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WISCONSIN REAL ESTATE MAGAZINE

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THE LATEST CONTENT

CONVENTION KEYNOTE

Meet NBA veteran, best-selling author and convention keynote speaker Walter Bond

Watch: www.wra.org/WalterBond

HOUSING MINUTE

Monthly analysis in Wisconsin housing

Watch: www.wra.org/HousingMinute

LINE BY LINE

Updated videos now available

Revised Videos

The Line by Line video series includes several revised episodes that describe the 2022 versions of the revised WB-24, WB-40, WB-41, WB-44 and WB-45.

Episodes 4, 5, 8, 11, 13 and 15 have been updated to include new segments that correlate with the updated WB forms. You'll find these revised episodes available in your myWRA online account.

Watch: www.wra.org/LineByLine

LEGISLATIVE UPDATE

Advocacy in Wisconsin real estate

Foreclosure Equity Theft Victory

Wisconsin was one of 12 states that allowed counties to seize property and sell it to pay property taxes that are owed if an owner was unable to pay those taxes.

Due to the WRA's advocacy efforts and under a new law, counties are now required to pay any net proceeds of non-homestead foreclosures back to the former owner of the property.

Watch: www.wra.org/Advocacy/EquityTheft

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JULY HOUSING RECAP

WEAK INVENTORIES, SLOWING ECONOMY AND HIGHER MORTGAGE RATES HAMPER JULY HOUSING MARKET

BY DAVE CLARK
PROFESSOR OF ECONOMICS AT MARQUETTE UNIVERSITY AND PRINCIPAL AT ECON ANALYTICS, LLC

July 2022 Wisconsin housing at a glance:

- A combination of factors hindered July home sales.
- The inventory problem placed upward pressure on prices.
- The median price rose 9.6% compared to a year ago.
- Existing home sales fell 19.2% compared to a year ago.
- Demand remains strong even with mortgage rate spikes.

See the full report: **www.wra.org/HSRJuly2022**

David Clark, Ph.D., is a professor 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.

JULY HOUSING

7,750
CLOSED SALES JULY 2022
-19.2%
FROM JULY 2021

$279,000
MEDIAN PRICE JULY 2022
+11.3%
FROM JULY 2021

ACTIVE LISTINGS BY PRICE

PRICE RANGE	NUMBER OF LISTINGS
$0-$124,999	1,791
$125,000-$199,999	4,059
$200,000-$349,999	6,907
$350,000-$499,999	4,681
$500,000 & higher	4,003

21,441
TOTAL STATEWIDE LISTINGS JULY 2022
-15.4%
FROM JULY 2021

MEDIAN PRICES BY REGION

CENTRAL	$212,500
NORTH	$260,000
NORTHEAST	$236,040
SOUTH CENTRAL	$330,000
SOUTHEAST	$290,950
WEST	$290,000

AVERAGE DAYS ON MARKET

60 DAYS JULY 2022
COMPARED WITH
66 DAYS JULY 2021

MONTHS OF INVENTORY

3.0 JULY 2022
3.2 JULY 2021

HOUSING STATISTICS MONTHLY ACTIVITY

Statewide	July 2022	July 2021	% Change	YTD 2022	YTD 2021	% Change
New Listings	8,827	11,304	-21.9%	N/A	N/A	N/A
Total Listings	21,441	25,334	-15.4%	N/A	N/A	N/A
Closed Sales*	7,750	9,596	+19.2%	45,028	49,395	-8.8%
Median Sales Price	$279,000	$250,764	+11.3%	$263,000	$240,000	+9.6%
Months of Inventory	3.0	3.2	-6.3%	N/A	N/A	N/A
Avg. Days on Market	60	66	-9.1%	N/A	N/A	N/A
Affordability Index	129	188	-31.4%	N/A	N/A	N/A

	Median Price			Closed Sales		
Region	July 2022	July 2021	% Change	July 2022	July 2021	% Change
Central	$212,500	$199,900	+6.3%	523	595	-12.1%
North	$260,000	$215,000	+20.9%	725	948	-23.5%
Northeast	$236,040	$223,000	+5.8%	1,390	1,707	-18.6%
South Central	$330,000	$301,750	+9.4%	1,574	1,994	-21.1%
Southeast	$290,950	$263,000	+10.6%	2,838	3,493	-18.8%
West	$290,000	$249,900	+16.0%	700	859	-18.5%

*Report criteria: Reflecting data through July 2022. *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

SEPTEMBER IS REALTOR® SAFETY MONTH

As part of the efforts by the National Association of REALTORS®' (NAR) to keep REALTORS® safe, September is dedicated as REALTOR® Safety Month. NAR's REALTOR® Safety Program is designed to reduce the number of safety incidents that occur in the industry so every REALTOR® reaches their home safely every night.

Further your commitment to safety with NAR's complete REALTOR® Safety Program online. You'll find various resources so you can remain cognizant and keep safety top of mind:

- Planning your safety strategy
- Tips and best practices
- Training videos and webinars
- Safety articles
- Personal protection resources
- REALTOR® safety network
- Safety pledge

Let's all work together to stay safe. Together, we can improve the safety culture of the real estate industry — here in Wisconsin and across the country.

To access these resources and more about REALTOR® Safety Month:
nar.realtor/safety

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MESSAGE FROM THE INCOMING CHAIR

Dear fellow WRA member,

A career in real estate is sometimes hectic — but it's pretty clear we've all experienced extra intensity during the past few years. Both 2020 and 2021 were taxing for those of us in the industry, and clearly the 2022 real estate market has been incredibly fast-paced. I think we all can collectively say, "I need a little break!" We deserve it!

Join us as we return to the Dells on October 2-4 to "light it up" at the WRA's 2022 annual convention. Prepare to be energized and to charge ahead in this ever-changing market as we collectively RE-ignite, RE-charge and RE-new for a strong finish in 2022 and to thrive in 2023.

Our dynamic keynote speaker lineup includes NBA veteran Walter Bond and resilience expert Kim Becking as they inspire us to keep fear in check and boost resilience to live life to the fullest. I'm excited to be energized by these powerful messages from exceptional speakers.

With 30+ workshops on the convention agenda, we'll hear from great presenters about current topics and future trends — like inspections, cryptocurrency, listing inventory and more. Discussion panels are also on the agenda where multiple experts join forces to share their wisdom and experiences. I'm also looking forward to the new Break OUT! sessions that combine learning and networking in one. You'll get to connect and share ideas with other REALTORS® from around the state.

