete this by December 31<sup>st</sup> you will be made INACTIVE!

Below is information to help you get online and do this.

For those of you who have received my emails and have not taken the Code of Ethics (quadrennial) and IF you have any questions regarding how to do this

You can contact MEMBER SERVICE at NAR 1-800-874-6500. Have your NRDS # ready -

You must take the COEC if you received your license before 2013.

Remember you have until December 31, 2016 to complete this COEC.

**If you have received your license after 2013 you do not have to do this.**

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## **2017 DUES INFO**

Just a reminder that Board dues will be invoiced January 1<sup>st</sup>.

Please note that OAR IS ASSESSING AN ADDITIONAL \$25.00

Breakdown of dues is as follows:

OAR = \$155.00

NAR = 155.00

Local = 90.00

TOTAL = \$400.00

\*Our LOCAL Dues have not increased for many years and ours are much lower than many other boards.

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## **EDUCATION**

### **QUICK LINKS**

[Pricing Strategy Advisor \(PSA\)](#) - Columbus, December 1

[7-Hour USPAP](#) (2016-2017) - Columbus, December 6

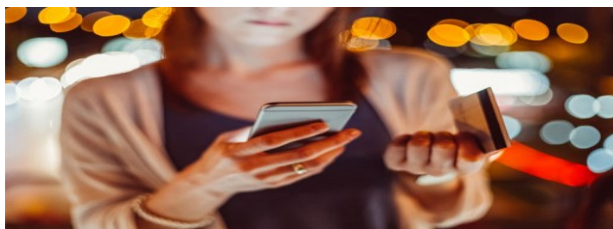
[Developing Credible Appraisals](#) - Columbus, December 7

[10 Hour Post Licensure for Salespeople](#) - Columbus, December 13-14

**OAR Winter Conference and Hotel Information**

**January 15-17, 2017**

**Hilton Columbus at Easton** Check OAR Website for additional information



## **INFO ON UTILITY SCAMS**

We take the safety and privacy of our customers very seriously. Please be aware that criminals are posing as AEP Ohio representatives and threatening to shut off power unless immediate payment is made or personal information is given. Scams are being made door-to-door and by telephone, mail and email.

It's important to remember that AEP Ohio will never ask you for pre-paid cards as a method of payment.

### **Utilities United Against Scams**

We have joined forces with 80 gas and electric utility companies across the United States and Canada to fight scams targeting our customers. Together, we've seen an uptick in the number of scam attempts, especially around the holidays.

### **What are scammers doing?**

Criminals are using more sophisticated tactics, including the use of caller ID to make you believe AEP Ohio is calling. In addition, scammers often provide a toll-free number that, when called, sounds like you have reached AEP Ohio. In reality, you have called an illegal operation.

**To discuss your AEP Ohio account, always call 1-800-672-2231.**

Thieves may also call AEP Ohio customers and:

- Threaten to shut off power unless an immediate payment is made;
- Tell customers they need a new electric meter, but must make a payment before the new meter is installed;
- Offer a discount on their AEP Ohio bill if they sign up for auto-pay; or
- Demand that a deposit be paid immediately.

### **How can you protect yourself?**

Know that AEP Ohio will never:

- Demand an immediate payment
- Insist a payment be made with a prepaid credit card, or
- Ask a customer to meet us in a parking lot, at a store or other location to make a make a payment.

If you suspect someone is trying to scam you, call the local police and then AEP Ohio at 1-800-672-2231. Never dial the phone number a scammer provides.

For more information visit [AEPOhio.com/StopScams](https://www.aepohio.com/StopScams)

# LEGAL ISSUE

## Text messages can form contract

On November 28, 2016



Two courts from Massachusetts have determined that parties can enter into a valid real estate purchase contract via text message. However, both courts ruled that no contract was formed via text, as the real estate professional lacked the authority to bind the principal in the first case and the purported agreement failed to satisfy the Statute of Frauds in the second instance.

In [St. John's Holdings, LLC v. Two Electronics, LLC](#), a company was seeking space for its medical marijuana facility. After locating a suitable space, the parties began their discussions and the principals for each company met twice to establish a contractual framework for the transaction. Following the second meeting, the owner told the buyer to work through the listing broker for the remainder of the discussions.

After a series of offers were made, the buyer then sent a third offer containing all of the changes requested by the seller. The listing broker then sent the following text:

Steve. It [Seller] wants you [Buyer] to sign first, with a check, and then he will sign. Normally, the seller signs last or second. Not trying to be stupid or contrary, but that is the way it normally works. Can Rick [McDonald] sign today and get it to me today? Tim.

