

This column highlights promotions, transfers, hirings, awards won and other key personnel moves within the suburban real estate community. Send a brief biographical summary—including the towns of residence and employment and a black and white photo if desired—to: Movers and Shakers, Observer & Eccentric Newspapers, 36251 Schoolcraft, Livonia, 48150. Our fax number is (313) 591-7279.

Kelm Joins Cranbrook



Susan Kelm has joined Cranbrook Realtors in Birmingham as assistant manager. Kelm, active in the business since 1988, holds the professional designation of Graduate Realtor Institute and is a member of the Women's Council of Realtors. She lives in Royal Oak and is the daughter of the founder of Earl Kelm Realty.

Bakirci Joins Cranbrook



Kenan Bakirci has joined Cranbrook Realtors in Birmingham as a sales associate. Bakirci, a Realtor with several years experience, lives in Palmer Woods. His goal is to promote Detroit as a viable alternative to suburban living.

Plowowarczyk Joins TTCI

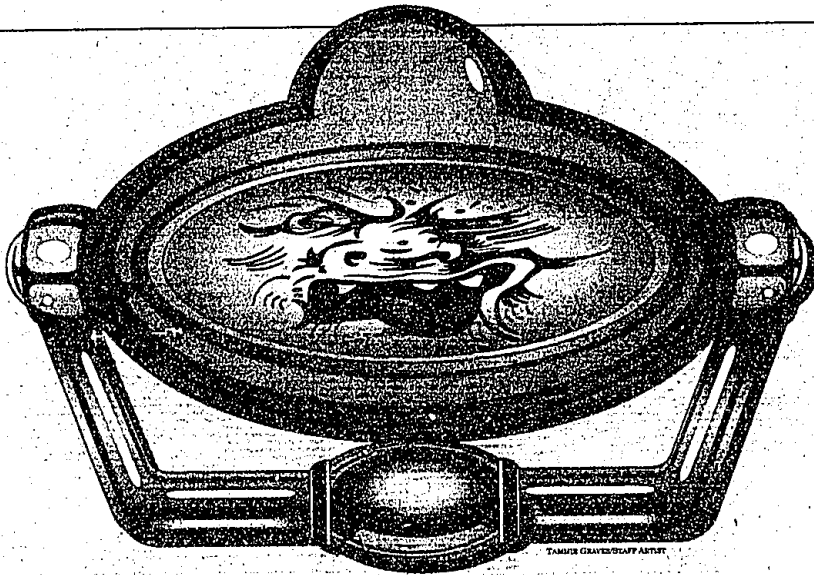
Christopher A. Plowowarczyk has joined the commercial brokerage division of Trerice Tosto Colliers International in Bingham Farms as a sales associate. He will focus on property sales and leasing in metro Detroit's commercial/retail markets. Prior to joining Trerice Tosto, Plowowarczyk was a commercial and investment real estate broker with the Thomas A. Duke Co. He holds bachelor's and master's degrees from Michigan State University.

Winograd named CEO

Bernard Winograd has been named president and chief executive officer of Prudential Real Estate Investors, a unit of the Prudential Insurance Company of America. Winograd joins Prudential from the Taubman Company, where he held the title of executive vice president and chief financial officer. He serves on the executive committee of the National Association of Real Estate Investment Trusts and as co-chair of the organization's institutional investment committee. Winograd lives in Bloomfield Hills.

REAL ESTATE

THURSDAY, OCTOBER 24, 1996 • PAGE 1 SECTION H



When clients get 'ugly' agents stay calm

BY NORMAN PRADY
SPECIAL WRITER

"I had an ugly situation," said Linda Kittredge, a real estate sales associate, when explaining how she handles difficult clients.

Kittredge, of Quality Real Estate NW/BHG, Livonia, recalled the home seller who refused to close the sale of his house because he wanted 100 percent of a previous deposit, of which he was legally entitled to only 50 percent.

There had been an out-of-town buyer moving here to take a new job, she said. He made an offer on this seller's house, paid a deposit of almost \$8,000, was then offered an even better new job in another city and backed out of the deal knowing he might lose his deposit.

So what happens to the deposit? Sometimes, the seller may choose to have it returned to the almost buyer. Or it can be retained and divided; half to the seller, one-quarter to the seller's broker or agent, one-quarter to the broker and agent who brought the buyer.

At Kittredge's company, "we always give our 25 percent to the seller." So this seller now had 75 percent but wanted it all. "His perception was that it was a deposit on his house and it was his money. We went around and around for days, maybe two weeks." He apparently was not impressed

with the words in the sales contract, which clearly outlined the distribution of a retained deposit. Nor did he accept, Kittredge said, her further explanation that the remaining quarter was not her company's to give, that the other company was legally entitled to and, when asked, had said they intended to keep it.

How determined was the seller to get the remaining 25 percent, a sum less than \$1,500? Consider this: while he was demanding the additional money, Kittredge brought him a new offer on his house with a higher selling price than the first offer, which would more than make up for the amount he felt he was losing. He accepted the offer, but then said he wouldn't complete the sale until he got the balance of the original deposit.