For more education and training, the convention also offers CE and designation courses. If you're looking for real estate CE credits, the convention offers two live courses so you can earn a total of six credits for the 2021-22 CE biennium. PS: Don't forget about the December 14 deadline.

Of course, I saved the best for last: fun. Even though we all RE-charge in different ways, you'll find something at the convention that's perfect for you. A wide range of exciting opportunities like the convention golf outing, the chairman's dinner, a Wisconsin Ducks tour for the nature lovers, a winery tour for the wine aficionados, and the popular convention icebreaker party for those of you who are ready to hit the dance floor! But that's not even the complete list: we also have a wine & paint class, trivia night, exhibit hall cocktail reception, prize opportunities and more. For full convention details, visit **www.wra.org/convention**.

I'm looking forward to seeing you next month to light it up, RE-charge and make 2023 the best year yet!

Joe Horning
2023 WRA Chair of the Board

WHO DO YOU SEE?
an aunt? an engineer? a homeowner?
Implicit bias: associating a stereotype unconsciously.
Combat implicit bias in real estate: wra.org/ImplicitBias

FEATURE

THE INSPECTION CONTINGENCY RETURNS … BUT SOMETIMES WITH A TWIST!

BY JENNIFER LINDSLEY
WRA ATTORNEY AND DIRECTOR OF TRAINING

With some parts of the state experiencing a slightly less competitive real estate market, some buyers are again considering the value of including an inspection contingency in their offers. Not all buyers and sellers, though, are going “all in” on the preprinted terms of the inspection contingency as found in the WB offers to purchase. Instead, some buyers and sellers are adding additional details, such as tolerances for some defects up to a certain dollar amount or identifying specific defects for which the buyer will not issue a notice of defects.

THE ORIGINAL, UNMODIFIED, PREPRINTED INSPECTION CONTINGENCY

Even under the preprinted terms of the inspection contingency in the WB offers to purchase, a buyer always had the option of choosing to tolerate defects up to a certain amount or tolerating defects of a certain type by negotiating with the seller using amendments, not issuing a notice of defects at all, or issuing a notice of defects for only certain items for which the costs of repairs would exceed what the buyer is willing to absorb.

For example, a buyer's offer included the preprinted inspection contingency in the WB-11 Residential Offer to Purchase with no additional language about not objecting to defects below a certain dollar amount or not objecting to an identified defect. The buyer's home inspection notes that stairs leading down from the back porch are not installed correctly, and the inspector recommends they be repaired. This particular buyer did not give the seller the right to cure in the inspection contingency, and the buyer plans to replace the entire back porch shortly after closing anyway. The buyer could propose an amendment asking for a repair or a credit, acknowledging that the seller does not have to agree to the amendment. Given the buyer's plan to replace the back porch, this buyer might just accept the property in its current condition and issue neither an amendment nor a notice of defects. Because the buyer did not give the seller a right to cure, issuing a notice of defects would make the offer null and void, and if the buyer can live with the faulty steps for now, the buyer probably does not want that result and will refrain from issuing the notice of defects. Even if the seller did have the right to cure, a seller is never obligated to cure and could choose not to cure if the buyer issued a notice of defects, and that too would make the offer null and void.

If the defects were more consequential to this buyer and amounted to a defect or defects beyond the issue with the back porch stairs, the buyer could still try to negotiate using amendments or issue a notice of defects and trigger the seller's right to cure if the seller had a right to cure.

INSPECTION CONTINGENCY WITH A TWIST: DOLLAR LIMIT

Including an inspection contingency where the buyer agrees not to issue a notice of defects unless the estimated cost to repair the defects exceeds an agreed upon amount can be a compromise between the "all or nothing" method when parties are negotiating whether the buyer can have an inspection contingency in the buyer's offer. A buyer may be willing to accept defects up to a certain dollar amount with the understanding that the buyer will address those defects after closing. As for the dollar amount that a buyer is willing to accept, that number is completely negotiable between the parties. It could be $1,000, $5,000, $10,000 or any other amount on which the parties agree. The key to this negotiation strategy is carefully drafting the language regarding the dollar amount of defects that the buyer is willing to accept. Will the buyer obtain the estimates for repairs? Will the seller obtain the estimates for repairs? Will each party obtain an estimate and find the average of the two estimates? All of these are acceptable options, but the parties want to make sure they agree on this ahead of time.

Another consideration if the parties are using this strategy is to make sure there is enough time under the inspection contingency deadline for the parties to obtain an estimate or estimates regarding the expense to fix the defects. Thinking about how much has to occur by the deadline for the inspection contingency, the parties will want to be mindful of the extra step involved in obtaining estimates for repairing the defects. During the period for the inspection contingency, the buyer needs to have the inspection; have inspections of any components listed in the inspection contingency such as a roof, swimming pool or chimney; and have any follow-up inspections recommended in writing in any inspection report. If the buyer has agreed not to object to defects below a certain dollar amount, the buyer will need to keep an eye on the deadline for the inspection contingency to make sure the buyer obtains the estimates for the repairs before the deadline for the inspection contingency. One possible safeguard would be for the parties to negotiate an automatic extension to the deadline for the inspection contingency if the parties are experiencing a delay in obtaining any necessary estimates regarding repairs. This, of course, would have to have been negotiated into the offer as there is not an automatic extension of any deadline in the offer.

The parties will also want to consider what happens if the estimate for the repairs exceeds the dollar amount the buyer and seller agreed to in the offer to purchase. Say the buyer agrees not to issue a notice of defects if the estimate for the repairs does not exceed $5,000. The buyer has the inspection, the inspector finds several defects, and the buyer obtains estimates for the repairs as agreed to in the offer. The estimates for the repairs total $10,000. Now what? As always, the parties can try to negotiate a resolution using amendments. Maybe the buyer proposes an amendment


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asking for the seller to repair named defects where the estimate for the repairs is roughly $5,000, and the buyer is still willing to absorb the expense for the remaining $5,000 worth of defects. The buyer could, of course, propose an amendment asking for all $10,000 worth of defects to be repaired or some other number. If the parties agree to resolve this using an amendment or amendments as necessary, the transaction keeps going and the buyer never has to issue a notice of defects.

