

WISCONSIN

REAL ESTATE

MAGAZINE

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Legislative Priorities

Legal Action Advocacy

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WRA

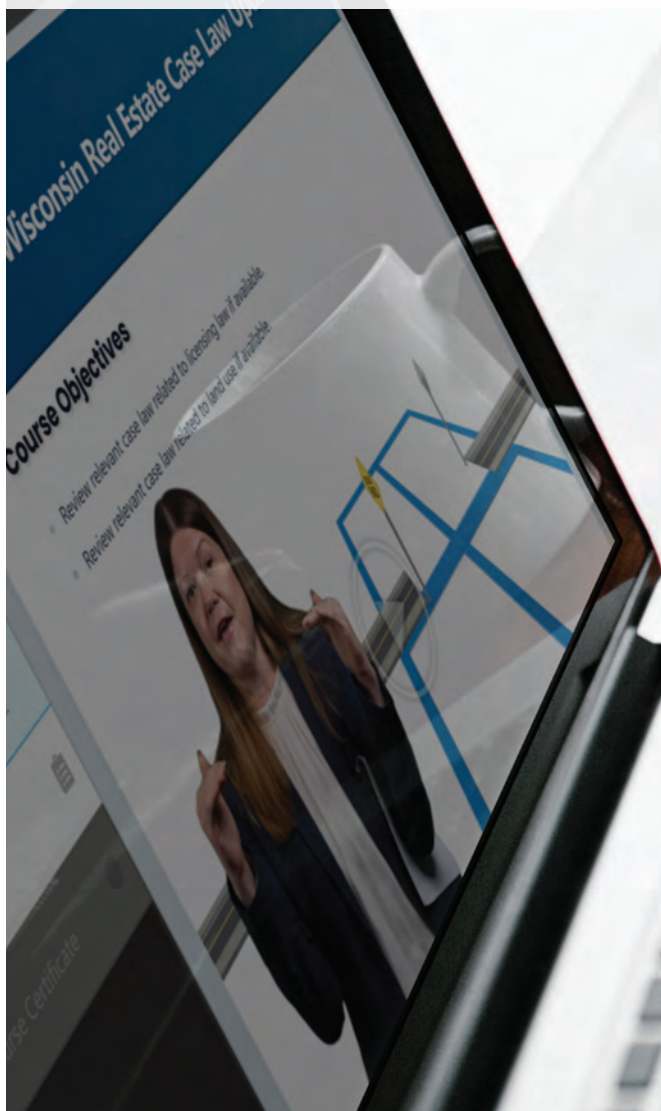


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JANUARY HOUSING

WISCONSIN HOME SALES GROW IN JANUARY AS LISTINGS IMPROVE

BY DAVE CLARK

PROFESSOR EMERITUS OF ECONOMICS AT MARQUETTE UNIVERSITY
AND PRINCIPAL AT ECON ANALYTICS LLC

January 2024 Wisconsin housing at a glance:

- Monthly home sales were 7.4% higher than January 2023.
- The 30-year fixed mortgage rate was 6.64% in January.
- New listings grew 10.1% compared to 12 months earlier.
- The median price rose 6.0% compared to January 2023.
- The market continues to be classified as a seller's market.

See the full report: www.wra.org/HSRJan24

Dave Clark, Ph.D., is a professor emeritus of economics at Marquette University and principal at ECON Analytics LLC, and serves as a consultant to the WRA in the analysis of home sales data as well as in the preparation of the monthly Wisconsin housing report. For more information, contact Clark at 414-803-6537.



JANUARY HOUSING



3,436

CLOSED SALES JAN 2024

+7.4%

FROM JAN 2023

\$265,000

MEDIAN PRICE JAN 2024

+6.0%

FROM JAN 2023

ACTIVE LISTINGS BY PRICE

PRICE RANGE	NUMBER OF LISTINGS
\$0-\$124,999	1,113
\$125,000-\$199,999	2,028
\$200,000-\$349,999	3,954
\$350,000-\$499,999	3,029
\$500,000 & higher	3,219

13,352

TOTAL STATEWIDE LISTINGS
JAN 2024

+2.0%

FROM JAN 2023

MEDIAN PRICES BY REGION

CENTRAL	\$217,800
NORTH	\$226,100
NORTHEAST	\$259,900
SOUTH CENTRAL	\$322,000
SOUTHEAST	\$267,000
WEST	\$265,000

AVERAGE DAYS ON MARKET

78 DAYS JAN 2024

COMPARED WITH

80 DAYS JAN 2023

MONTHS OF INVENTORY

2.5 JAN 2024

2.1 JAN 2023

MONTHLY HOUSING ACTIVITY

Statewide	January 2024	January 2023	% Change	Year to Date 2024	Year to Date 2023	% Change
New Listings	4,580	4,159	+10.1%	N/A	N/A	N/A
Total Listings	13,352	13,087	+2.0%	N/A	N/A	N/A
Closed Sales*	3,436	3,200	+7.4%	3,436	3,200	+7.4%
Median Sales Price	\$265,000	\$250,000	+6.0%	\$265,000	\$250,000	+6.0%
Months of Inventory	2.5	2.1	+19.0%	N/A	N/A	N/A
Avg. Days on Market	78	80	-2.5%	N/A	N/A	N/A
Affordability Index	145	156	-7.1%	N/A	N/A	N/A

	Median Price			Closed Sales		
Region	January 2024	January 2023	% Change	January 2024	January 2023	% Change
Central	\$217,800	\$209,250	+4.1%	261	210	+24.3%
North	\$226,100	\$203,000	+11.4%	303	255	+18.8%
Northeast	\$259,900	\$230,000	+13.0%	673	591	+13.9%
South Central	\$322,000	\$300,000	+7.3%	677	641	+5.6%
Southeast	\$267,000	\$256,500	+4.1%	1,238	1,195	+3.6%
West	\$265,000	\$243,000	+9.1%	284	308	-7.8%

Report criteria: Reflecting data through January 2024. *Total statewide closed sales may differ from the summed regional sales due to a small number of sales not being assigned to a county.



INSIDE THE WRA

MAKE A DIFFERENCE WITH COMMITTEE SERVICE

Applications are now available for 2025 WRA committee positions. Joining a WRA committee puts you at the forefront of association developments, enabling you to network with fellow REALTORS® and influence decisions to enhance the WRA. The following committees have positions available for 2025:

- Diversity, Equity and Inclusion Committee
- Legal Action Committee
- Professional Standards Committee
- Public Policy Committee
- Real Estate Forms Committee
- Wisconsin REALTORS® Foundation Board

See full details about these committees and apply at www.wra.org/committees. Application deadline: May 1, 2024.

APPLICATIONS AVAILABLE FOR 2025 LEADERSHIP

The WRA nominating committee is seeking applications for several WRA leadership positions for 2025:

- Treasurer
- Executive committee vice president
- Board of director regional representative (regions one through five each have one representative opening)

In addition, the committee is seeking applications for NAR director. Submit your online application at www.wra.org/Apply. Application deadline is March 15, 2024.

DISTINGUISHED SERVICE AWARD APPLICATIONS AVAILABLE

Established in 1985, the WRA's Distinguished Service Award recognizes REALTORS® who have provided many years of leadership and distinguished service to the WRA. All current members, local association executives and employees of the WRA with at least five years of membership or employment are eligible. Application deadline is March 15, 2024.

Apply at www.wra.org/DSAaward.

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INCREASING HOUSING INVENTORY

AN UPDATE ON WISCONSIN'S HISTORIC INVESTMENT AND IMPLEMENTATION PLAN

Increasing housing inventory was one of the WRA's top legislative priorities this session, with emphasis on making housing units affordable for entry-level buyers and seniors looking to downsize. Wisconsin research analyst Dale Knapp has noted that Wisconsin faces a significant demand for housing units. By 2030, an estimated 140,000 new housing units are required to meet the demand generated by baby boomers and millennials, the two largest demographic populations in our history. Moreover, when anticipating the additional workforce shortages created by boomer retirements, the projected need for Wisconsin housing units jumps to over 200,000.

To help bridge this gap between housing supply and demand, the WRA worked with state lawmakers and Gov. Evers to make a strategic investment of \$525 million in new housing units within the 2023-25 state budget. This investment attempts to address some of the root causes of the shortage, namely the lack of available financing for land development and the need for local regulatory reform. Through financial incentives such as low-interest financing, local governments are incentivized to enact regulatory reform aimed at reducing overall housing costs.

The required regulatory reform affords local governments the flexibility to account for their own unique circumstances, provided that the outcome is housing development affordable to working families, first-time homebuyers and seniors on fixed incomes.

Creating a statewide, multifaceted housing incentive program is complex and time-consuming, and securing the substantial investment was only the first step toward addressing Wisconsin's housing shortage.

IMPLEMENTATION OF LOANS

The second step is aimed at the proper allocation and administration of the funding. The \$525 million investment is to be allocated through low-interest loan programs and dispersed to qualifying housing developments to build necessary housing units.

