

## POINTS OF VIEW

## Ordinance benefits Realtors and the public . . .

In the end, area Realtors will prosper at the hands of a Southfield ordinance they dislike. The ordinance, aimed against blockbusting, forbids real estate companies or their salespeople from soliciting homeowners who have put their names on an anti-solicitation list.

The State Realtor's Association which opposes discriminatory practices, disagrees, saying it can police its own. And rather than being a case of preventing blockbusting, they say the ordinance is unfairly directed at a certain industry, that it violates the constitutional issue of free speech and that it can be misapplied.

The ordinance, which has been on the books since 1978, has been in the news lately:

■ Earlier this month, the Southfield City Council toughened the law's

penalties, mandating a minimum fine of \$200 plus court costs. Before, penalties could range from a suspended sentence up to \$500 and up to 90 days in jail.

A suspended sentence will no longer be allowed under the new measure, which will take effect later this year.

One councilman, Eli Robinson, led the move for the mandatory fine after he was solicited twice. One of those solicitations resulted in a \$75 fine; the other earned a suspended fine.

The same week in the first-ever bench trial on the ordinance, Century 21 Elegant Homes in Lathrup Village was ordered to pay fines and costs totaling \$700 — one of the largest penalties assessed since the law has been on the books.

Although there have been more than 60 convictions in the 15 years the law has been in effect, all have been the



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result of real estate companies or brokers pleading guilty or no contest. And sentences have been left to the judge's discretion.

Just as interesting, 46th District Judge Bryan Levy also ordered the firm's president, Ronald Simpson, to have company officers or employees perform community service.

Yet both prosecutor and judge agreed it wasn't a deliberate violation of Southfield's ordinance, but rather that the agent involved had been poorly supervised.

■ Last week, in the first-ever jury trial, Century 21 Today of Redford was assessed a \$100 fine, \$500 court costs and a year's probation. And they are due back on three more violations in the coming weeks.

The truth is, none of the fines are going to make much of a dent in profits. But the community service component, if properly devised, might help the agents involved understand more about the heart of the Southfield community they're selling.

Both the law's new teeth and the sentence's bite send the message how serious the Southfield community really is in its efforts to retain an integrat-

ed community. It puts the real estate industry on alert that non-intent is no excuse in such a fragile situation.

In the long run, it will profit the real estate industry too. Instead of falling home values, it can sell stable neighborhoods where the houses are in demand and command high prices.

I always remember Laura Norberry, head of the former Birmingham Women's Center who moved from Birmingham to Southfield some years back. She longed to be part of a more diverse community.

When we reach Norberry's level of maturity, diverse neighborhoods will be where we move to — not away from. And Southfield, in this suburban area, can be the leader of the pack.

Judith Doner Berne is managing editor of The Eccentric Newspapers. She can be reached at 901-2563.

## . . . but Realtors plan to fight solicitation rule

How many times are we at home, eating dinner with our family or just plain relaxing when the telephone rings and, to our dissatisfaction, it is someone trying to sell us something or conducting a survey? These telephone calls may be harmless enough, and even if we are not interested in the subject matter, the slight inconvenience is not really so terrible.

On Dec. 20, 1991, the former President George Bush signed into law the Telephone Consumer Protection Act (TCPA) setting forth rules identifying restrictions as to when telephone solicitors may call homeowners as well as commercial telephone users.

The TCPA requires the telephone soliciting entity to maintain a "do-not-call" list, so that, in the event a homeowner does not want to be called in the future, they are then placed on a "do-not-call" list. However, this list is only applicable to that particular company, and this homeowner may be solicited or contacted for other purposes.

TCPA's focus was to respect the needs of business while recognizing the rights of privacy of citizens. Although telephone solicitors may find TCPA overly restrictive, at the very least it is a law that is uniform to all telephone solicitors, no matter what their trade.

By virtue of this uniformity, the law is fair.

The City of Southfield has enacted Ordinance 9.383, which provides for homeowners to place their name on a list with the City of Southfield. This ordinance strictly prohibits only real estate salespeople to solicit these homeowners by telephone, mail or otherwise, in an attempt to see if the homeowner would like to sell their home. This law is not uniform in that the only persons prohibited under this ordinance are real estate salespersons.

The City of Southfield claims that its restrictive ordinance is reasonable because it attempts to prevent "blockbusting," a technique whereby residents start selling their homes because the area is increasing with minority residents. However, this argument by the City of Southfield is greatly flawed when one realizes that there are federal and state Civil Rights Acts and Fair Housing Laws, which already strictly prohibit such activity.

Until recently, Southfield's ordinance proved to be a mere nuisance to the real estate profession, because if a salesperson violated the ordinance, he/she was given a small fine and/or placed on probation and the matter was closed. Because the ordinance was a mere nuisance, and because the fine

## GUEST COLUMNIST



WILLIAM P. DEACON

imposed was usually small, the ordinance was never challenged and a seemingly unconstitutional ordinance has stood for approximately 10 years. However, now the City of Southfield and its legal department shall be challenged in the courts as to the constitutionality of this ordinance.