What if the parties are unable to resolve this issue using amendments? Then the buyer must decide whether to issue a notice of defects objecting to the defects per the terms of the offer to purchase. If the buyer issues a notice of defects and the seller does not have the right to cure, the offer is null and void. But what if the seller does have the right to cure and the buyer issues a notice of defects — which would presumably be accompanied not only by the inspection report but also the estimates for repairs — showing the cost to repair the defects exceeds the $5,000 threshold the parties agreed to in the offer? Is the seller now obligated to cure all $10,000 of the defects, or just some of the defects where the total estimate of repairs is equal to the $5,000 that exceeds the buyer's $5,000 threshold? If the seller has to repair just some of the defects, how does the seller pick which defects to cure? Remembering, of course, that the buyer cannot use a notice of defects to dictate which defects the seller must cure or how the defects will be cured. To avoid this murky scenario, parties using this method of negotiating the inspection contingency will need to specify in the original offer how this is addressed. The offer should clearly state what happens if the estimates to repair the defects exceed the buyer's threshold and the buyer issues a notice of defects when the seller has the right to cure. If the offer specified that if the buyer issues a notice of defects because the amount exceeded the threshold agreed to in the offer to purchase, and the seller is electing to cure, then the seller must cure all the defects, the parties have their answer, and the next steps are clear. If the parties agree the seller only has to cure defects above the buyer's threshold of $5,000, which in this example would mean the seller is going to cure $5,000 worth of defects, the parties will want to specify who gets to pick which defects the seller cures.

INSPECTION CONTINGENCY WITH A TWIST: SPECIFIED DEFECTS

Another iteration of the inspection contingency but with a twist that has been circulating is language included in the buyer's offer where the buyer agrees not to object to certain defects. Maybe the buyer is looking at a property where it looks like the boiler and the roof are a little older. The buyer is completely willing to take the buyer's chances on the existing boiler and roof and use them as long as they last but has budgeted to replace them in the near future. The buyer might however not be willing to live with defects in the electrical system or the septic system or other defects. The buyer could draft the buyer's offer to specify that the buyer will not issue a notice of defects regardless of what defects the inspector finds in relation to the boiler and the roof, but the buyer reserves the right to object to any other defects revealed in the inspection.

An agent working with a buyer who is willing to waive the buyer's right to object to certain defects should definitely caution a buyer though that a condition may be worse than expected and could be a bigger issue later than the buyer anticipated. Consider the previous example where a buyer can visibly see that the seller's boiler and roof are on the older side so the buyer drafts an offer stating the buyer will not issue a notice of defects regarding the boiler and roof. The transaction closes and some months later,


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the buyer decides it is time to replace the roof. When the buyer's roofer comes to provide an estimate, it is discovered that not only was the roof old, but it was leaking slightly into the attic, damaging insulation and allowing for mold to start growing. The areas where the roof was leaking were obscured because the attic was partially finished and thus the buyer's home inspector could not see evidence of the water intrusion. These additional issues will increase the expense of repairing the roof.

WHAT IS THE TAKEAWAY?

Including an inspection contingency is the best way to protect a buyer in a real estate transaction. Additionally, a buyer should be encouraged to consider contingencies such as well water testing, well inspection, septic inspection, radon testing and others as applicable. If a buyer is competing with other buyers though, the buyer may want to customize their inspection contingency by either agreeing not to object to defects below a certain amount or not to object to defects regarding specific items or conditions. Using the inspection contingency in this way allows buyers and sellers to move away from the risky move of not including an inspection contingency at all. In many ways, the buyer having a clear understanding of the condition of the property is in the best interest of both the seller and the buyer. Using these variations on the inspection contingency allows a buyer to discover potential issues to the property and decide an expense related to defects or specified defects the buyer can live with. It also benefits the seller by hopefully reducing the possibility of a post-closing lawsuit when the buyer discovers something after closing that could have been revealed had the buyer had an inspection. If an agent is working with a buyer who wants to use the inspection contingency with a twist, careful drafting is key to make sure the process goes smoothly, and both the seller and buyer know what to expect in the process.


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IT'S OVER. BUT WHAT ABOUT THE BUYER'S INSPECTION REPORT?

HANDLING THE INSPECTION REPORT AFTER A TRANSACTION FAILS TO CLOSE

BY CORI LAMONT
SENIOR DIRECTOR OF LEGAL AND PUBLIC AFFAIRS

THE COMMON SCENARIO

The first buyer's offer included a home inspection contingency. The home inspection revealed defects. Before the inspection contingency expired, the buyer provided a notice of defects, and the seller did not have the right to cure. The buyer walked away from the transaction. Both the seller and the listing agent have a copy of that buyer's inspection report.

NOW WHAT?

The discussion of how to handle the inspection report after a transaction unravels has been a frustrating discussion for real estate agents for decades. To provide clarity to ease some of that frustration, this article answers some of the most common questions related to this inspection predicament.

Does the seller have to update the real estate condition report (RECR)?

The seller is obligated to disclose any defects the seller has notice or knowledge about. The RECR defines a "defect" as "a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises." Wis. Stat. §709.035 requires sellers to amend the RECR, prior to the acceptance of a contract, when they obtain information or become aware of any condition that would change a response on the RECR.

Is the seller required to attach a copy of the previous buyer's inspection report to the seller's RECR?

The seller may choose to attach a copy of the first buyer's inspection report to the RECR as part of the seller's amendment to the RECR. The new buyer should be advised that the first buyer's inspection report is given to provide information only. The statutes regulating home inspectors state that the home inspector will not be liable to subsequent buyers for any errors or omissions contained in the first buyer's inspection report. New buyers may be advised to have their own home inspection performed if they want the home inspector to be liable for any oversights.

A prospective buyer is demanding a copy of the previous buyer's inspection report. Is the seller obligated to give the buyer a copy of that previous buyer's home inspection?

The inspection report may be given to a subsequent buyer by the seller, but the seller is not required to do so. However, if the report discloses a defect, the information referring to the defect must be disclosed either by the seller via the RECR or by the listing agent as a material adverse fact or information suggesting a material adverse fact.

Absent an agreement between the first buyer and the seller not to distribute the report, the seller may give the new buyer a copy.

Is a prospective buyer required to use a previous buyer's inspection report, rather than the prospective buyer getting their own inspection?