The Wisconsin Housing and Economic Development Authority (WHEDA) is responsible for implementing and administering the various low-interest loan programs. Each program can be used only for the creation or rehabilitation of workforce housing or senior housing, as determined by the area median

income requirements established under the law. Loans can be awarded only to developments located in local communities that have engaged in meaningful regulatory reform that significantly lowers housing costs in their community. WHEDA's responsibility under the new housing initiative encompasses four key loan programs:

- **Vacancy-to-vitality loan (\$100 million in eligible funding):** Provides financing for the redevelopment of vacant commercial buildings into new workforce housing and thus assists communities in revitalizing blighted, distressed areas into vibrant, economically sustainable areas.
- **Restore main street loan (\$100 million):** Provides financing for the repair and rehabilitation of residential rental housing above existing buildings with a commercial use on the main floor, which helps preserve the historic character of main streets while fostering economic growth and job creation.
- **Infrastructure access loan (\$250 million):** Provides financing for infrastructure improvements such as roads, utilities and public facilities necessary for housing developments and community revitalization. By enhancing infrastructure, this loan facilitates the expansion of affordable housing and promotes overall community development.
- **Home repair and rehab loan (\$50 million):** Provides financing for essential home repairs and rehabilitation projects for older homes and helps residents maintain safe and decent housing. This loan also preserves property values and fosters neighborhood stability.

WHEDA has made substantial progress, having launched two of the programs in late 2023 and recently announcing the first loan recipients under the Vacancy-to-Vitality Loan Program, awarding approximately \$3 million to create over 300 workforce housing units in the state. Anticipated completion of the first round of funding for all programs is set for July 2024.

Through this partnership, the WRA and WHEDA hope to successfully implement the state's historic investment in housing to help address Wisconsin's housing needs.

Tom Larson
WRA President & CEO

PROFESSIONAL STANDARDS ENFORCEMENT

ELEVATING PROFESSIONALISM STATEWIDE

If there is a concern or dispute with a REALTOR®, the Wisconsin REALTORS® Association provides professional standards enforcement to help resolve disputes. Raising the bar on professionalism statewide.

Learn more at www.wra.org/professionalstandards



AND THAT'S HOW YOU DO A LOBBY DAY!

REALTORS® SHOWED UP AND SPOKE UP LAST MONTH

BY CORI LAMONT

WRA VICE PRESIDENT OF LEGAL AND PUBLIC AFFAIRS

On February 7, 2024, more than 560 REALTORS® from around the state came together and spoke as one voice at this year's REALTOR® & Government Day (RGD). 560! The largest number of attendees ever at RGD. Legislators noted the number of REALTORS® who took the time to come to Madison to visit them in the Capitol to speak about REALTOR® priorities.

The best part of RGD is that it's about the REALTOR® party — not politics. RGD involves policies that shape the environment of your business, influence your transaction and protect private property rights. RGD is dedicated to these critical aspects — your business, your clients, your customers and the realm of real estate. And this year was spectacular.

The Capitol was still buzzing the next day about the REALTORS® in the building. With one voice, you educated legislators as to why they should support or oppose a bill. Without a doubt, the presence of hundreds of Wisconsin REALTORS® at the Capitol lobbying for various issues undoubtedly produces positive outcomes for the WRA's legislative priorities.

THE DAY

WRA Chair Mary Jo Bowe kicked off the event addressing RGD attendees, followed by speeches from WRA REALTORS® Political Action Committee (RPAC) Chair Rita Blenker, Gov. Tony Evers and members of the WRA advocacy team. Lastly, the WRA's President & CEO Tom Larson discussed plans to implement the historic \$525 million investment in workforce housing passed earlier this session. In addition, he spoke about the WRA's focus on local advocacy, including the Wisconsin Homeowners Alliance (WHA); see more on page 25.

For those in attendance, the day also included continuing education (CE) credit for the 2023-24 biennium for attendees

who passed the five-question CE exam provided at the end. Finally, the day ended with a reception for attendees to meet back up and discuss their experience.

WHICH ITEMS DID YOU ADVOCATE FOR THIS YEAR?

The WRA's advocacy team outlined the advocacy issues before REALTORS® met with lawmakers at the Capitol. REALTORS® were ready with their stories about how the legislation in question impacts consumers, their transaction, their profession or property owners. REALTORS® personalized the message, making their advocacy more relatable and consequently more influential. Four key issues were on the agenda for discussion at the Capitol.

1. Closing the foreclosure equity theft loophole (AB 969/SB 918)

The WRA supports requiring counties to sell property and distribute any net proceeds to the former owner after acquiring the property through a property tax foreclosure.

In 2023, the U.S. Supreme Court unanimously ruled in *Tyler v. Hennepin County* that the county's effort to retain proceeds from foreclosure sales constituted an unconstitutional "taking." Wisconsin law is generally consistent with the court's ruling after the passage of 2021 Wis. Act 216, which specifies that former property owners are entitled to the surplus proceeds following a sale of tax-deeded property at auction.

Wisconsin law contains a potential loophole because it does not expressly require the county to sell tax-deeded property. Rather, surplus proceeds are due to the former owner only if the county decides to sell the property. Otherwise, the county can keep the property and use it for any purpose without providing just compensation to the former owner.

This legislation aims to close the loophole by requiring counties to sell a property after foreclosure. This requirement will help return any remaining equity in the property back to the former owner and ensure that counties are not engaging in an unconstitutional “taking,” as established in the *Tyler* case.

2. Real estate practice (AB 918/SB 870)

Wis. Stat. Chap. 452 governs real estate brokerage practice, limitations on legal actions, investigation and discipline of licensees, and the duties and powers of the Real Estate Examining Board (REEB). Real estate brokers and salespersons are regulated by the Wisconsin Department of Safety and Professional Services (DSPS) as well as the REEB, which protects Wisconsin property buyers and sellers by ensuring safe and competent practice.

This bill addresses concerns with excessive licensee liability by:

- **Creating a safe harbor for licensees who use government information and attribute information to the source:** For example, when listing a property, an agent relies on the assessor record to indicate the lot size. If it is later discovered the assessor record contained inaccuracies, the agent should not be held responsible for presenting incorrect information obtained from a government source.
- **Increases transparency by requiring disclosure when assigning rights under a contract:** Wholesaling is essentially assigning contractual rights under a contract to another. This legislation requires a wholesaler assigning their contract rights for consideration to provide a written disclosure of their wholesaler status at the time of entering the agreement with either the buyer or the seller.
- **Raises the bar for real estate practitioners:** Under current law, the REEB can only levy a fine or forfeiture up to \$1,000 for the most severe violations of Wisconsin license law. This legislation increases that number to \$5,000.

3. Licensee advertising of FSBO properties (AB 407/SB 394)

The WRA opposes this bill, which aims to exempt real estate licensees from vital consumer protections such as inspection and disclosure duties as well as the requirement to have a listing contract. The removal of these requirements would undermine safeguards for consumers.

A real estate transaction is typically the single largest financial transaction in someone's lifetime. Accordingly, a license ensures that a professional has the necessary knowledge and skills to guide a party in a transaction, reducing the risk of fraud and protecting consumers.

Current law allows real estate licensees to advertise For Sale By Owner (FSBO) properties. To advertise a FSBO, a licensee must:

- Walk through the property to verify the condition and information provided (inspect).
- Enter into a written agreement identifying the services provided by the firm (listing contract).

4. Addressing discriminatory covenants and deed restrictions in Wisconsin (AB 444/SB 439)

The WRA supports this bill, which proposes to create a process that allows a property owner to act when a discriminatory restriction or covenant is recorded on their land. Offensive, discriminatory covenants based on race and other protected classes appear in deeds and subdivision restrictions and covenants throughout Wisconsin. While illegal, this language haunts the title records and commitment reports buyers receive when looking to purchase properties.

The 1968 Fair Housing Act and Wisconsin's Open Housing Law prohibit these covenants, but these laws do not erase discriminatory restrictions from property deeds and title records. Seeing discriminatory language often offends potential buyers, adding more tension to the homebuying process that's already filled with emotion. This legislation intends to empower the property owner to act when a discriminatory restriction is recorded on their land record.

Learn more about the legislative items discussed on RGD at action.wra.org.

Thank you to every one of you who showed up and spoke up on February 7! You set the bar for an industry lobby day and made it one for the record books. See you next year!



UNVEILING THE POWER OF WRA DUES

20 GAME-CHANGING BENEFITS FOR WRA MEMBERS

BY ROB UHRINA

WRA VICE PRESIDENT OF MARKETING AND COMMUNICATIONS

Discover the value of your WRA membership! Your WRA dues dollars open the door to an extraordinary list of free benefits and services, all at a fraction of what you'd pay for them individually. As a member of the WRA, these benefits not only offer you unparalleled convenience, but they also provide savings that can add up to thousands of dollars each year. Your membership isn't just an investment — it's an invaluable resource at your fingertips!

1: WRA LEGAL HOTLINE

As one of the top benefits of your membership, the WRA Legal Hotline gives you the ability to be in direct contact with Wisconsin real estate attorneys who have some of the best insights on Wisconsin legal standards, current law and best practices. Got a question? Discuss it with a hotline attorney to enjoy peace of mind when working with clients and even with other REALTORS® as you wade through difficult transactions to ensure compliance. Members often say “just one call to the hotline can pay for membership in itself” to mitigate risks and eliminate transactional missteps. Just think: typical attorney fees start at \$300 per hour, and your WRA membership covers unlimited hotline calls annually!

