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REAL ESTATE INVESTORS ASSOCIATION
WAYNE COUNTY

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Dearborn, Michigan 48128

Volume 30

March 2014

Number 2

NEXT MEETING

TUESDAY MARCH 4, 2014
NETWORKING & DINNER
RED LOBSTER

13999 Eureka Rd • SOUTHGATE
Next to 7-11, near Trenton Rd.

6:00 - 7:15 Dinner and Networking
7:30 Meeting

SPEAKER/TOPIC

Jerry Kirschner

Many people say they want to be Real Estate Investors. Few ever do anything about it. My talk will be entitled 'Have a Plan - Your Eight Step Pattern for Real Estate Success'. It is designed to help people get their "Buts" out of the way to get their Real Estate businesses going. It will certainly be informative and I hope a lot of fun.

For Any Questions Please Call:
Wayde Koehler, President 313-819-0919

WELCOME

New & Returning Members

Joe & Nancy Trela
Brian Phipps
Glenn Cousino
Noel Selewski

Chris Peterson
Ken Pumford
Fred Vanhala
Mike Brandau

YOU ARE INVITED TO THE MONTHLY INVESTOR GET-TOGETHER!

Hosted by our Vice President Bill Beddoes

3RD TUESDAY MEETING
MARCH 18, 2014

WHEN 3rd Tuesday of the month

Join us for a casual evening with like-minded individuals to share your stories, discuss your issues and learn more about our investing community!

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We hope to see many of you there, and feel free to bring a friend or two.

For More Info Contact:
Bobbi (734) 946-6280 or Bill 734-934-9091

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ANNUAL DUES Family — \$125.00 - (One Address — 2 People)

Single meeting fee for non-members is \$20.00 per person, which will be applied to the annual dues if you join the next month.

(we hope this will encourage people to join)

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Tell us the companies you use and see if we can advertise for them.

FOR RENEWING MEMBERS: Any questions/comments on how to better our organization??

NEXT MEETINGS

MONTHLY MEETING

- Tuesday March 4, 2014
- Tuesday April 1, 2014

INVESTOR GET-TOGETHER — MAR 18TH

BOARD OF DIRECTORS

- Tuesday March 11, 2014
- Tuesday April 8, 2014

Real Estate Investors Association of Wayne County

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METRO HOME SALE PRICES SOAR AGAIN

By JC Reindl - Detroit Free Press Business Writer

Metro Detroit home sale prices in November experienced their fourth month in a row of 40%-plus year-over-year price increases, according to new listing data released Tuesday.

The median sale price for homes and condos was up 41% in November to \$120,250 within the four-county region of Wayne, Oakland, Macomb and Livingston, according to Realcomp, the Farmington Hills-based multiple listing service. The median price was \$85,100 in November 2012.

Home sale prices have experienced big year-over-year increases this year, driven in large part by the slim inventory of desirable homes on the market. Real estate agents are again seeing bidding wars and overasking-price offers on homes. At the same time, many homeowners remain underwater on their mortgages and not in a position to sell.

The most recent data from Standard & Poor's/Case-Shiller Home Price Index has metro Detroit home prices generally back to where they were in summer 2008. That means prices are still more than 25% off their local peak in late 2005 and early 2006.

The new Realcomp figures - which do not include for-sale-by-owner transactions - show a nearly 8% decline in the number of home sales in November in metro Detroit compared to a year earlier.

But other figures suggest an increase in home sales. A review of deed transfers in Wayne, Oakland and Macomb counties found home sales up 22% in November from a year earlier, according to Advertising That Works, a Bloomfield Township-based company that tracks home sales.

The firm reported the median sales price in the region as \$128,950, or 36% higher from November 2012.

"I can see the median sales price staying up where it is in the \$120,000s now for awhile," said Steve Bartley, owner of Advertising That Works. "But traditionally, the winter months are the slowest home sale months of the year."

Contact JC Reindl. 313-222-6631 or jcreindl@freepress.com



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SPEAKERS COMMITTEE

Wayde Koehler

313-819-0919

If you have any suggestions for speakers, drop us a line at: www.reiawaynecounty.org



Section 8 Questions???
Call Jane Scarlett

Wayne Metropolitan Community Action Agency
Housing Agent for the Michigan State Housing
Development Authority

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jscarlett@waynemetro.org

Wayne Metropolitan
Community Action Agency

05/14

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Too Plush to Flush

Bathroom wipes blamed for backed-up sewers

By Carolyn Thompson
Associated Press

Increasingly popular bathroom wipes - premoistened towelettes that are often advertised as flushable - are being blamed for creating clogs and backups in sewer systems around the nation.