If the second buyer is provided a copy of the first home inspection report, the second buyer should be advised that the first buyer's RECR is given to provide information only. The statutes regulating home inspectors state that the home inspector will not be liable to subsequent buyers for any errors or omissions contained in the first buyer's inspection report. A new buyers may be advised to have their own home inspection performed if they want the home inspector to be liable for any oversights. The new buyer is not required by law to utilize a previous buyer's inspection report.

Is the listing agent required to give a copy of the previous buyer's inspection report to a prospective buyer?

An agent may provide a copy of the first buyer's inspection report if the seller attached the report to the RECR. If the seller has not attached the first buyer's inspection report to the RECR, then to guard against any possible confidentiality concerns, the agent would not unilaterally provide a second buyer with the first buyer's inspection report without consent of all parties to the first transaction.

Depending on the content of the seller's new or amended RECR, the listing agent may or may not have to make material adverse fact disclosures. If the seller chooses to make some sort of disclosure on a new or amended RECR, and the agent believes the information to be inaccurate or incomplete, then the agent may have to disclose items not properly reported by the seller if the agent believes the information is a material adverse fact or information suggesting a material adverse fact.

If the agent is aware, as a competent licensee, that the facts disclosed in the inspection report or inaccurately or incompletely on the new or amended RECR fit any of the four characteristics below, the issue constitutes an adverse fact. Those features include:

- Has a significant adverse effect on the value of the property.
- Significantly reduces the structural integrity of the property.
- Presents a significant health risk to the occupants of the property.
- Or is information that indicates that a party to the transaction is not able to or does not intend to meet their obligations under the contract.

If a party to the transaction were to so indicate, or if a competent licensee would generally recognize that this fact is of such importance that it would affect a reasonable party's decision to enter into a contract or would affect the party's decision about the terms of the contract, the fact is both adverse and material. If this fact is both adverse and material, then Wis. Admin. Code § REEB 24.07(2) requires the licensee to timely disclose the fact in writing to all parties to the transaction, even if the client would direct the licensee not to disclose.

If the licensee knows or is aware of information suggesting the possibility of a material adverse fact, Wis. Admin. Code § REEB 24.07(3) states that the licensee will be practicing competently if the licensee makes timely written disclosure of the information suggesting the material adverse fact to all parties to the transaction, recommends the parties obtain expert assistance to inspect or investigate for the possible material adverse fact, and, if directed by the parties, draft appropriate inspection or investigation contingencies. The duty to disclose has priority over any duty owed to the client. The WRA-created Disclosure of Material Adverse Fact (WRA-DMAF) material adverse fact disclosure letter is available in Transactions (zipForm edition) as well as the subscription-based WRA PDF forms library.

THE BEST OF THE LEGAL HOTLINE

BY TRACY RUCKA
WRA DIRECTOR OF PROFESSIONAL STANDARDS AND PRACTICES

HOME INSPECTIONS

The WRA Legal Hotline fields calls about the inspection contingency almost daily, and sometimes multiple times a day. Thus far in 2022, nearly 200 calls have been catalogued in the inspection contingency category. For your consideration, a few of these calls are discussed in this month's article.

FOLLOW-UP INSPECTIONS

The parties have an accepted offer with the inspection contingency. The written report by the Wisconsin-registered home inspector recommends a follow-up inspection of the foundation. Can the buyer have a follow-up inspection, and if so, who pays for this follow-up inspection?

The inspection contingency contained in the WB residential offer provides for three types of inspections:

1. **Home inspections:** Lines 194-195 of the 2020 WB-11 Residential Offer to Purchase provide, "This Offer is contingent upon a Wisconsin registered or Wisconsin licensed home inspector performing a home inspection of the Property after the date on line 1 of this Offer that discloses no Defects."
2. **Component inspections:** Lines 196-199 provide: "This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an inspection of ________ (list any Property component(s) to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) which discloses no defects."

   The parenthetical prompt after the blank line reminds licensees of the purpose of the long, blank line in the contingency. This is not a place to insert "entire premises" or to insert details about tests. This blank line is for the buyer to state the specific property components or items the buyer would prefer to have inspected by a specialist or that require expertise beyond that of a registered home inspector, for example, a furnace, chimney, swimming pool, roof or foundation. The component inspections are to be performed by a qualified, independent inspector or qualified, independent third party.
3. **Follow-up inspections:** Home inspectors recommend follow-up inspections on a regular basis. Lines 200-202 of the WB-11 accommodate this practice by stating, "Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided they occur prior to the deadline specified at line 206." In other words, a buyer may have a follow-up inspection if a written inspection report from the Wisconsin-registered home inspector or a component inspector recommends that additional inspections be performed. Such an inspection is paid for by the buyer.

NOTICE OF DEFECTS

Prior to the negotiation of the offer, the seller provided a real estate condition report (RECR) describing defects in the foundation. The buyer wrote an offer with an inspection contingency, including the foundation in the component inspection, and the buyer's written inspection report from the foundation company identified defects. The buyer issued a notice of defects listing the foundation issues and other defects. Is the seller required to cure the foundation issues the seller originally disclosed?

The seller is only required to cure defects as defined in the offer. Lines 445-447 of the offer define "defect" as "a condition that would have a significant adverse effect on the value of the Property; that would significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises." In addition, lines 210-211 of the offer state, "For the purposes of this contingency, Defects (see lines 445-447) do not include structural, mechanical or other conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer."

Therefore, even though the condition of the foundation is listed as a defect in the inspection report, the seller is not required to cure any item — the nature and extent of which the buyer was aware at the time of the offer. If the seller's description in the RECR matches the written inspection report, the seller is not required to cure those items. On the other hand, if the inspection report contains defects beyond what was described in the seller's RECR, the buyer may give notice for the defects exceeding what was disclosed in the RECR. The seller may provide a written notice to the buyer stating the seller elects to cure defects, as defined in the offer. The seller may make an affirmative statement indicating that the seller will not cure the foundation issues as described in the RECR. If there is a disagreement about the "nature and extent" of the seller's disclosure, the parties may be referred to private legal counsel.

The buyer's 15-day time frame for the expiration of the inspection contingency expires in five days. The buyer sent an amendment, but the seller rejected it. The offer includes a seller's right to cure. Should the buyer try another amendment or give a notice of defects? Can the buyer give the seller more than five days to consider the amendment?