See more at www.wra.org/legalhotline.

2: LEGAL HOTTIPS LIBRARY

Membership gives you access to the WRA's Legal Hottips library, an extensive collection of WRA Legal Hotline discussions

dating back several years. The online library equips you with comprehensive information regarding Wisconsin real estate law. You're able to review hottips by categories and even subcategories so you can drill down to the specific issue you need. From issues like condominium offers to buyer agency disclosure to cooperating with out-of-state licensees, the hottip library offers thousands of hotline discussions to assist you as a WRA member.

See more at www.wra.org/legalhottips.

3: LEGAL UPDATE

Navigating the ever-changing legal landscape of Wisconsin real estate can be daunting. But you don't have to go at it alone! Gain peace of mind with the WRA's monthly *Legal Update* publication, delivering an in-depth analysis of new laws, court rulings and ethical issues, empowering you to make informed decisions and avoid potential pitfalls.

See more at www.wra.org/legalupdate.

4: WRA PDF FORMS LIBRARY

Membership gives you access to the WRA's PDF Forms Library, comprised of over 100 electronic forms, including all current WB forms and all WRA-copyrighted forms. The forms library is your solution for meeting the demand of using digital forms outside of Transactions (zipForm Edition). With the PDF Forms Library, you get the flexibility to download all PDF forms together or select specific forms in PDF format — never with fees or subscriptions required.

See more at www.wra.org/forms.

5: LINE BY LINE FORMS TRAINING

Got a forms question? Get forms training fast. Line by Line video training offers a fully indexed and drilled-down series of forms videos, allowing you to get detailed explanations and extra clarification of contract information found at specific line numbers within a WB form. With WRA attorney and training instructor Jennifer Lindsley as your host, these in-depth videos provide detailed insights to help you navigate and complete real estate forms with confidence, reducing errors and avoiding costly misrepresentations.

See more at www.wra.org/linebyline.

6: TRANSACTIONS (ZIPFORM EDITION)

The Transactions (zipForm Edition) product streamlines forms entry with full access to all forms related to buying, selling or renting properties in Wisconsin. It offers a convenient way to access all the DSPS-approved forms, WRA-related forms and select State Bar forms. WRA members have access to this entire platform free of charge.

See more at www.wra.org/transactions.

7: AUTHENTISIGN DIGITAL SIGNATURES

Formerly known as zipLogix Digital Ink, your Authentisign member benefit is built into the Transactions (zipForm Edition) system and provides a digital signature solution that allows you to create digital transaction files of forms, complete the forms, and obtain signatures electronically. Even if your clients are not tech savvy, signing is easy and can be performed from anywhere by simply using a web browser or mobile device.

See more at www.wra.org/transactions.

8: HOME SALES REPORTS AND MARKET DATA

The WRA monitors housing trends, issuing monthly reports that capture key metrics such as home sales, median prices, inventory levels and days on the market. These reports provide a comprehensive view, including regional variations, making them valuable for members, policymakers and homeowners. Plus, when you need to find additional data — whether you're looking for regional evaluation or broad comparables — you can also access the interactive sales reporting tool on the WRA website, which allows you to lift specifics about any market in Wisconsin.

See more at www.wra.org/housingstats.

9: LEGISLATIVE ADVOCACY

Your membership dues allow us to advocate for a healthy real estate market. We advocate at the state Capitol for Wisconsin REALTORS® as well as homeowners on key issues that impact the state housing market and homeownership, such as minimizing excessive regulation or restrictions on selling property. We actively represent the interests of the real estate industry every day by engaging with lawmakers and state departments, striving to influence and shape laws that safeguard our business and empower Wisconsinites to own, buy and sell real estate successfully. With your membership, we can help shape the industry and lay the groundwork for a positive impact on Wisconsin's growth and development.

See more at www.wra.org/advocacy.

10: POLITICAL ADVOCACY

WRA membership allows you to empower real estate transformation and drive meaningful change with the REALTORS® Political Action Committee (RPAC). In fact, picture Wisconsin's real estate landscape without representation: a silent space where industry concern lacks a strong unified voice and advocate. That's where RPAC steps in, ensuring our collective voice resonates in the election process. By endorsing and helping to elect pro-real estate candidates, RPAC plays a crucial role in ensuring that our industry has a strong ally during key policy decisions at the state and local levels.

See more at www.wra.org/advocacy.

11: LEGAL ADVOCACY

The WRA Legal Action program supports Wisconsin REALTORS® and landowners involved in legal matters to achieve the best possible outcome on cases for the entire real estate industry. With its roots dating back to the 1970s, the Legal Action Program most often participates in cases that have already been tried in circuit court and are on appeal. Cases can include actions involving real estate law and practice, land use or environmental concerns, private property rights, development rights, and other issues that can have a significant industry impact. If you're a WRA member and have a case that you feel deserves statewide consideration, your first step should be contacting the WRA Legal Action Program.

See more at www.wra.org/legalaction.

12: PROFESSIONAL DEVELOPMENT TRAINING AND EDUCATION

The WRA offers training programs for new agents all the way up to veteran agents to help sharpen their skills, with courses including pre-license education, continuing education, designations and certifications, in various formats. You save on these programs as a member! And you receive trusted education from the same instructors who are involved in helping shape Wisconsin real estate law, giving you confidence that the curriculum is accurate and truly made for Wisconsin.

See more at www.wra.org/education.

13: PARTNERSHIP FOR SUCCESS PROGRAM

The WRA Partnership for Success Program champions diversity within REALTOR® membership, embracing individuals from varied backgrounds regardless of ethnicity, gender, age or expertise. The program prioritizes inclusivity, recognizing the value it brings to the Wisconsin marketplace. Applicants from underrepresented groups must show a commitment to success and receive mentorship and in-house training from sponsoring brokers. The program provides start-up assistance and targets those without prior real estate licenses, particularly aspiring full-time agents in Wisconsin. Successful awardees receive one year of REALTOR® dues and six months of MLS fees. See more at www.wra.org/partnership.

14: PROFESSIONAL STANDARDS PROGRAM

Many members identify professionalism in the industry as a significant challenge citing reluctance to file a complaint against a peer. The Statewide Professional Standards Enforcement Program works to elevate professionalism with 15 of the 17 local boards/associations participating. Members from throughout the state serve on the Professional Standards Committee, helping to resolve business disputes and disciplining members for unethical behavior. A citation policy with automatic fines and education for specific violations is in place to ease the reporting process. Ethics complaints may be addressed through mediation, the citation process or ethics hearings. REALTORS® also resolve contractual disputes via mediation and arbitration. See more at www.wra.org/professionalstandards.

15: WISCONSIN REAL ESTATE MAGAZINE

Ten times a year, you receive *Wisconsin Real Estate Magazine* (WREM), our flagship communications tool. WREM allows you to stay informed and up to date on the latest Wisconsin real estate developments, legal topics, legislative updates and professional development opportunities. Got a topic? Email us at editor@wra.org or call our legal hotline. Some of the best ideas for articles come directly from members. You even have the flexibility to select a preferred magazine delivery preference and choose whether you would like to receive the magazine through email or in traditional print format. See more at www.wra.org/magazine.

16: INMAN NEWS SUBSCRIPTION

Stay on top of trending real estate news with Inman Select, offering in-depth reporting, analysis and daily updates on the industry. While it's a paid service for nonmembers, WRA members enjoy Inman Select for free! See more at www.wra.org/Inman.

17: STATEWIDE REFERRAL DATABASE

WRA membership guarantees that your name is included in the WRA's Find a REALTOR® search function on the WRA website. Available to the public and REALTORS® alike, Find a REALTOR® allows potential buyers and sellers as well as lenders, inspectors, cooperating brokers and many more to search for REALTORS® in Wisconsin by specialty and/or geographic location. Your visibility within Wisconsin's largest referral database helps you to facilitate referrals for success! See more at www.wra.org/FindARealtor.

18: NETWORKING AND EVENTS

Networking events have been around for over 50 years and bring the industry together. Several programs are available throughout the year, including the WRA Annual Convention, REALTOR® & Government Day, broker outreach programs and other opportunities to connect and build relationships in the industry. The WRA also hosts several members-only virtual events that connect you to other members as well as experts around the state. Stay tuned to the WRA website for a full calendar of events throughout the year. See more at www.wra.org/events.

19: WISCONSIN REALTORS® FOUNDATION

Join together as REALTORS® with the Wisconsin REALTORS® Foundation (WRF) to make a difference for Wisconsin communities! As the community outreach arm of WRA membership, the WRF unifies Wisconsin REALTORS® to address charitable causes such as education, hunger, homelessness/abuse and serious illnesses to make Wisconsin a better place to live, work and play. Since the WRF began its partnership with Feeding Wisconsin in 2018, the WRF has raised more than 1 million meals to feed Wisconsin children in need. The WRF also provides financial support for relief efforts in response to natural disasters in Wisconsin through voluntary contributions on membership renewal dues. See more at www.wra.org/WRF.