Wastewater authorities say wipes may go down the toilet, but even many labeled flushable aren't breaking down as they course through the sewer system. That's costing some municipalities millions of dollars to dispatch crews to unclog pipes and pumps and to replace and upgrade machinery.

The problem got so bad in the New York community of Bemus Point this summer that sewer officials set up traps -basket strainers in sections of pipe leading to an oft-clogged pump - to figure out which households the wipes were coming from. They mailed letters and then pleaded in person for residents to stop flushing them.

"We could walk right up, knock on the door and say, 'Listen, this problem is coming right from your house,'" said Tom Walsh, senior project coordinator at South & Center Chautauqua Lake Sewer Districts, which was dispatching crews at least once a week to clear a grinder pump that would seize up trying to shred the fibrous wipes.

A growing industry

The National Association of Clean Water Agencies, which represents 300 wastewater agencies, says it has been hearing complaints about wipes from sewer systems big and small for about the past four years.

That roughly coincides with the ramped-up marketing of the "flushable cleansing cloths" as a cleaner, fresher option than dry toilet paper alone. A trade group says wipes are a \$6 billion-a-year industry, with sales of consumer wipes increasing nearly 5% a year since 2007 and expected to grow at a rate of 6% annually for the next five years. One popular brand, Cottonelle, has a campaign called "Let's talk about your bum" and ads showing people trying to wash their hair with no water. It ends with the tagline: "You can't clean your hair without water, so why

clean your bum that way?"

Manufacturers insist flushable aren't the problem, pointing instead to baby and other cleaning wipes marked as nonflushable that are often being used by adults.

"My team regularly goes sewer diving" to analyze what's causing problems, said Trina McCormick, a senior manager at Kimberly-Clark Corp., maker of Cottonelle. "We've seen the majority, 90% in fact, are items that are not supposed to be flushed, like paper towels, feminine products or baby wipes."

Wastewater officials agree that wipes, many of which are made from plastic, aren't the only culprits but say their problems have escalated with the wipes market.

Vancouver, Wash., sewer officials say wipes labeled as flushable are a big part of a problem that has forced that city to spend more than \$1 million in the last five years replacing three large sewage pumps and eight smaller ones that were routinely clogging.

To prove their point, they dyed several kinds of wipes and sent them through the sewer for a mile to see how they would break up. They didn't.

Those labeled flushable, engineer Frank Dick said, had "a little rips and tears but still they were intact."

Costs Keep climbing

The Washington Suburban Sanitary Commission, which serves Montgomery and Prince George's counties in Maryland, has also spent more than a million over five years installing five heavy-duty grinders, while the Orange County, Calif., Sanitation District, in a single year, recorded 971 "de-ragging" maintenance calls on 10 pump stations at a cost of \$320,000.



7/14

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Clogging problems in Waukesha, Wis., prompted the sewer authority there to create a “Keep Wipes out of Pipes” flyer. And Ocean City, Md., and Sitka, Alaska, are among cities that also have publicly asked residents not to flush wipes, regardless of whether they are labeled flushable.

The problem got worldwide attention in July when London sewer officials reported removing a 15-ton “bus-sized lump” of wrongly flushed grease and wet wipes, dubbed the “fatberg.”

The complaints have prompted a renewed look at solving the problem.

The Association of the Nonwoven Fabrics Industry, the trade group known as INDA, recently revised voluntary guidelines and specified seven tests for manufacturers to use to determine which wipes to call flushable. It also recommends a universal do-not-flush logo - a crossed-out stick figure and toilet - be prominently displayed on non-dispersible products.

The wastewater industry would prefer mandatory guidelines and a say in what’s included but supports the INDA initiatives as a start. Three major wastewater associations issued a joint statement with INDA last week to signal a desire to reach a consensus on flush-ability standards.

“If I’m doing the test, I’m going to throw a wipe in a bucket of water and say it has to disintegrate,” said Rob Vilee, executive director of the Plainfield Area Regional Sewage Authority in New Jersey.

Nicholas Arhontes, director of facilities support services in Orange County, Calif., has an even simpler rule.

“Only flush pee, poop and toilet paper,” he said, “because those are the only things that sanitary sewers were really designed for in the old days.”

Reprinted from the Detroit Free Press & submitted by Wayne Koehler, Pres, R.E.I.A. of Wayne County

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“Back-Up” Offers: *Be Cautious!*

By Dale Alberstone, Esq.