The decision whether to give a notice or an amendment must be made by the buyer. The broker may discuss the effect of giving a notice, an amendment or potentially both with the buyer. Once the broker explains the possible outcomes, the buyer makes an informed decision to give a notice or an amendment. The WRA's home inspection flowchart can help determine which direction to take in a given transaction; download a PDF at **www.wra.org/inspectionflowchart**.

The buyer choosing to give an amendment may give the seller any amount of time to respond to the amendment. However, if the deadline for the inspection contingency goes by without the seller accepting the amendment or the buyer issuing a written notice of defects, the contingency is deemed satisfied. If the deadline for the amendment is after the inspection deadline, the seller may reject the amendment and fail to sign and accept it. In such a situation, the buyer no longer has the opportunity to provide a notice of defects because the contingency has already been satisfied by passage of time, and the buyer did not give a notice of defects in a timely manner. Again, the broker may provide the buyer with options and draft documents upon the instruction of the party.

For more information about the inspection contingency and the use of notices or amendments, see *Legal Update 99.10*, "Home Inspections," at **www.wra.org/LU9910** and *Legal Update 04.08*, "Effective Home Inspections," at **www.wra.org/LU0408**.

BUYER CHANGED HIS MIND

The buyer's inspection contingency deadline has passed. The buyer chose not to have a Wisconsin-registered home inspector conduct an inspection. Prior to closing, the buyer demanded access for a home inspection for the buyer's informational purposes only. What is the best course of action to take in this scenario?

Access to the property for testing and inspections is found at lines 182-185 of the WB-11 Residential Offer to Purchase:

Seller agrees to allow Buyer's inspectors, testers and appraisers reasonable access to the Property upon advance notice, if necessary, to satisfy the contingencies in this Offer.

If the buyer waived the inspection contingency, and the buyer later wants an inspection "for information purposes only," it is up to the seller to agree to this inspection or not. There needs to be some sort of written permission or provision in the offer to authorize an inspector entering the seller's property. The buyer might attempt an amendment to have a home inspection conducted by a Wisconsin-registered home inspector by a certain date and note that the inspection is "for information only." The buyer might further include language that the seller's authorization for the information-only home inspection does not constitute an inspection contingency. The underlying dilemma is what will the parties do in the event the inspector finds defects? Will the buyer attempt to renegotiate the offer, attempt to claim seller misrepresentation or mutual mistake of fact? The parties may consider these alternatives before agreeing to an information-only inspection. See "The Home Inspection in a Competitive Market," in the May 2021 *Wisconsin Real Estate Magazine* at **www.wra.org/WREM/May21/Inspection**.

INSPECTOR AT THE WALK-THROUGH

Can the buyers ask their inspector to attend the pre-closing walk-through? What if the buyers see the property condition has changed since acceptance? The cooperating agent believes the buyers might have buyer's remorse. What is the best way to proceed?

Pursuant to the offer, the buyer is authorized to conduct a pre-closing walk-through. Unless amended, the offer does not allow access for the inspector. If there has been a change in the property condition, the buyer may issue a written notice identifying the changes. The parties may be referred to the Property Damage Between Acceptance and Closing provisions of the offer. Lines 478-481 of the WB-11 state:

Within three days prior to closing, at a reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no significant change in the condition of the Property, except for ordinary wear and tear and changes agreed upon by Parties, and that any defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

Any time a buyer has buyer's remorse, the buyer may be referred to the terms of the offer, the default provisions and private legal counsel. Upon the instruction of the buyer, the broker may draft a cancellation agreement and mutual release (CAMR) for the seller's consideration. If signed and timely returned, the seller may agree to release the buyer from the transaction. If not agreed upon, the broker may need to make a timely written disclosure of material adverse fact if the buyers do not intend to meet their obligations per the contract. See the sample material adverse fact disclosure in Transactions (zipForm edition) or in the WRA's subscription-based PDF forms library.

LEGAL RESOURCES

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

LEGAL UPDATES

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

August 2022: "The Regulation of Homeowners' Associations"
A new law creates statutory transparency for and helps purchasers better understand HOA rules and regulations.

July 2022: "Ending Tax Foreclosure Equity Theft"
Learn about the new law in Wisconsin that prohibits tax foreclosure equity theft.

June 2022: "Trust Accounts: Unclaimed Earnest Money"
What happens to earnest money when a transaction stalls? Find out here.

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

LEGAL HOTTIPS

Your WRA membership gives you access to the WRA Legal Hottips online library: a collection of discussions from the WRA Legal Hotline. The library dates back several years with hotline Q&As about disclosure, liability and much more related to Wisconsin real estate law. New hottips are published every week.

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

WRA LEGAL HOTLINE

Find out applicable legal standards, alternatives and possible solutions for your real estate practice questions with this members-only service.

SUBMIT YOUR QUESTION
By phone: 608-242-2296 or 800-799-4468
Online: Visit the hotline webpage

HOTLINE HOURS
Monday-Friday, 8:30 a.m. to 5:00 p.m. Central
Check the hotline webpage for hotline scheduling changes or holiday closures.

HOTLINE WEBPAGE
www.wra.org/LegalHotline

WRA 2022 ANNUAL CONVENTION

October 2-4, Kalahari Resort & Convention Center, WI Dells

www.wra.org/LightItUp

Wisconsin REALTORS® Association / wra.org / 800.241.2047

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Exhibit hall

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ENLIGHTEN

Radiate with new knowledge from exclusive training found nowhere else.

30+ workshops

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Boost Your Brand with Video

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Bulletproof Your Business to Survive the Market Shift

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Ensuring Tree-mendous Value for Buyers and Sellers

Instagram for Real Estate

Investment Real Estate Straight Talk

Owning Waterfront Property: Riparian Rights Issues

Panel: Social Media and Tech Tips for Success

Panel: Success Stories of Top Producers

and more ...

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HOW DOES THE WRA DECIDE WHICH CANDIDATES TO SUPPORT?

BY JOE MURRAY
WRA DIRECTOR OF POLITICAL AND GOVERNMENTAL AFFAIRS

In October of every election year, WRA members receive the official WRA Voter Guide, a comprehensive list of all state and federal candidates endorsed by the WRA and the National Association of REALTORS® (NAR). Most, but not all, of these candidates are incumbents running for reelection. In every election cycle, there are open seats due to retirements or incumbents running for another office.