20: E&O INSURANCE DISCOUNT

Pearl Insurance, our partner carrier for errors & omissions (E&O) Insurance, presents a robust program tailored for the real estate industry at a discount. Underwritten by the esteemed AXA XL Group and boasting an "A+" rating from A.M., this E&O program has garnered sponsorships from over 30 real estate associations, including the WRA, since 1994. The coverage is thoughtfully designed to address the unique risks faced by REALTORS®, offering protection for network and privacy claims, not-for-profit directors and officers, open house property damage and agent-owned property transactions. See more at www.wra.org/pearl.



A **Membership** offers incredible VALUE.

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From a legal hotline to forms software and access to thousands of like-minded professionals, a WRA REALTOR® membership is vital to your real estate success. With a host of benefits at a fraction of the cost if purchased individually, WRA membership is a savvy investment for your business!

EVERYTHING YOU GET

LEGAL SERVICES

- Legal hotline
- Legal hottips online library
- Legal Update publication

TECHNOLOGY PRODUCTS

- Transactions (zipForm Edition)
- Local MLS access
- Statewide referral database
- WRA online resources

ADVOCACY AT EVERY LEVEL

- Legislative: Representation at the Capitol
- Political: REALTORS® Political Action Committee
- Legal: WRA Legal Action Program

ETHICS AND PROFESSIONALISM

- Line by Line forms training
- PDF Forms Library
- Professional standards enforcement

INDUSTRY NEWS

- Wisconsin Real Estate Magazine
- Inman Select subscription
- Weekly email updates

PROFESSIONAL DEVELOPMENT

- Members-only WRA events
- Partnership for Success program
- Virtual and live career development training

MARKET DATA

- Housing statistics
- Home sales reports

COMMUNITY OUTREACH

- Wisconsin REALTORS® Foundation

EXCLUSIVE PARTNER PROGRAMS

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ZIPFORM MOBILE
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WISCONSIN REAL ESTATE MAGAZINE
LEGAL UPDATE PUBLICATION
INMAN SELECT SUBSCRIPTION



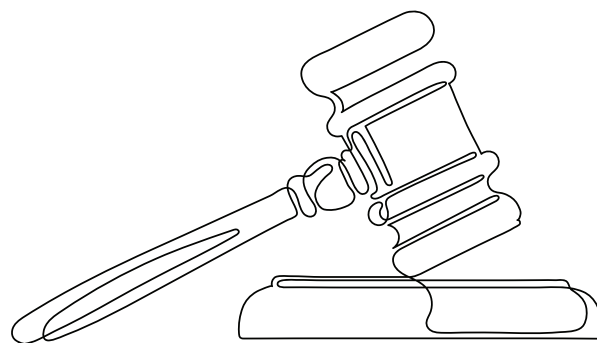
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REALTYZAM CRM ACCESS





THE BEST OF THE LEGAL HOTLINE

MOTHER, MAY I PROVIDE BROKERAGE SERVICES?

BY WENDY HOANG

WRA STAFF ATTORNEY

The WRA Legal Hotline often receives questions about which activities constitute brokerage services and whether a licensee needs an agency agreement to conduct certain activities. The following scenarios contemplate when licensees must have the proper agency authority to provide brokerage services to parties.

PROPERTY MANAGEMENT

The agent sold a residential property to an investor. The investor now wants the agent to advertise the property for rent and find a tenant. The agent's firm currently only provides services for the buying and selling of properties. The broker and the agent have talked about possibly doing rental services and property management, but they are not sure where to start. What kind of contract would they use with the investor-landlord?

Persons who are paid or otherwise compensated to rent property and negotiate and sign leases for the owner fall within the definition of a broker under Wis. Stat. § 452.01(2). This statute states that a broker includes “any person who for another, and for commission, money or other thing of value, negotiates or offers or attempts to negotiate a sale, exchange, purchase or rental of an interest or estate in real estate.” This definition includes people negotiating the terms of a rental interest in real estate.

If the negotiation of lease terms or the drafting and signing of leases for another is involved, licensure is required. A property manager who signs or negotiates leases on behalf of a property owner must either be a licensed broker or be a licensed salesperson associated with a brokerage firm.

Brokers also must have proper agency authority to provide property management services. Typically, a Property Management Agreement or a WB-37 Residential Listing Contract — Exclusive Right to Rent is used.

The WB-37 Residential Listing Contract — Exclusive Right to Rent and the WRA Property Management Agreement are

available in Transactions (zipForm Edition) and in the WRA PDF Forms Library. Both Transactions (zipForm Edition) and the forms library are available to WRA members for free. For more information, see the WRA rental resource webpage at www.wra.org/rental.

FOR SALE BY OWNER (FSBO)

A FSBO seller has an accepted offer on his commercial property and has asked the firm to get involved in the contingencies. Can the firm even get involved at this point?

Because there is an accepted offer between the seller and the buyer, the firm should not get involved in the transaction. A licensee's authority to provide brokerage services and explain contingencies to the parties must be incidental to the real estate practice of the licensee. Here, the firm does not have a listing contract with the seller for the transaction and cannot provide brokerage services to the seller. See Wis. Admin. Code § REEB 16.05 below.

Wis. Admin. Code § REEB 16.05 Legal advice and practice of law.

- (1) A licensee may not provide advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate.
- (2) Notwithstanding sub. (1), a licensee may provide a general explanation of the provisions in an approved form to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller's or buyer's acceptance.
- (3) A licensee may use approved forms only in those transactions in which the licensee is acting in a capacity as licensee or in which the licensee is a principal, and in either case the use of such forms is incidental to the real estate practice of the licensee.
- (4) A licensee may not make a separate charge for completing an approved form in connection with a transaction.

Wis. Admin. Code § REEB 16.05(3) and the Department of Safety and Professional Services' interpretation thereof originates decades ago from the concern that broker completion of conveyance forms constituted the practice of law, as was discussed in the 1961 case, *State ex rel. Reynolds v. Dinger*. In *Dinger*, the court found that such overlapping into the sphere of the legal profession could only occur when such activities are incidental to the broker's trade or business.

Accordingly, the firm must provide legitimate brokerage services such as inspections; disclosures; drafting the offer; discussing financing, contingencies and issues the parties have not contemplated; and assisting with notices and amendments, among other things — otherwise the firm may be engaged in the unlicensed practice of law. An agent cannot “play attorney” and discuss the contingencies in the offer under the guise of an agency agreement without providing brokerage services as required by the Wisconsin Supreme Court in the *Dinger* case.

Both license law and the REALTOR® Code of Ethics limit a broker from providing legal advice. Therefore, suggesting or recommending the parties consider consultation with legal counsel is appropriate.

Article 13 of the Code of Ethics provides: “REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.”

See “Repeat After Me: ‘Call an Attorney’ A reminder of a licensee’s role in a real estate transaction,” in the November 2011 *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Nov11/CallAttorney and “Wisconsin Supreme Court Rules on Unauthorized Practice of Law,” in the July 2010 *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Jul10/UnauthorizedPracticeOfLaw.

Can an agent hold an open house for a FSBO seller?

Some might assert this may be done as pre-agency. During the “pre-agency” stage, a licensee may supply information and may conduct showings as long as the showings do not involve negotiation. The pre-agency agent has the role of a neutral information provider who represents neither party because agency relationships are not yet determined.

Wis. Stat. § 452.133(5) indicates:

DUTIES WITHOUT AGENCY OR SUBAGENCY

RELATIONSHIP. *If a firm is providing brokerage services to a person who is a party or a prospective party to a current or prospective transaction, and the firm does not have an agency agreement with the person and is not a subagent of another firm in the transaction, then the firm and any licensees associated with the firm owe the person the duties under sub. (1) and may not, unless required by law, provide advice or opinions relating to the transaction in which*

the person is receiving brokerage services if providing the advice or opinions is contrary to the interests of a party to a current or prospective transaction with the person receiving the brokerage services.

A licensee may give a buyer seller-provided non-confidential information so long as the buyer and the licensee do not engage in negotiations based on the information provided. For example, giving an opinion regarding pricing is an example of advice or opinions contrary to the interest of the other party — in this instance, the seller — that would be forbidden. Therefore, before any negotiation or drafting an offer, the licensee must either enter into an agency agreement or become the subagent of a firm with an agency agreement.

If the seller does not want to enter into an exclusive right-to-sell listing with the firm, the firm may consider a limited service listing or an exclusive agency listing. “Exclusive agency listing” means a written listing agreement containing all the elements of an exclusive right-to-sell listing except that the owner retains the right to sell the property himself or herself without owing the listing firm a commission.

For further discussion about agency law issues and the services that may be provided in the pre-agency stage and to a customer, see the June 2006 *Legal Update*, “Revised Agency Law Implementation,” at www.wra.org/LU0606. Also see the October 2010 *Legal Update*, “Agency Law Revisited,” at www.wra.org/LU1010.

ADVERTISING

Can a firm advertise a property before the start of the listing contract?

In Wisconsin, an agent cannot advertise a property unless a firm has a listing. A firm does not become the listing firm until the term of the listing contract actually begins. A property is not listed until the date on line 330 of the 2024 WB-1 Residential Listing Contract or the analogous date on the other WB listing contracts. To advertise, the firm must be the listing firm or have permission from the listing firm. Wis. Stat. § 452.136(3) provides:

ADVERTISING WITHOUT AGENCY AGREEMENT

PROHIBITED. *A firm and any licensees associated with the firm may not advertise a property unless one of the following applies:*

- (a) *The firm is the listing firm for the property.*
- (b) *The firm or a licensee associated with the firm has obtained consent to advertise the property from the listing firm for the property.*

ALL THE FORMS ... FOR FREE!