Hello everybody. Let’s discuss “back-up” offers this month as they often occur in connection with the sale of aptment buildings, as well as other types of real property.

Real estate purchase contracts frequently contain a provision that the seller may receive back-up offers even though the seller has an accepted offer with the buyer and may even be in escrow. Under real estate law, it is perfectly legal for the seller to include such a provision in the agreement and perfectly proper for the seller to thereafter receive back-up offers from prospective purchasers.

What is not lawful, however, is for the seller to cancel his existing contract in order to accept a higher offer from a new prospective purchaser, even if the offer is substantially higher. Not only would that constitute a breach of contract by the seller, it would also constitute a breach of the seller’s implied covenant of good faith and fair dealing.


The law implies in every contract a covenant of good **faith and** fair dealing. Broadly stated, that covenant provides that neither party do anything which would deprive the other of the benefit of the agreement.

Here is an example of the application of the implied covenant of good faith and fair dealing in a real estate context: Suppose that a seller who is under a \$2,000,000 contract with an existing buyer desires to cancel the transaction so that he may accept a new buyer’s backup offer of \$2,500,000. Also suppose that the lender requires, as most lenders do, that its appraiser inspect the interior common areas of the seller’s “security” building as a condition to loan approval. Further, suppose that without that interior inspection, the lender would not make the loan. Finally, suppose that the seller refuses to allow the appraiser access to the common areas because the seller anticipates that the lender would not then make the loan and, therefore, the buyer will not be able to consummate the transaction. Under that scenario, the seller would be in breach of the implied covenant of good faith and fair dealing.

Since the motive behind the seller’s lack of cooperation was to re-sell the property to the prospective purchaser making the back-up offer, the seller, when refusing common area access (and therefore causing the buyer’s loan application to be declined), would be liable to the buyer for damages for breach of the implied covenant.

Similar laws apply to prospective purchasers who submit back-up offers. It is perfectly proper for a prospective purchaser to make a back-up offer to the seller even though the prospective purchaser may know of the existence of the seller’s contract with the buyer. However, in submitting such an offer, the prospective purchaser needs to exercise caution, lest he be liable to the initial buyer for inducing the seller to breach the contract. That would be particularly true if the prospective purchaser submitted the back-up offer with the intent to induce the seller not to sell the property to the buyer, but to instead sell it to the prospective purchaser.

There are three types of legal theories under which the prospective purchaser may be liable to the buyer. They are:

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1. Inducing a breach of contract:

If the prospective purchaser has knowledge of the buyer's contract and intends to induce its breach by submitting the back-up offer, the prospective purchaser may be liable to the buyer for any damages that the buyer suffers because of the seller's breach. Of course, the court would require proof that the prospective purchaser had an expectation that his submission of the back-up offer would in fact induce the seller to breach the contract.

While direct proof of a party's state of mind may be difficult to accomplish, our courts have endorsed a maxim of jurisprudence which assists in establishing a person's intent. Paraphrasing it: "A person is presumed to intend the natural and probable consequences of his acts." *Pierce v. Nash*, (126 C.A.2d 606,6 13).

2. Interference with the contractual relationship:

This second theory is slightly broader in that it protects against intentional acts not necessarily resulting in a breach of the contract. If the prospective purchaser commits intentional and unjustified acts designed to interfere with or disrupt the buyer's contract with the seller, the prospective purchaser may be liable to the buyer for damages which the buyer suffers as a result of actual interference with or disruption of the relationship.

3. interference with prospective economic advantage:

This third theory is still broader in that it protects against intentional acts designed to harm an economic relationship which is likely to produce an economic benefit to the buyer even though no contract had yet been formed.

It requires that the buyer have an economic relationship with the seller concerning the probability of a future economic benefit, the prospective purchaser had knowledge of that relationship, the prospective purchaser committed an intentional and unjustified act designed to disrupt the relationship and the relationship was actually disrupted, causing the buyer damages.

This type of liability arises where the buyer does not yet have a contract but instead has an economic relationship with the seller which would give rise to the probability of a future economic advantage.

While the first two theories of liability are rather straightforward and relatively easy to understand, this third theory is rather nebulous. Generally, it applies to parties who have an on-going business relationship with one another. It would not apply to a seller who is negotiating with a buyer with whom he has never before been involved. For example, it is lawful for a prospective purchaser to submit his own higher offer to a seller even though he knows that the first proposed buyer has submitted an offer which the seller is about ready to accept. (In that circumstance, of course, the prospective purchaser's offer would not be a "back-up" offer because there was no already-existing contract.)