Several months ago, a real estate salesperson pled guilty to violating this ordinance and the judge in the matter imposed a relatively small fine. This time the law department for the city was not satisfied and one of its attorneys wrote a letter to the State of Michigan Department of Licensing requesting that a review be made of this person's license when it came up for renewal.

To make matters worse, the South-

field City Council was not satisfied with the city ordinance and has enacted an amendment to this ordinance calling for mandatory sentences against violators because the council felt judges in the 46th District Court were not taking these matters seriously.

The judges of the 46th District Court responded in writing to the council and said that its proposed ordinance amendment would, in effect, restrict judicial discretion in imposing sentence on violators of this ordinance. Consequently, the judges were against this ordinance amendment.

Some think the City of Southfield has gone too far with this amendment and the real estate profession is now striking back with promises of constitutional challenges. The Constitution of the United States, as well as the Constitution of the State of Michigan, proclaim equality for all. The First Amendment grants protection of freedom of speech to all persons, while the Fourteenth Amendment to the Constitution grants equal protection for all citizens, thereby prohibiting restrictions on any group or class of people.

In fact, Southfield Ordinance 9.383 ostensibly violates both the First Amendment as well as the Fourteenth Amendment by restricting only real es-

tate salespersons from soliciting residents of Southfield who put their names on this special list. Any other person or entity may solicit Southfield residents.

The Realtors and various membership groups have coalesced to take on the City of Southfield and its restrictive ordinance banning real estate solicitations. The fight promises to be a long battle that could take years. The real estate membership groups and offices would feel differently if Southfield's ordinance had uniformity to all types of solicitation, as does the TCPA. That law, in addition to the Civil Rights laws and Fair Housing laws already regulate the very solicitation at issue.

The city is banging hard to enforce this ordinance to which there is absolute impunity by real estate sales people until a court of law deems the ordinance unconstitutional.

Perhaps the intentions of the city to spare residents from unwanted solicitation was well meant; however, as the old saying goes, "the road to hell was also paved with good intentions."

William P. Deacon is president of the Western Wayne Oakland County Association of Realtors.

# WINTER SAVINGSFEST

## Holiday Hunting

FREE to Everyone

Celebrating December Holidays Around the World!

**Saturday, December 4th**

**Downtown Farmington - 11 a.m. - 4 p.m.**

**Santa Arrives by Helicopter @ 11 am**  
In the Downtown Center parking lot Sing-along with Santa & the F.H.S. Marching Band  
Ride the Trolley throughout the Downtown - 12:30 a.m. to 6 p.m.

**UNDER THE TENT:**  
Visit Santa • 11:30 - 4 p.m. • Complimentary Hot Cocoa • "Traditions of Hanukkah" - Music and puppetry by Maureen Schiffman & CoCo • Noon • The Pelele - Endearing Christmas stories, under the tent @ 1:00 • Warren's Country Corner @ 3:00 • Holiday Hunting Treasure Maps - Solve our clues to tour the downtown shops for special holiday treats from around the world! • Gift Wrapping Available - For a nominal donation, have your gifts wrapped by Team Farmington volunteers. Proceeds benefit Farmington Area Special Olympics

**ABOUT TOWN:**  
Children's Shopping - special gift tables of \$10 & under at designated merchants. Staff assistance provided • Visit the Farmington Historical Museum courtesy of Books Abound & Focal Point Studios - 11 to 5 • Dick's Carvers stroll Downtown 11:30 to 2:30 - Sing-along at Grand River & Farmington Rd. @ 2:00 • Winter Warmer Lunches - Hot soups, chili and sandwiches. Sponsored by Order of Eastern Star and Masonic Lodge #151 • FREE Movies at the Civic Theatre - sponsored by Metrobank - "A Christmas Story" PG, 11:00, 1:00, 3:00 & 5:00 • Create a Holiday Craft at the Downtown Library - Free!

Don't forget the true spirit of the season!  
Donations of coats, canned goods and toys may be made under the tent; Donations of cash & canned food for the Goodfellow and the Salvation Army may be made at the Theatre.

COME SEE THE DIFFERENCE!

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<b>Tamaroff</b> 28545 Telegraph Southfield 352-3560	<b>Tel/10 Mile</b> 24445 Telegraph Southfield 746-0060	

## SINAI HOSPITAL

### Women's Health Series

Join us for an informative discussion presented by specialists in the field of women's health care. Lectures are held 7 - 9 p.m., the first and third Wednesday of each month at one of the following locations:

<b>First Wednesday</b> Sinai Hospital Zuckerman Auditorium 6757 W. Outer Drive (between Greenfield & Hubbell) Detroit	<b>Third Wednesday</b> Bloomfield Township Library L.H. Green Room 1059 Lone Pine Road (southeast corner of Lone Pine and Telegraph)
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**Schedule of Topics**

December 1	Sinai Hospital	Ovarian Cancer
December 15	Bloomfield Township Library	Contraception in the '90s

**These free lectures are open to the public. To reserve a seat, please call 1-800-248-3627**

Another special Sinai program created just for women is Vital Woman. Sinai provides a speaker to come to your home and address up to 14 of your friends and neighbors. Call us for more information!

**Sinai**