BY JENNIFER LINDSLEY

WRA DIRECTOR OF LEGAL SERVICES AND LICENSING

Did you know that as of January 1, 2024, the WRA's PDF Forms Library is free for all WRA members? That means you have access to PDF versions of not only all the WB forms but all the WRA forms too. Many of you might use zipForm or another electronic platform for accessing and completing your transaction documents, and you can continue to use those services. The WRA PDF Forms Library is just another way for WRA members to access forms. One nice feature of the WRA PDF Forms Library is the ability to download the entire library as a compressed zip file so you can have access to the forms regardless of your internet connection. That can be useful if you want to go through a form with a customer or client and send it later for a signature when you are back online. Additionally, by having PDFs of all the forms, you can take snapshots of them for use in your training events or materials.

WRA FORMS

Most agents will be familiar with the WB forms: agency agreements, offers, amendments and notices, for example. If you have not looked through the available WRA forms in a while, take a minute and review the list. We create and add new forms to the library as needed based on the market and what we are hearing about in your transactions. For example, when an inspection contingency was considered a deal breaker in an offer, we created the WRA-BAR Buyer Acknowledgement of Risk When Not Having a Home Inspection. That may be a lengthy title for a form, but it gets to the point quickly for a buyer who was considering making an offer without building in an opportunity to have a home inspection. Further, the form

put the buyer on notice that they were making an affirmative choice not to have an inspection even after their agent had recommended it. Not only that, but the form includes a hold harmless provision and a place for the buyer to sign so that if the buyer proceeded without the inspection and things did not go well later, the buyer could not come back later and blame the agent for lack of due diligence.

Recently, the WRA added the WRA-ZRD Use of Property/Zoning Regulations Disclaimer to the forms library. This form too is to protect agents in transactions. It specifically instructs the buyer that zoning or other regulations can change in the future, which could impact a property's use. Though the form is broader than just addressing the rental use of property, changing rental regulations were the inspiration, specifically when it comes to short-term rentals. For example, you may have a buyer who found the perfect condominium in Door County that they want to use for vacations, but they also want to rent it out when they are not there. The buyer buys and spends a wonderful summer visiting Door County and renting the condominium when they are not there. In the fall, the condominium association voted to prohibit rentals and only allow owner occupancy, forcing the buyer to be stuck with a condominium they cannot use in the way they had hoped. If the agent gave the buyer the WRA-ZRD Use of Property/Zoning Regulations Disclaimer, the buyer would have known that rules can change in the future and what is possible now is not forever. Is this form required? No. Is it a good idea? Yes. If you are working with a buyer who is talking about short-term rentals, future builds, changing a property's use or



FREE

something along those lines, grab this form, go over it with the buyer and have them sign. Now the buyer is educated that the future can bring changes and for good measure, there is also a hold harmless provision in this form too so the Door County condominium buyer cannot come back and blame their agent for the condominium association's decision to prohibit rentals.

Not only are there forms for use with buyers and sellers, but there are also forms for use within your office such as the WRA-ICA Independent Contractor Agreement, WRA-LPA Licensed Personal Assistant Agreement and the WRA-UPA Unlicensed Personal Assistant Agreement. Forms for working with firms? You are covered there too with the WRA-CA Compensation Agreement and the WRA-RA Referral Agreement. Not to mention all the landlord/tenant forms for all of you who are also landlords or property managers.

Access your WRA PDF Forms Library at www.wra.org/forms.

LINE BY LINE FORMS TRAINING

Do you know what else is a free member benefit to help you out with all those forms? The Line by Line forms training, which, as the name implies, goes through the WB forms line by line to explain what all the provisions mean. Has it been a while since

you used the WB-24 Option to Purchase? No problem — there is a Line by Line training video for that. There are no tests and no quizzes — just pure education about the forms. Line by Line training is available for all the WB forms. You may be asking, “Well what if I have a question about a WRA form? Are there Line by Line trainings for those?” There are not, but the WRA Legal Hotline attorneys are experts — and sometimes authors! — of those WRA forms and can get you the answer you need for any question about a WRA form.

Access your WRA Line by Line forms training at www.wra.org/linebyline. Submit your WRA Legal Hotline question at www.wra.org/legalhotline.

Now that you have access to all the forms and all the forms training for free, hopefully all your forms needs are covered — but if not, let me know and I will pass your suggestion on to the WRA Real Estate Forms Committee.



LEGAL ACTION PROGRAM ADVOCACY

BY DEBBI CONRAD

WRA SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS

The WRA Legal Action Program was established in 1978 to support REALTORS® and property owners involved in legal matters that have significance for the WRA membership and the real estate industry. Cases may include, but are not limited to, real estate law and practice, land-use or environmental issues, private property rights or development rights. The WRA, acting through the Legal Action Program, typically participates in a case by filing an amicus curiae brief, also known as a “friend of the court” brief, as a member of a coalition of similarly interested parties, as a party to the lawsuit, or by providing legal, environmental, land use or other research. The Legal Action Program has most often participated in cases that have already been tried in the circuit court and are on appeal, but participation at the trial court or administrative hearing level has also been a vehicle for input on important legal issues at earlier stages of the litigation process.

The following recap of a few recent cases gives a sense of the WRA Legal Action Program in action.

WELL-REASONED RESULTS

Our journey through recent Legal Action cases begins with three cases where the outcome is known — all wins for real estate professionals and property owners. The WRA filed an amicus curiae brief in each, addressing, respectively, tax foreclosure equity theft, LLCs as separate entities, and the land division condition imposed by the city that turned out to be an unconstitutional taking.

U.S. Supreme Court holds government retention of excess tax foreclosure equity is taking under Fifth Amendment

In *Tyler v. Hennepin County, et al.*, 598 U. S. 631 (2023), the U.S. Supreme Court unanimously held that a Minnesota statutory scheme depriving a property owner of her condominium’s surplus equity in excess of her tax debt was a “classic taking,” stating a claim under the Takings Clause in the Fifth Amendment of the U.S. Constitution.

In *Tyler*, a 94-year-old Minnesota homeowner incurred a \$15,000 tax debt after moving into an assisted living facility. Proceeding under Minnesota’s forfeiture procedures, Hennepin County took absolute title to Tyler’s condominium, sold the property for \$40,000 and retained the full net proceeds of \$25,000. Tyler asserted Hennepin County unconstitutionally retained the excess value of her home above her tax debt in violation of the Fifth Amendment’s Takings Clause and the Eighth Amendment’s Excessive Fines Clause.

The Pacific Legal Foundation requested an amicus brief from the WRA in support of its petition to the U.S. Supreme Court given Wisconsin’s recent involvement with the issue and enactment of tax foreclosure equity theft prevention legislation in Wis. Stat. § 75.36(3)(c), as discussed in the July 2022 WRA *Legal Update*, “Ending Tax Foreclosure Equity Theft,” at www.wra.org/LU2207. The Legal Action Program filed an amicus brief contributing to the winning arguments.

Wisconsin Supreme Court holds LLCs are separate entities and limits applicability of RECR representations

Pagoudis v. Keidl, 2023 WI 27, involved a residential real estate transaction and a claim that the seller misrepresented the condition of the subject property and failed to disclose defects in the Real Estate Condition Report (RECR).

Pagoudis negotiated an offer to purchase, received a RECR, and signed the offer as “Pagoudis or assigns.” Sead LLC purchased the property and took title, apparently as an assignee under the offer. Less than six months later, Sead LLC transferred the property to Kearns LLC, which owned the property when the complaint was filed. After purchasing the property, defects were discovered that the sellers did not disclose in the RECR, ranging from water and mildew in the basement, to insect infestations, to an unwanted piano.

Pagoudis, Sead LLC and Kearns LLC sued the seller. Pagoudis owns and operates Sead LLC and Kearns LLC. The issues presented were whether sellers should be liable to subsequent buyers for information disclosed in the RECR provided in a previous transaction and whether commonly owned limited liability companies (LLCs) should be treated as separate entities.

The Wisconsin Supreme Court found LLCs are individual legal entities that are separate from their members and from other LLCs regardless of common ownership. Pagoudis’ claims were dismissed because he was not a party to the final contract and did not purchase the property. The claims of Sead LLC survive because it was a party to the contract, received representations from the sellers, and purchased the property. Kearns LLC’s claims were dismissed because Kearns was not a party to the contract, and the sellers made no representations to Kearns LLC. The court remanded the Sead LLC’s claims to the circuit court for further proceedings.

Requiring a property owner to build a through street was unconstitutional taking

In *Fassett v. City of Brookfield*, 2022 WI App 22, the question was whether conditioning city approval of the property owner’s land division application on building a through street was an unconstitutional taking. The city’s approval of the division depended on the property owner paying for a public road to connect two dead-end streets, and the property owner claimed this condition was an unconstitutional exaction. U.S. Supreme Court precedent required the city to prove it had a legitimate reason for the creation of the through street by showing that Fassett’s proposed development created the need for the street. The property owner and the WRA argued that building the street would only fix an already existing problem.