The WRA decision-making process regarding which candidates to support varies depending on their status as an incumbent or a first-time candidate. So the WRA, like other politically active organizations, vets candidates by analyzing the following three factors.

1. **Incumbents:** The decision on which incumbents to support is fairly straightforward. Incumbents have a voting record on our issues, and the longer the incumbent has held office, the longer the incumbent's voting record. Every two years after the legislative session ends but prior to the November elections, the WRA compiles a voting record on all legislative incumbents. The WRA legislative staff is responsible for analyzing the voting record for state legislators, and NAR is responsible for analyzing voting records on members of the U.S. House and Senate. Once the voting record is compiled and recorded, both the state and national REALTORS® Political Action Committee (RPAC) trustees take a formal position on which candidates to support.

2. **Open seats:** In the 2022 election cycle, there are 30 open state legislative seats and one open congressional district in Wisconsin. With certain incumbents either retiring or running for higher office, open seats require members and staff to identify all the candidates running in these districts and conduct candidate interviews to determine which candidates are most supportive of the real estate industry and property owners.

   The candidate interview process is simple but critically important to the WRA's future legislative success. REALTOR® members and staff from all 30 open legislative districts sit down with the candidates running in each district and discuss the candidates' opinions on policy issues related to real estate. Once the interviews are complete, the interviewing committee of REALTOR® members decides which candidates to support and sends its recommendation to the state RPAC trustees for review and final approval. Once approved, these endorsed candidates receive RPAC and Direct Giver financial support, along with "get out the vote" efforts and other efforts to inform WRA members which candidates deserve our endorsement.

3. **Statewide elections:** In elections for statewide office, our process is similar to open seats in the state legislature. The WRA's strategic advocacy group (SAG) interviews candidates for governor and attorney general, and the SAG makes a recommendation to the WRA board of directors. The WRA board makes the final decision on all statewide elections. The SAG is comprised of current and past leaders of the WRA and has a deep and comprehensive understanding of the WRA's issues. Once the WRA board reaches a decision on which candidates to support, the WRA staff communicates with the membership on those decisions.

"GET OUT THE VOTE" (GOTV) EFFORTS

After the WRA identifies which candidates to support, the process moves to educating, informing and mobilizing members to get out and vote for those candidates. The WRA assembles a list of all candidates and produces the official WRA Voter Guide, which is mailed to all 18,000 members.

The voter guide is a convenient, one-stop resource of NAR- and WRA-supported candidates on the November ballot. Members are encouraged to support these candidates for state and federal office.

Endorsed candidates are selected to receive REALTOR® support based on real estate-related issues. The WRA's recommendation is based on business and economic issues critical to homeowners, property owners and REALTORS® in Wisconsin. Every REALTOR® is encouraged to go to the polls on Tuesday, November 8 and support these candidates who support our issues and our industry. Remember, your personal efforts and your vote will make a substantial difference in the business climate for many years to come. Please vote on November 8.

YOUR FORMS NEEDS, COVERED

From online forms training to digital forms access to forms publications, the WRA is your one-stop shop for everything you need to know about Wisconsin real estate forms. Some products are free, and others come with a fee, but one thing is guaranteed: enhanced forms knowledge. No matter which WRA forms product you choose, you'll boost your contract knowledge and develop the skills you need to utilize forms properly in your transactions. Read on to learn about the complete lineup of WRA forms products.

WRA PDF FORMS LIBRARY

With transaction management software more prevalent than ever, you've probably noticed an increased need in your practice for digital forms. The WRA's PDF forms library gives you the tools to meet this growing demand of digital forms outside of zipForm and other digital forms providers. When you subscribe to the library, you'll gain access to all WRA and WB forms in downloadable PDF format. The library is available as an annual subscription for the DRs of a member office.

Find out more and enroll: www.wra.org/formslibrary

LINE BY LINE FORMS TRAINING

The most comprehensive WB forms training in all of Wisconsin is completely free for WRA REALTOR® and legal section members. With Line by Line, you have access to hours of online training, hosted by WRA Attorney and Director of Training Jennifer Lindsley, walking through each line of the WB forms you use in your transactions. With your foundation of Line by Line training, you'll facilitate smoother transactions, enhance consumer protection, and boost the level of professionalism in the industry.

Start watching for free: www.wra.org/linebyline

TRANSACTIONS (ZIPFORM EDITION)

Complete real estate forms with ease with the electronic forms program Transactions (zipForm Edition). All DSPS-approved real estate forms, WRA-related forms and select Wisconsin State Bar forms are available on Transactions. Even though the National Association of REALTORS® ended member access to zipForm at the end of 2021, the WRA extended access to Transactions (zipForm Edition) to WRA members.

Learn more and sign up: www.wra.org/transactions

NEW FORM AVAILABLE

WRA WIRE FRAUD WARNING FORM (WRA-WFW)

The WRA-WFW is a new one-page educational handout that you can provide to consumers in a transaction to alert them to the dangers of wire fraud and offer some tips to avoid wire fraud.

There is no legal obligation for a real estate licensee to warn a consumer about the risk of wire fraud in real estate. But given the rise in cybercrime affecting the real estate industry, the WRA legal team created the WRA-WFW to help you educate consumers about the potential risks associated with a real estate transaction.

Access your copy in the WRA PDF forms library subscription or your Transactions (zipForm edition) account.

ARE YOU USING CRM TO GROW YOUR BUSINESS?

The key to giving clients what they want lies in understanding them, and a customer relationship management (CRM) system does just that. It facilitates various pieces of the transaction by giving you and the client ease of communication, organized data and improved customer service. All of this streamlines the process of making sure needs are met and actions are resolved in a timely manner.

Your clients are the most important part of your business, and keeping them happy should be your top priority. Don't put your business at risk; invest in a quality CRM tool to show your clients you care about their satisfaction. The CRM process shouldn't be about working harder but about working smarter, so that your clients get what they want — and you do, too.

That's why Realtyzam CRM is designed for real estate agents to manage their sales activity in a fast and easy way.

Simple software: Realtyzam is all about simplicity. Its clean, easy-to-understand interface takes little time to learn and makes tracking your sales activity a breeze.

Keep in touch: Forming and maintaining relationships with clients is one of the most important aspects of a real estate business. Realtyzam CRM lets you store pertinent contact information, follow-up dates, notes, documents and client interactions. With one click, you can export email addresses or format mailing labels for email and postcard campaigns.