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12/14

A real estate licensee who receives a back-up offer on behalf of a prospective buyer or presents a back-up offer to the seller also should be careful that he/she does not receive or submit the offer with the intent to cause the seller to breach the contract or with the intent to disrupt the contractual relationship between the seller **and buyer**. The real estate licensee may have similar exposure for damages to the buyer under the theories discussed above.

Indeed, real estate agents are well aware that they cannot interfere with existing contracts, particularly with respect to listing agreements. A common practice of licensees to avoid exposure for contractual interference is seen in their "direct mail" solicitations. Often, the fine print will say, "If your property is presently listed with another broker, please disregard this mailing."

Concluding remarks

Back-up offers are generally lawful and play a significant role in the sale of real estate. But prospective purchasers, sellers and real estate agents need to be particularly circumspect about presenting or receiving back-up proposals once a contract has been entered into between the buyer and the seller.

If the back-up offer interferes with the sale of the property to the buyer, the buyer may pursue causes of action (i.e. litigation) against the prospective purchaser or licensee for inducing breach of contract or interference with contractual relations. The buyer may also have causes of action against the seller for breach of the implied covenant of good faith and fair dealing as well as ordinary breach of the contract.

Attorneys wishing to further brief themselves on the three different theories of liability should review *Shamblin vs. Berge*, 166 CA. 3d 118. That case presents an excellent discussion of the differing elements and nuances among the three theories in a real estate context.

The foregoing article was authored, and is intended as a general overview of the law and may not apply to the reader's particular case. Readers are cautioned to consult an advisor of their own selection with respect to any particular situation.

Reprinted from *AOA News and Buyers Guide*, and taken from **MICHIGAN LANDLORD - WHERE LANDLORDS GO FOR HELP!** & Submitted by Rose Papp

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Wood TV8 Spotlights Lack of Air Conditioning in Some Rentals

WOOD TV8 put forth the question to tenants of whether or not they believe landlords should have to provide air conditioning and keep rental unit temperatures from exceeding a maximum limit. They also asked the RPOA what position they take on this issue. The RPOA responded by noting that air conditioning is an expensive alternative for some tenants and, from an installation and maintenance perspective, a costly amenity to provide everyone. Clay Powell, RPOA Director, noted that a sensitive balance has to be struck between providing affordable housing and offering what many see as a comfort item that is rarely needed in West Michigan.

For more on the story, go to http://www.woodtv.com/dpp/news/local/grand_rapids/should-grhave-air-conditioning-code.

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REI WAYNE COUNTY

STREET CLEANING/LEAF PICK UP AND THE PUBLIC TRUST

By Robert Tulloch, JALA President

As most of you know if you are following the local news, the Jackson City Council voted to terminate street sweeping, leaf pickup, catch basin cleaning and other activities, which were currently being funded by the “storm water tax” imposed through an ordinance in 2011. The city used the excuse that the EPA made them pass the ordinance to keep the Grand River clean even though the city had been providing this service as long as I can remember. Previous to the imposition of the storm water tax, these services were paid for with general fund revenues from property taxes. Jackson hired an Ann Arbor firm to “develop a plan” to address the EPA mandate. A brief summary follows: *Jackson Storm Water Study/Prepared by Tetra Tech/Ann Arbor, Michigan/September, 2010. The City of Jackson must raise the funds necessary to meet the regulatory requirements of the State Michigan to manage the City’s storm water system. These requirements were contained in the latest Municipal Separate Storm Sewer System (MS4) Watershed Permit #MIG610000 issued May 2Z 2008. This requires the City to maintain its storm sewers, clean catch basins, sweep streets to prevent dirt and debris from reaching the Grand River, and educate the public about the watershed The purpose of this report is to investigate the feasibility of developing a Storm Water Utility framework which when implemented, will generate sufficient revenues to meet the City of Jackson’s storm water system fiscal needs. Revenues generated by the utility would enable the City to remove the storm water programs from ad valorem tax and other funding support, which will release funds for other uses, such as street construction and improvements.*

No identifiable construction and improvements directly attributable to reallocation of these funds can be found. Also note the title “*Municipal Separate Storm Sewer System (MS4) Watershed Permit*” Separate is a key word here. Storm sewer sanitary sewer separation has been an issue for 30 or more years and has been addressed years ago in Jackson. We had to plug with concrete all the foundation drains that connected to the sanitary sewers and fed rain water through downspouts into those connections. That was the separation issue that was addressed to prevent sewage entering the river from overloaded sewage treatment plants.