The Wisconsin Court of Appeals agreed with the WRA arguments and ruled the City of Brookfield committed an unconstitutional taking by conditioning its approval of the land division on the completion of a through street across a parcel connecting two dead-end streets.

AWAITING THE COURTS’ DECISIONS

The next cases have amicus briefs or notices of claims filed, and the parties are awaiting the court’s decision. These cases involve short-term rentals, the two-year limitation on licensee liability, and a challenge to a municipality’s POWTS inspection requirements under the time of sale statute.

Regulating short-term rentals: overly restrictive ordinances

The Legal Action Program has an extensive list of instances where there are questions of whether the local municipal ordinance goes too far and imposes requirements beyond what is allowed under Wis. Stat. § 66.1014. In some scenarios, a notice of claim has been filed, and in a few instances, a lawsuit has been filed. Before a lawsuit can be properly brought against a municipality, a written notice of claim must be presented, considered and disallowed. The claim is deemed denied if the municipality does not respond within 120 days.

WRA v. Polk County

In this situation, the question is whether the ordinance requiring short-term rentals of no more than seven days per month within the months of May through September violates Wis. Stat. § 66.1014. The WRA filed a lawsuit against Polk County on March 20, 2023, challenging the legality of the ordinance.

WRA v. Village of Ashwaubenon

This case questions whether an ordinance requiring a short-term property manager to (a) be located within a specific distance from the property, (b) be available 24 hours a day, and (c) disclose criminal history as well as carry casualty and liability insurance violates Wis. Stat. § 66.1014. Annual permit renewals for short-term rentals can be denied if there have been any complaints about the property while similar requirements are not imposed on rentals for 30 days or longer. A notice of claim was filed.

WRA v. Town of Rib Mountain

Here the issue is whether an ordinance requiring short-term rentals be owner-occupied for a certain number of days violates Wis. Stat. § 66.1014. The WRA filed a lawsuit on November 9, 2023, challenging the legality of the ordinance.

Two-year limit on brokerage liability: Claims of contribution attempt to circumvent statute

Hanetti Properties LLC Case

The issue raised is whether Wis. Stat. § 452.142, the two-year limitation for real estate licensee liability, applies to instances of contribution and indemnification.

On March 30, 2020, the seller entered into a listing contract with a real estate agent. The agent knew part of the premises rest on a post-and-beam foundation but advertised the property as having slab-on-grade

foundation. On May 20, 2020, the property was sold to buyers who discovered the foundation discrepancy. The buyers brought action against the seller, alleging misrepresentation. On October 20, 2022, the seller filed a lawsuit against the agent, alleging breach of fiduciary duties and contribution for damages.

Under Wis. Stat. § 452.142(1), a real estate firm and a licensee associated with the firm may only be sued relating to brokerage services provided within two years after the transaction is closed. This two-year period applies to all actions concerning the brokerage service.

The legislative history supports the legislative intent was to have the two-year time frame to file litigation apply without exception when brokerage services were provided.

The WRA filed an amicus brief in the case on November 28, 2023, urging the dismissal of the action against the agent because two years have passed between closing and the seller's lawsuit.

Time of sale limitation on POWTS inspection

In *WRA v. Manitowoc County*, the question is whether an ordinance requiring a full private onsite wastewater treatment systems (POWTS) inspection after a transfer of a property is a time of sale violation. A time of sale (TOS) requirement is an obligation imposed by local government that must be performed when a property is sold, title is transferred, the property is refinanced, or the purchaser takes title or occupancy. A TOS requirement needs to be accomplished either before, at the time of, or within a certain period of time after the property is sold, conveyed, refinanced or occupied. TOS requirements are illegal under Wis. Stat. § 706.22.

The WRA filed a lawsuit challenging the ordinance. The county amended the ordinance to no longer prohibit occupancy if there is not a TOS POWTS inspection, but the ordinance still imposes various penalties if a buyer does not conduct the inspection. Thus the WRA litigation continues.

RELIEF OUTSIDE OF COURT

Sometimes a Legal Action Program case or issue is effectively resolved outside of the courtroom.

Sales tax on MLS fees

Are Wisconsin MLSSs required to pay sales tax? In November 2021, the Wisconsin Department of Revenue (DOR) expanded the scope of "digital goods" to include access to online databases. Examples included access to an online database or website of current or historical information that allows the user to view and/or download the information, such as price or valuation information. This revised guidance creates confusion because Wisconsin Multiple Listing Service (MLS) services potentially could be construed as digital goods subject to the retail sales tax.

Rather than taking action in court, the WRA is seeking statutory clarification that MLS services are exempt from the sales tax, as detailed at [action.wra.org/2023/04/24/clarify-wisconsin-mls-sales-tax-exemption](https://www.wra.org/2023/04/24/clarify-wisconsin-mls-sales-tax-exemption).

Hot tubs in short-term rentals

The Department of Agriculture, Trade and Consumer Protection (DATCP) proposed new rules regarding the regulation of short-term rentals with pools and hot tubs. Essentially, the rules would have required short-term rental property owners with pools and hot tubs to meet the same requirements as commercial pools and hot tubs, creating unnecessary burdens on residential property owners and making it financially impractical for property owners to rent their property.

The DATCP's proposed regulation effectively prohibited short-term rentals with a pool or hot tub, which goes far beyond the DATCP's authority to "license and regulate" commercial pools. The WRA Legal Action Program filed a lawsuit against the DATCP that was put on hold when the Wisconsin Joint Committee for Review of Administrative Rules temporarily suspended the new rules. The DATCP has now submitted a final proposed rule that does not negatively regulate short-term rentals with pools and hot tubs.

Retention of eviction records on CCAP

Legal Action of Wisconsin Inc., petitioned the Wisconsin Supreme Court to override the Wisconsin Statutes and shorten the Consolidated Court Automation Programs (CCAP) record retention period for eviction cases in which no money judgment is entered to one year.

Under Wis. Stat. § 758.20, cases where a writ of restitution has been granted must be searchable for 10 years on CCAP, and cases without money judgments become non-searchable after two years. Shortening the record retention time frame to one year would extinguish records landlords currently rely on to assess a tenant's credibility and rental history.

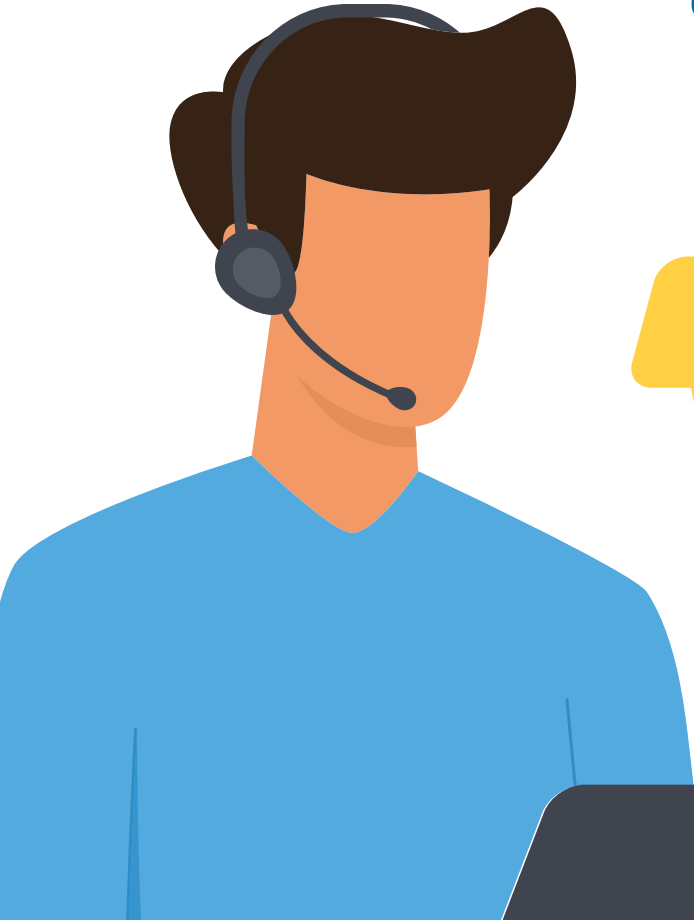
Action by the Wisconsin Supreme Court to override the two-year record retention period would be in direct violation of the separation of powers doctrine and would set a precedent to change policies through the court rather than the legislature. The WRA Legal Action Program was part of a group filing a response opposing the petition.

For additional information about the Legal Action Program, see "Advocacy You Don't See," in the August 2023 *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Aug23/Advocacy or visit the Legal Action Program webpage at legallaction.wra.org.

“**A single call to the
WRA Legal Hotline
covers the cost of
a WRA membership.**”

Jim Imhoff, First Weber Inc.

Chairman Emeritus and Former CEO



Legal question? The WRA Legal Hotline can help. Included with WRA membership, the hotline allows you to discuss your real estate practice questions with real estate attorneys who hold expertise in Wisconsin legal standards, current laws and best practices. With typical attorney fees reaching \$300 per hour, WRA membership provides free access to the hotline annually with unlimited inquiries.