Stay organized: When dealing with multiple clients who are in different parts of the buying or selling process, it can be overwhelming to manage sales and administrative tasks. In Realtyzam CRM, you'll have quick access and a complete breakdown of your client activity, including your buyer and seller conversion rates, average commission, prospecting rates and even which lead sources generate the most sales!

Mobile app: As a real estate agent, you're always on the go. With Realtyzam's free mobile app, you can manage your sales activity from anywhere.

For more information, visit **www.realtyzam.com/wra**

This is a contributing article from Realtyzam CRM, a WRA partner.

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Discuss your real estate practice questions with a real estate attorney.

Learn more about all WRA member benefits:
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BROKER SUMMIT
Save the date: December 8 in Pewaukee

Brokers, owners, managers: save the date! The top gathering of Wisconsin real estate brokers, owners and managers will return in 2022 with a combination of in-depth workshops and keynote sessions. Broker Summit gives you insight into the economy, updates on current practice, and ideas for creating new business strategies.

Watch for more Broker Summit details soon.

APPRAISER CE
Earn your credits virtually this fall

Join fellow Wisconsin appraisers this fall in the WRA's slate of appraiser CE courses to learn new skills and discuss issues affecting the industry. Instructors Martin Wagar and Joshua Walitt will equip you with new insights to enhance your valuation techniques, plus you'll be able to earn CE credits early during your 2022-23 biennium.

And you don't even have to leave the house — with virtual course delivery, you'll be able to earn your credits, listen to the instructor, and discuss industry issues entirely online! See page 32 for the complete list of courses.

Register: www.wra.org/App22CE

CRAFT AN EFFECTIVE SUCCESSION PLAN
CRS succession and retirement course: October 2

You built your business with blood, sweat and tears — make sure it lasts even after you retire. The CRS one-day course, “Succession Planning: Building, Valuing and Selling Your Business,” guides you through a process-oriented sequence to help you develop a strong business and succession/retirement plan. You’ll leave with strategies to help you analyze the market, value your business and create a succession plan.

Date/time: October 2, 9:00 a.m. – 5:00 p.m.
Location: Live in Wisconsin Dells
Instructor: Chandra Hall
Fee: $179

Register: www.wra.org/LightItUp

CULTIVATE CONFIDENCE AND ENHANCE PRESENTATIONS
PMN course: October 2

Gain the tools you need to comfortably step up and step out into your leadership role with confidence, clarity and conviction. The PMN one-day course, “Cultivating Confidence with Powerful Presentations,” reviews the value of a powerful presentation, how to perfect your stage presence and create noteworthy moments — all while incorporating your personal style.

Date/time: October 2, 9:00 a.m. – 5:00 p.m.
Location: Live in Wisconsin Dells
Instructor: Sam Powell
Fee: $179

Register: www.wra.org/LightItUp

See the complete calendar: www.wra.org/coursecatalog

OFFERING	FORMAT	DETAILS & REGISTRATION
EVENTS		
Annual Convention: October 2-4, 2022	Live in Wisconsin Dells	www.wra.org/LightItUp
Broker Summit: December 8, 2022	Live in Pewaukee	Brokers, owners, managers: save the date!
PRE-LICENSE TRAINING		
SCHEDULED TRAINING		
Sales Pre-exam Review Webinar: October 7, 2022	Virtual webinar	www.wra.org/SPLwebinar
ONGOING TRAINING		
Broker Pre-license Course	On Demand	www.wra.org/BPL
Sales Pre-license Course	On Demand	www.wra.org/SPL
PROFESSIONAL DEVELOPMENT		
SCHEDULED TRAINING		
CRS Succession Planning Course: October 2, 2022	Live in Wisconsin Dells	www.wra.org/LightItUp
PMN Course: Cultivating Confidence: October 2, 2022	Live in Wisconsin Dells	www.wra.org/LightItUp
ONGOING TRAINING		
GRI On Demand	On Demand	www.wra.org/GRI
Line by Line Forms Training	On Demand	www.wra.org/LinebyLine
Quick Start	On Demand	www.wra.org/QuickStart
REAL ESTATE CONTINUING EDUCATION		
SCHEDULED TRAINING		
Courses 1 & 2: September 13, 2022	Virtual / live in Madison	www.wra.org/Sept2022CE
Courses 3 & 4: September 15, 2022	Live in Brookfield	www.wra.org/Sept2022CE
Courses 3 & 4: September 15, 2022	Live in Lake Geneva	www.wra.org/Sept2022CE
Courses 3 & 4: September 20, 2022	Virtual / live in Madison	www.wra.org/Sept2022CE
Courses 5 & 6: September 22, 2022	Live in Brookfield	www.wra.org/Sept2022CE
Courses 1 & 2: September 26, 2022	Live in Hayward	www.wra.org/Sept2022CE
Courses 3 & 4: September 27, 2022	Live in Hayward	www.wra.org/Sept2022CE
Courses 5 & 6: September 27, 2022	Virtual / live in Madison	www.wra.org/Sept2022CE
Courses 5 & 6: September 29, 2022	Live in Lake Geneva	www.wra.org/Sept2022CE
Courses 4 & 6: October 2, 2022	Live in Wisconsin Dells	www.wra.org/LightItUp
ONGOING TRAINING		
2021-22 Real Estate Residential CE Courses 1-6	On Demand / Self-study	www.wra.org/21-22CE
2021-22 Real Estate Commercial CE Courses 1-6	On Demand	www.wra.org/21-22CommCE
2021-22 Real Estate WI & MN Dual Credit CE Courses 1-6	On Demand	www.wra.org/21-22DualCE
APPRAISER CONTINUING EDUCATION		
SCHEDULED TRAINING		
Sales Comparison Approach: October 4, 2022	Live in Wisconsin Dells	www.wra.org/LightItUp
FNMA's Collateral Underwriter: October 14, 2022	Virtual livestream	www.wra.org/App22CE
ANSI Z765 Measuring Standard: October 20, 2022	Virtual livestream	www.wra.org/App22CE
Adjustments in the Real World: October 26, 2022	Virtual livestream	www.wra.org/App22CE
Avoiding Review Issues: October 27, 2022	Virtual livestream	www.wra.org/App22CE
Future of the Mortgage Appraisal: November 2, 2022	Virtual livestream	www.wra.org/App22CE
2022-23 7-hour USPAP Update: November 16-17, 2022	Virtual livestream	www.wra.org/App22CE