"We sat down to sign and he refused to sign. I brought in my broker, who explained to him that it could go to arbitration but he'd lose. He settled down and signed."

While all this was happening, this seller himself was under pressure to move to another city to start his own new job. He was "otherwise pleasant," Kittredge said.

"We have to be very careful in writing contracts," Kittredge said, "and standing behind them and explaining them."

"People understand conceptually, but when an unexpected situation

arises, it's easy to become confused and for harsh feelings to start erupting."

On the other side of the transaction, difficult times with buyers, Kittredge said, can be due to expectations about the content or condition of the house.

"When the buyer discovers, for example, when taking possession of the house, that something is missing, possibly a major appliance, 'sometimes agents will try to smooth things over,' she said.

"Sometimes," she said, "the buying and selling agents will chip in to replace something. When the (buyers) are angry, who are you going to lash out at?"

Nancy Howell, office manager and associate broker at ERA Home & Land, Rochester Hills, says that "calm" is the secret to handling a difficult client.

"Have to keep everyone calm. Remain calm and try to reason with facts. Constant communication. Documentation. And patience. We have to be adept at being good counselors."

Like Kittredge, Howell has had the experience of solving problems with cash out of her own pocket, replacing what she refers to as "small items" to resolve some sticking point. This can mean she might "end up buying an appliance or a light fixture."

When there are differences between

the buyer and the seller, or when the buyer feels shortchanged, they "look to the Realtor to kick in," she said.

Are there times an agent would like to fire a client? Apparently so, according to the experience of Virginia Tipton, associate broker with Red Carpet Kelm Will Tipton, Garden City.

For Tipton, the issue was "trust," and the difficult client was a seller who was "questioning everything we do," Tipton said. "You do have to trust people."

Tipton drew up a contract to return the seller's listing to him, legally keeping the commission rights to the buyer she had already presented. The seller knew that this was a premium buyer and his best selling opportunity. He "then became manageable. Transaction was perfect."

"It boils down to patience," said Jane Maier, associate broker with Why USA All American Properties, Farmington.

As issues come up for seller or buyer to confront, "I present the situation and leave it alone. It has to be their decision."

"I've always been considered a 'soft sell,' someone who considers people's feelings," she explained.

"Buying or selling a house is emotional. People have to work things through, not be pressured."

Don't just sit there quietly if your condo is noisy

REAL ESTATE
QUERIES



ROBERT M. MEISNER

Q. My air conditioning chiller system is a common element of our condominium and is in my building. It didn't work for a number of years, but recently, it was activated. Since then, the noise level and vibrations have become very disturbing. Do you think I have any basis to pursue the condominium association and/or its board?

A. Of course, each claim would depend upon the sentiments of the judge, but in a recent appellate case from Massachusetts, the court held that a co-owner could maintain a nuisance action against the condominium association. The court recognized the obligation of a board to correct a "substantial interference with the quiet enjoyment" of the co-owner's unit from a cause located in the common areas. The case in question also upheld the right of the co-owner to sue the broker, who, at the time of purchase, assured the co-owner that the unit was quiet, and there were no noise problems. The court held that the issue was whether the statement by the

broker was one of opinion or fact. The court said that while a statement about noise can be either, in the case at hand it was reasonable to infer that the real estate agent had facts to justify her statements because her employer maintained an office in the condominium and had been involved in sales for a period of years.

Q. I entered into a purchase agreement for a condominium and made a deal with the builder, but unfortunately I did not get legal advice and the contract provided no specific time table in the purchase agreement. Now, after the purchase agreement has been signed, I find that the builder made a deal with a topsoil contractor to store the topsoil on my condominium property. Accordingly, the builder has not started my unit.

What recourse do I have in order to have the builder live up to his part of the purchase agreement?

A. It appears that you have dug a hole for yourself, literally and figuratively. In this one. Obviously, the builder feels that he is under no compulsion to complete your condominium in a timely fashion.

However, reasonableness dictates that he would make a good faith effort to commence construction. Presumably the builder would be willing to give you your purchase money deposit back if you requested it from him, and, if this is a new condominium and the builder is a developer, you may have recourse in the event that the purchase agreement does not comply with all of the aspects of the condominium act.

You should immediately consult with a lawyer to review your purchase agreement and inform the builder of your dissatisfaction. You will have to make a decision as to whether you want to try to force the builder to complete the building in a timely fashion or simply get your money back.

Again, it depends upon the terms of the building contract and a further review of the facts.

Robert M. Meisner is an Oakland County area attorney concentrating his practice in the areas of condominiums, real estate, corporate law and litigation. You are invited to submit topics that you would like to see discussed in this column, including questions about condominiums, by writing Robert M. Meisner, 30200 Telegraph Road, Suite 467, Bingham Farms MI 48025. This column provides general information and should not be construed as legal opinion.