LEGAL RESOURCES

THE LATEST UPDATES AND RESOURCES FROM THE WRA ABOUT WISCONSIN REAL ESTATE LAW

LEGAL HOTTIPS

WRA membership gives you access to the extensive WRA Legal Hottips online library, featuring past WRA Legal Hotline discussions covering liability, title issues, agency and more. Weekly hottip updates ensure fresh insights.

Search the Q&As: www.wra.org/LegalHottips
(WRA login required)

LEGAL UPDATES

Included with WRA membership is access to the WRA's *Legal Update* publication. Recent issues include:

February 2024: "Licensees Purchasing or Selling Their Own Real Estate"

Review considerations related to licensees selling their own property or buying a property for themselves.

January 2024: "Buyer Agency Practice"

Examine the Wisconsin buyer agency agreements and the authorization they provide to firms and their agents to act as buyer's agents.

See more: www.wra.org/LegalUpdates
(WRA login required)



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www.wra.org/LegalHotline

LEGISLATIVE ALERT

WRA LEGISLATIVE PRIORITY UPDATE

BY CORI LAMONT

WRA VICE PRESIDENT OF LEGAL AND PUBLIC AFFAIRS

As the legislative session wraps up in March, the following information provides a quick update on the WRA's remaining legislative agenda. Note that the status for the bills listed below was current as this article went to press. For more information, visit action.wra.org.

RESOLVE TITLE ISSUES ON LAND FORMERLY LAKE BED/RIVERWAY

SB 541/AB 579

WRA position: Support

Legislative authors

- Sen. Stroebel (R – Saukville)
- Rep. Wittke (R – Racine)

Overview of legislation

This legislation stipulates that a municipality needs to develop a waterfront development plan, which must include all of the following:

- A boundary between a public use area and remaining to be used for private use.
- A description of the areas and types of public use as well as how the public use area is accessible.
- A plan for implementing and enforcing the plan.

Additionally, this legislation allows the Wisconsin Department of Natural Resources (DNR) to review and approve waterfront development plans based upon:

- Whether the plan is consistent with the required elements.
- And whether the public use and implementation plan is sufficient.

Status

This bill is waiting for Gov. Evers' signature.

REAL ESTATE PRACTICE

SB 870/AB 918

WRA position: Support

Legislative authors

- Sen. Jagler (R – Watertown)
- Rep. Krug (R – Nekoosa)

Overview of legislation

This legislation makes a number of changes to improve consumer transparency, raise the bar on professionalism and address licensee liability:

- Creates a safe harbor for licensees when using government information if attribution to the source is provided.
- Requires specific disclosures to consumers in contracts when contractual rights are being assigned to another.
- Raises the fines and forfeitures for which the Real Estate Examining Board can charge from \$1,000 to \$5,000 for the most egregious violations of license law.

Status

This bill is ready for a Senate committee vote and Assembly floor.

DISCRIMINATORY COVENANTS AND DEED RESTRICTIONS

SB 439/AB 444

WRA position: Support

Legislative authors

- Sen. Ballweg (R – Markesan)
- Sen. Johnson (D – Milwaukee)
- Rep. Novak (R – Dodgeville)
- Rep. Haywood (D – Milwaukee)

Overview of legislation

This legislation allows a Wisconsin property owner to address offensive, discriminatory covenants based on race and other protected classes that appear in deeds and subdivision restrictions and covenants on their land:

- Creates a voluntary process to record a statutorily created form.
- The process is only for the property owner.
- Does not delete the language from title.

Status

This bill is waiting for Gov. Evers' signature.

SALES TAX EXEMPTION FOR MULTIPLE LISTING SERVICES

SB 351/AB 353

WRA position: Support

Legislative authors

- Sen. Steffen (R – Green Bay)
- Rep. Bradley (R – Franklin)

Overview of legislation

This legislation creates a statutory clarification as to a sales tax exemption for the sale of certain Multiple Listing Service (MLS) services.

- MLSs facilitate cooperation and compensation among participating real estate brokers.
- The Wisconsin Department of Revenue (DOR) is not currently charging sales tax for the sale of the MLS service.
- The DOR is supportive of the statutory clarification provided in the legislation.

Status

This bill is waiting for Gov. Evers' signature.

FORECLOSURE EQUITY THEFT LOOPHOLE

SB 918/AB 969

WRA position: Support

Legislative authors

- Sen. Stafsholt (R – New Richmond)
- Rep. Penterman (R – Columbus)

Overview of legislation

2021 Wis. Act 216 provided that if a county or the city of Milwaukee foreclosed upon a property for the owner's failure to pay property taxes and the municipality subsequently sells the property, any remaining net proceeds must be returned to the property owner. Wisconsin's law has a remaining loophole:

- Under the loophole, counties as well as the city of Milwaukee can foreclose upon the property and keep the property, even if that property's value is greater than the property taxes owed.
- Requires the sale of the property.

Status

This bill is ready for a Senate committee vote and Assembly floor.

TRANSFER TAX REDUCTION

SB 274/AB 277

WRA position: Support

Legislative authors

- Sen. Stafsholt (R – New Richmond)
- Rep. Green (R – Grand View)

Overview of legislation

This legislation proposes to cut Wisconsin's real estate transfer tax by one third, reducing the cost carried by Wisconsin property owners who pay the tax on the sale of real property.

Status

This bill received a Senate floor vote on February 13, 2024, and is ready for the Assembly floor.

ADVERTISING FOR SALE BY OWNER REAL PROPERTY

SB 394/AB 407

WRA position: Oppose

Legislative authors

- Sen. Stroebel (R – Saukville)
- Rep. Armstrong (R – Rice Lake)

Overview of legislation

Current Wisconsin law allows licensees, including licensed real estate platforms, to advertise For Sale By Owner (FSBO) properties.

- A real estate license requires compliance with Wisconsin law.
- To advertise a Wisconsin property, including a FSBO, a licensee must:
 - Walk through the property to verify information and condition.
 - Enter into a written agreement identifying the services provided by the listing firm.
- This bill removes the property walk-through, which is an important consumer protection.
- Wisconsin licensees have a limited capacity to practice law. This right is carefully balanced with established consumer protection laws.
- Wisconsin is the only state that requires licensees to use state-approved forms and conduct a walk-through.

Status

This bill was heard by the Senate Committee on Government Operations.

YES IN MY BACKYARD

MOVING THE WISCONSIN HOMEOWNERS ALLIANCE FORWARD

BY NATHAN CONRAD

WRA DIRECTOR OF LOCAL AND GRASSROOTS ADVOCACY

For decades, the Wisconsin Homeowners Alliance (WHA) has worked to ensure the voice of property owners has been heard.

To keep the voice growing, the WHA began the year of 2023 with a goal of attracting 1,000 new members to the organization. With just over 2,200 active members who participated in programs over the years that helped to strengthen property rights as well as help elected officials understand the importance of maintaining the strict property tax levy limits, adding another 1,000 members was a lofty goal.

The WHA surpassed the goal in surprising fashion — more than 1,669 new members joined the WHA ranks in 2023.

This means there are nearly 4,000 individual voices that can be raised to help increase awareness on issues important to property owners throughout Wisconsin. That isn't a bad number. And anytime we can activate 4,000 voices to a worthy cause such as property rights is something to be proud of.

But is it enough? Are we getting the message out statewide about homeownership and the benefits of being a property owner? Moreover, are we getting to the right audience?

The WHA believes we have a bigger audience to attract. Without a doubt, people want to live the American Dream. They want to own a home, and they want the freedom that being a property owner brings personally and financially, like the space to grow and raise a family, access to better schools, building generational wealth and downsizing on their own terms. These are the reasons why the WHA needs to branch out. The WHA should be targeting current home and property owners as well as those who have yet to achieve homeownership to be a part of the WHA voice.

Think of your family, friends, neighbors, their children and their parents who have all been looking for housing. They have saved their down payment, they qualified for a loan, they have done

their due diligence, found the area they want to live, and yet they have lost out on property after property because inventory is too low. Whether it's their first home or they are downsizing, they have been outbid — five, seven or even 10 times because there is not enough housing supply.

The renters who dream of buying a home, weary buyers who have made multiple offers and have never won, and those who want to downsize — these are the voices the WHA needs.

One of the biggest reasons for the lack of inventory? Local opposition from the Not In My Backyard (NIMBY) activists. NIMBYs are loud, coordinated and attend local city council meetings and county board meetings when developers propose to build housing the community so badly needs. Often NIMBYs successfully delay or stop the approval of the proposed housing developments.

The NIMBY voice is loud. But the WHA can be louder. The WHA intends to grow the voice of the “YIMBY” — Yes in My Backyard — the voice of those who aspire or plan to live in the communities need to stand up at these meetings and speak as the next generation of homeowners and the aging population.

This is where the WHA will need your help by spreading the word. Tell your family, friends and neighbors to join the WHA. Help the WHA tackle every single city council meeting and every single county board meeting across this state. Fill these rooms and speak up for housing.

If we stand together, with one voice, they will have no choice but to listen.

Put an end to the lack of housing inventory in Wisconsin.