In the 2001 election for Mayor and Council, several of the candidates stated their opposition to this “tax”. Griffin went so far as to call it a “rain tax” and assured us he would push to repeal it if elected. Upon election, he changed his mind. How unusual.

This same legal approach was used in Lansing. Lansing was sued and lost with the courts declaring the “storm water fee” was in fact an unconstitutional tax in violation of the Headlee Amendment. Mayor Griffin and the Council, supposedly under advice from an attorney declared that their “fee” was not a tax and they would prevail in any lawsuit. They lost the suit filed by Jackson County and several local businessmen. The court order did not include a requirement to return the illegally collected funds to residents. A class action suit to recover those funds is in-process. The problem we face as property owners in Jackson is the dilemma of leaf filled

gutters, streets, clogged catch basins and finally streets flooded by fall rains and then frozen in place as winter approaches. This is extremely hazardous and could result in many vehicle crashes, vehicle/pedestrian accidents and slip-and-fall injuries. The city charter states:

Section 2.18. Providing for the Public Health, Welfare and Safety. The city shall provide for the public health, welfare and safety of persons and property. Note the term “shall”. It does not say, might, will if it chooses, can or any other such “voluntary” term. It says **SHALL**.

For the council to throw a childish tantrum and terminate these services as retaliation for the loss of the lawsuit is beyond belief. They are laying off 15 people, loyal city employees who did not see this coming. These are 15 people who will be on the street, possibly losing their homes and other possessions due to the whim of these council persons. The city council has a duty, spelled out under the city charter to provide for the safety and welfare of persons and property within the city.

The availability of information on the internet and the ability of potential residents and businesses to pull up information on the recent history of Jackson and the city council should serve as a warning to those elected officials who want to bring new blood to Jackson. The world is watching.

We need a council and mayor who are responsive to the needs of the city residents and look to provide a sound, predictable future for businesses and residents.

Reprinted from JALA News -
Jackson Area Landlords Association



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LANDLORD LIABILITY

Tenant's Pit Bull Dog Attacks Another Tenant

Victim contends landlord is liable in negligence for not evicting dog owner and not imposing landlord regulations prohibiting pit bulls

This case addresses the issue of whether a landlord has a duty to protect third parties from tenants' dogs based on landowner ability to evict the dog owner and/or landowner regulations prohibiting certain breeds of dogs—such that a failure to fulfill that duty could leave the landlord liable in negligence for a dog bite injury.

Citation: *Burnett ex rel. Burnett v. Clarke*,
2013 WL 1010062 (Mich. Ct. App. 2013)

— WEB SITE CORNER —

This new column of useful website addresses is a new addition to our newsletter format. If you wish to have a website featured in this column please email reianews@aol.com

www.reiafoakland.com REIA of Oakland.
www.nationalreia.com National Headquarters
www.irs.gov IRS web site
www.bendover.com Govt. Red Tape Help
www.taxsites.com Tax and Accounting
www.unclefed.com Online Tax Resource
www.courts.michigan.gov/ Michigan Courts
<http://www.michigan.gov/taxtrib> Tax Appeals
<http://www.ask-the-rehabber.com>

State Criminal Records:

www.state.mi.us/mdoc/asp/otis2.html Offender Tracking System (OTIS)
<http://apps.michigan.gov/ichat/home.aspx> Criminal History Check (ICHAT)
<http://www.oakgov.com/crtsOO04/main> Oakland County District Court Case Search
www.mipsor.state.mi.us/ Michigan Sex Offender: (PSOR)

Are You Looking For Houses To Buy???

www.realtor.com
www.buyowner.com
www.fsbo.com
www.hud.org
www.historicproperties.com

Are you looking for comps?

www.homeradar.com
www.realestate.yahoo.com/realestate/homevalues

Need to find someone?

www.555-1212.com
www.anysho.com

Lead Base Paint Pamphlets?

www.hud.gov/lea



Need to E-mail any questions or articles or anything for us?? Our web address is ApPrint1@aol.com Send us your email for meeting reminders and to get your newsletter sent to you. Or fax your email address to us at 313-386-7600 or call and leave it on the 24hr Real Estate Investor Line at 313-347-1401

— **MEETING AGENDA** —
RED LOBSTER ON EUREKA • SOUTHGATE
Next to 7-11, near Trenton Rd.
6:00 - 7:15 ... Dinner and Networking
7:30 - Meeting — (\$20.⁰⁰ FOR GUESTS)