The buyer delivered a signed offer along with the deposit check. The seller never deposited the check nor signed the agreement but instead entered into an agreement to sell the property to another party. The buyer brought a lawsuit claiming that the listing broker's text created an offer that they accepted by delivering a signed offer and the deposit check to the listing broker.

The Massachusetts Land Court, Essex County, ruled that the text failed to establish a contractual relationship between the parties. The court found that while the parties could form a contract via text message, the parties would need to have a written agreement that contains all of the material terms and is signed in order to satisfy the Statute of Frauds.

The court ruled that the earlier negotiations between the parties had created a contractual framework that satisfied the Statute of Frauds but the listing broker did not have the authority to bind the seller. The principals had negotiated the framework of the agreement that contained all of the material terms and the listing broker had signed his text message, but the listing broker's text did not constitute an offer to the buyer. While the seller had told the buyer to work through the listing broker, the court concluded that it was clear to all the parties that the listing broker was merely an intermediary and did not have authority to sell the property. Therefore, the seller was not bound by the listing broker's text and there was no contract between the parties.

[Donius v. Milligan](#) involved a residential property on Cape Cod. After the buyers visited the property, the real estate professionals began negotiating the terms of a possible purchase through email and texts. Here are the texts sent back and forth:

May 12

[Buyer's Rep]: Good afternoon. I emailed an offer over to you [f]or 93[C]ommercial.

[Listing broker]: Hi Mike. Won't hear back til morning. Talk to you then.

May 13

[BR]: Hi, he said he would split the difference at \$962,500.

[LB]: OK. I'll convey.

May 14

[LB]: Hi Mike. The sellers accept the price.

Following receipt of the last message, the buyer's representative emailed the listing broker a signed purchase agreement plus a copy of an earnest money check. The check was never sent to the listing broker and the seller never signed the agreement, and the seller then sold the property to another buyer. The buyer brought a lawsuit seeking to enforce the contract.

The Massachusetts Land Court, Barnstable County, ruled that there was no agreement between the parties. While the court found that the parties could create a real estate contract through text messages, the negotiations here did not create a contract. Unlike the first case, the buyer and seller had never discussed the contractual terms, such as a financing clause and inspection clause. Further, the text message failed to satisfy the Statute of Frauds, as the messages did not contain any of the material terms of the transaction except for the price and the messages were not signed by the parties. Thus, there was no contract formed via text message.

[St. John's Holdings, LLC v. Two Electronics, LLC, No. 16 MISC 000090, 2016 WL 6191911](#) (Mass. Land Court (Essex Cty.) Oct. 24, 2016). [This is a citation to a Westlaw document. Westlaw is a subscription, online legal research service. If an official reporter citation should become available for this case, the citation will be updated to reflect this information].

[Donius v. Milligan, No. 16 MISC 000277, 2016 WL 3926577](#) (Mass. Land Court (Barnstable Cty.) July 25, 2016). [This is a citation to a Westlaw document. Westlaw is a subscription, online legal research service. If an official reporter citation should become available for this case, the citation will be updated to reflect this information].

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*By Carl Horst, OAR Director of Publications/Media Relations*

The rate of homes sold across Ohio reached a best-ever in October, increasing 7.8 percent from the level recorded during the month a year ago, according to the Ohio Association of REALTORS.

“Activity throughout the Ohio housing market was beyond positive in October, as the pace of sales during the month reached the highest rate for any monthly period in 19 years,” said OAR President Sara Calo. “Equally as important as the uptick in sales is the average sales price continuing to post modest monthly gains. It’s evident that consumer confidence in the housing sector continues to be remarkably strong.”

October’s average home price of \$163,279 reflects an 8.8 percent increase from the \$150,036 mark posted in October 2015.

Sales in October reached a seasonally adjusted annual rate of 156,872, increasing 7.8 percent from the October 2015 rate of 145,561. The market saw an uptick in activity in October of 3.8 percent from September’s mark of 151,100. Sales activity in October 2016 was the month’s best rate since OAR began tracking Ohio’s sales in 1998.

Around the state, 15 of the 18 markets tracked reported an increase average sales price, while 12 improved in sales activity compared to October 2015.

Data provided to OAR by Multiple Listing Services includes residential closings for new and existing single-family homes and condominiums/co-ops. The Ohio Association of REALTORS, with more than 30,000 members, is the largest professional trade association in Ohio.

## [Ohio housing market reaches best-ever rate of sales in October](#)

*On November 22, 2016*