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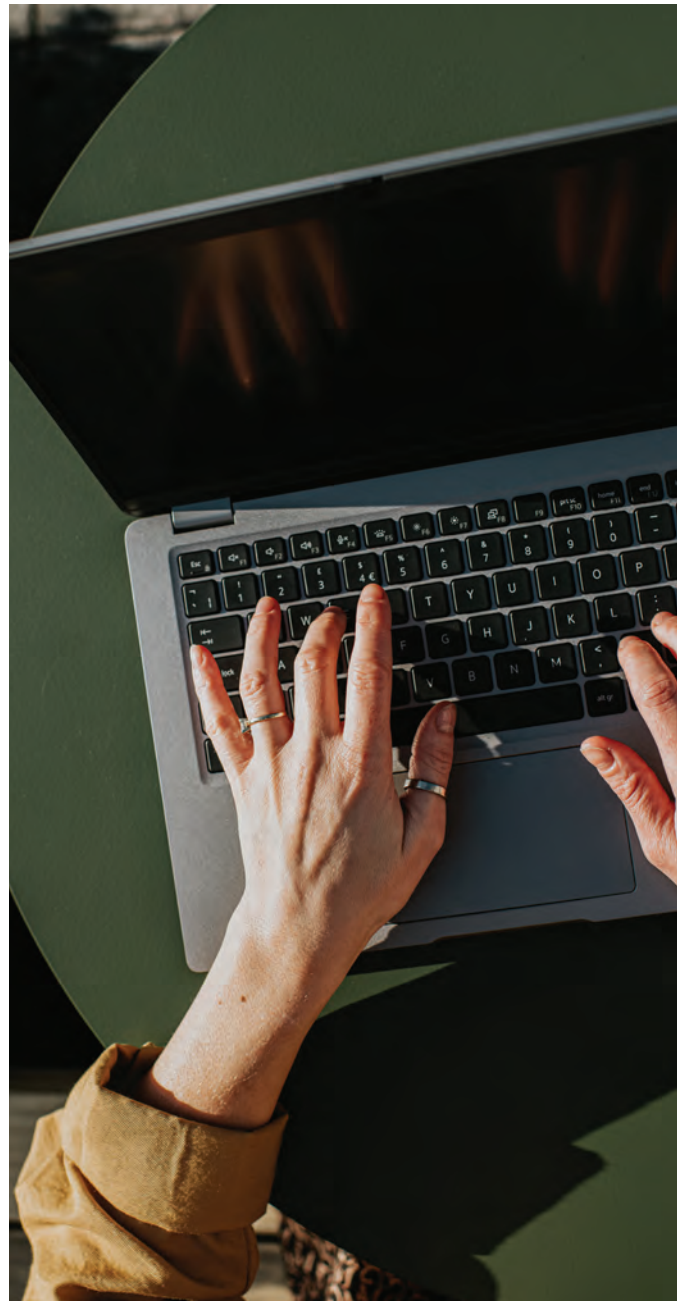
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WB-2 Farm Listing Contract and WB-42 Amendment to Listing
WB-3 Vacant Land Listing Contract
WB-4 Residential Condominium Listing Contract
WB-5 Commercial Listing Contract
WB-6 Business Listing Contract — Exclusive Right to Sell
WB-11 Residential Offer to Purchase
WB-12 Farm Offer to Purchase
WB-13 Vacant Land Offer to Purchase
WB-14 Condominium Offer to Purchase
WB-15 Commercial Offer to Purchase
WB-16 Offer to Purchase — Business with Real Estate Interest
WB-17 Offer to Purchase — Business Without Real Estate Interest
WB-24 Option to Purchase
WB-28 Cooperative Agreement
WB-35 Simultaneous Exchange Agreement
WB-36 Buyer Agency Agreement
WB-37 Residential Listing Contract — Exclusive Right to Rent
WB-38 and WB-47 Commercial Buyer Agency/Tenant Forms
WB-39 Tenant Representation Agreement

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NEW HOME CONSTRUCTION COURSE

March 14-15, 2024

Master the art of advocating for buyers in the realm of home construction! Join this virtual training course to learn how to guide clients through the intricate process of building a new home with a builder. By the end of this course, you'll have new insights into the acquisition, construction and personalization phases of a new residence.

- Course: New-home Construction and Buyer Representation
- Date/time: March 14-15, 9:00 a.m. – 12:00 p.m. each day
- Format: Virtual
- Fee: \$145 through March 4

Register: www.wra.org/ABR



TECH COURSE: AI FOR YOUR MARKETING MATERIALS

April 3, 2024

Did you know that generative artificial intelligence (AI) tools can create incredible written, audio and visual content? In this tech course, instructor and tech guru Craig Grant explores how you can use these AI technologies to generate content and even create marketing materials.

- Course: Create Awesome Marketing Materials with AI, Canva and ChatGPT
- Date/time: April 3, 9:00 a.m. – 10:00 a.m.
- Format: Virtual
- Fee: \$30

Register: www.wra.org/BLF



PROFIT-FOCUSED TRAINING FOR BROKERS

April 18-19, 2024

Generating profits demands focus, diligence and a keen awareness of the aspects of your business needing attention. If you're a broker, join this course to explore practical examples and analyze case studies that demonstrate the integration of innovative techniques into your daily operations.

- Course: Creating a Profitable Real Estate Company
- Date/time: April 18-19, 9:00 a.m. – 12:45 p.m. each day
- Format: Virtual
- Fee: \$225 through April 3

Register: www.wra.org/CRB



TECH COURSE: MODERN MARKETING IN BUDGET

May 16, 2024

Print and direct mail are a thing of the past; they've been replaced with social media, search engine optimization and real estate portals. This virtual course with tech guru Craig Grant provides an overview of these new marketing tactics so you can modernize your marketing efforts without exceeding budget.

- Course: Market Like a Rockstar on a Roadie's Budget
- Date/time: May 16, 9:00 a.m. – 10:00 a.m.
- Format: Virtual
- Fee: \$30

Register: www.wra.org/BLF



TECH COURSE: TECH TOOLBOX

June 13, 2024

Do you feel overwhelmed when trying to figure out the best tech solutions for your business? Conquer the confusion with this virtual tech course! Instructor Craig Grant will serve as your personal tech shopping assistant and help you choose the best hardware, software and apps that can improve your real estate business.

- Course: The Real Estate Pro's Essential Technology Toolbox
- Date/time: June 13, 9:00 a.m. – 10:00 a.m.
- Format: Virtual
- Fee: \$30

Register: www.wra.org/BLF



TECH COURSE: VIRTUAL MARKETING

June 13, 2024

Augmented reality (AR) and virtual reality (VR) are changing the ways consumers shop for properties — and this virtual course equips you with the tools to fulfill this demand. Instructor and tech guru Craig Grant explains AR and VR as well as how to leverage them in your real estate business.

- Course: How to Virtually Market and Sell Real Estate
- Date/time: July 11, 9:00 a.m. – 10:00 a.m.
- Format: Virtual
- Fee: \$30

Register: www.wra.org/BLF

OFFERING	FORMAT	DETAILS & REGISTRATION
EVENTS		
WRA Annual Convention: Sept 29-Oct. 1, 2024	Live in Wisconsin Dells	Save the date!
PRE-LICENSE TRAINING		
ONGOING TRAINING		
Broker Pre-license Course	On Demand	www.wra.org/BPL
Sales Pre-license Course	On Demand	www.wra.org/SPL
Sales Pre-exam Review	On Demand	www.wra.org/SalesPreExamReview
PROFESSIONAL DEVELOPMENT TRAINING		
SCHEDULED TRAINING		
ABR Homebuilding Course: March 14-15, 2024	Virtual	www.wra.org/ABR
Tech AI Marketing Materials Course: April 3, 2024	Virtual	www.wra.org/BLF
CRS Probate Specialist Course: April 11-12, 2024	Virtual	www.wra.org/CRS
CRB Profitable Company Course: April 18-19, 2024	Virtual	www.wra.org/CRB
Tech Marketing in Budget Course: May 16, 2024	Virtual	www.wra.org/BLF
Tech Toolbox Course: June 13, 2024	Virtual	www.wra.org/BLF
Tech Virtual Marketing Course: July 11, 2024	Virtual	www.wra.org/BLF
ONGOING TRAINING		
GRI On Demand	On Demand	www.wra.org/GRI
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Line by Line Forms Training	On Demand	www.wra.org/LinebyLine
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Quick Start	On Demand	www.wra.org/QuickStart
REAL ESTATE CONTINUING EDUCATION		
SCHEDULED TRAINING		
CE Courses 1-6: March 13, 2024	Live in Appleton	www.ranw.org
CE Courses 7-12: March 20, 2024	Live in Appleton	www.ranw.org
CE Electives 1-6: April 18, 2024	Live in Lake Geneva	www.lakesrealtors.com
CE Electives 7-12: April 19, 2024	Live in Lake Geneva	www.lakesrealtors.com
ONGOING TRAINING		
2023-24 Real Estate CE	Self-study Book	www.wra.org/CE2324
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SCHEDULED TRAINING		
April 17, 2024	Virtual	www.wra.org/BLF
PARTNER WEBINARS		
THE PAPERLESS AGENT WEBINARS		
March 21, 2024	Virtual	www.wra.org/paperlessagent
April 9, 2024	Virtual	www.wra.org/paperlessagent
April 18, 2024	Virtual	www.wra.org/paperlessagent
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