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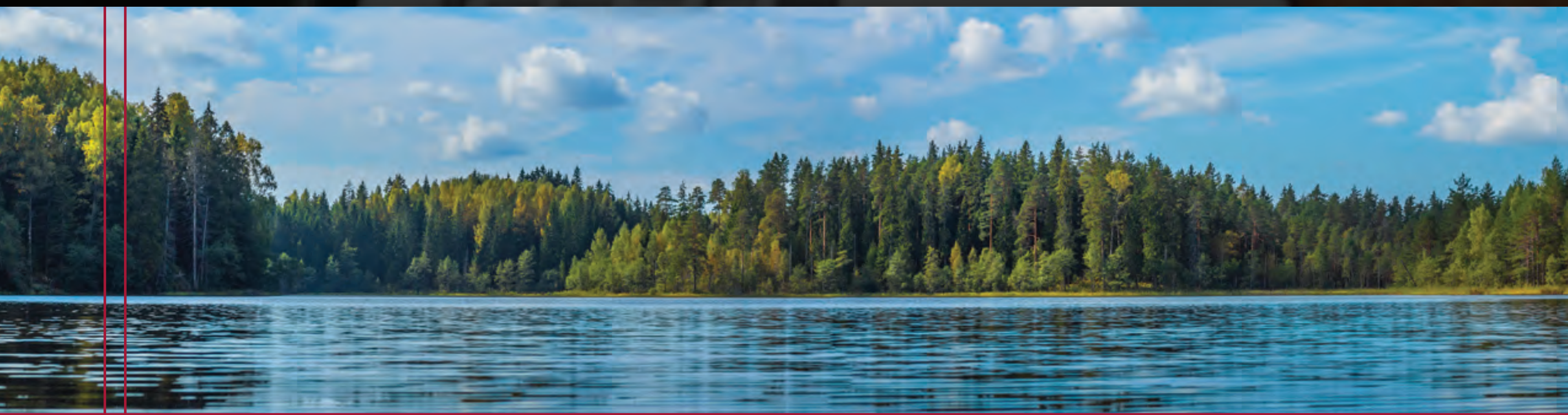
Previously a subscription-based series, Line by Line is now available for free as part of WRA membership* and gives all members equal access to the best Wisconsin-based real estate forms training on the market.
GET STARTED: WWW.WRA.ORG/LINEBYLINE
* This video series is free for WRA REALTOR® members and legal section members.



DO YOU KNOW THESE 10 REAL ESTATE AND TECH ACRONYMS?

TEST YOUR KNOWLEDGE

The real estate industry has historically been a bastion of alphabet soup. Think about how long we have been saying “NAR” for 50 years, “FNMA” pronounced as “Fannie Mae” for 84 years, and “MLS” for 100 years!

Integrating technology into the daily lives of real estate agents has accelerated the proliferation of acronyms. Thank goodness for Google — but then again, some of these acronyms are sometimes even hard to Google because they are specific to real estate. So here is a list of the 10 modern real estate and tech acronyms every real estate agent needs to know.

ARV: AFTER-REPAIR VALUE

With the advent of a new category in real estate called “concierge services,” the use of ARV is becoming commonplace. Concierge startup companies like Revive Real Estate and Curbio can help sellers quickly renovate now and pay at closing to maximize their home sales.

AVM: AUTOMATED VALUATION MODEL

Zillow and its zestimates may have popularized the term AVM, but today, there are dozens of alternative online estimates. Some are leveraging computer learning and artificial intelligence to estimate home values better and inching closer to the values created from a full, in-person appraisal. As a result, the term AVM will only get more popular.

COCR: CASH-ON-CASH RETURN

The recent and rapid increase in real estate values will likely result in more of your sellers becoming interested in real estate investment. In real estate, CoCR calculates the cash income earned on the cash invested in the property. This is a math calculation: divide the net cash flow by the total cash invested.

DEFI: DECENTRALIZED FINANCE

The metaverse, crypto and blockchain may be down, but they are not out. Even traditionalists see value emerging from blockchain use, and DeFi is one of them. For example, instead of a traditional bank providing a loan to purchase real estate, DeFi potentially offers the ability to finance a real estate transact ion — either paid by bitcoin or providing a mortgage. The difference is that the review for approval and funding would be nearly instant. And unlike a traditional mortgage, one could potentially sell off fractional shares of their property to pay off the mortgage. That may seem far-fetched, but consider that the second-home firm Pacaso is modeled after 1/8 fractional share ownership.

LLC: LIMITED LIABILITY CORPORATION

Real estate investors have embraced the LLC since its creation in 1977. Today, the term is becoming more mainstream as creative real estate startups are using the LLC structure to help sellers buy their next home before selling their current home. Other firms are using the LLC structure to create their 1/8 ownership model, allowing eight different sets of buyers to own real estate.

NFC: NEAR-FIELD COMMUNICATIONS

If you have seen others share their contact info with a tap of their phones, you have witnessed NFC in action. For real estate, NFC has more potential opportunities than delivering a digital business card. For example, marketing-enabled NFC “smart signs” allow shoppers to interact with your “for sale” sign from their mobile phones. In the UK, agents give out branded, NFC-enabled key rings for a listing. Then, as they tour, the NFC technology can share floor plans, photos and more — before they even leave the property. Think of it as a wireless thumb drive.

NBIC: NANOTECHNOLOGY, BIOLOGY, INFORMATION TECHNOLOGY AND COGNITIVE SCIENCE

Researchers look at NBIC as “converging technologies for improving human performance.” In a nutshell, advancement in these areas is overlapping more and more. NBIC’s goal is to enable human populations to be stronger, healthier and more capable. Relevance to real estate? Sustainability issues that impact housing and other real estate development. For example, the Bartlett School of Architecture at the University of London is modeling coursework for systems architecture that uses NBIC to address sustainability challenges. Among the direct impacts: a new generation of smart materials used to construct buildings and eventually homes.

NOO: NON-OWNER OCCUPIED

Most agents are familiar with this lender classification, which means the owner does not occupy the property as a primary residence; it is considered a rental property. Effectively, risks are higher with NOO property, meaning lender interest rates are higher than those for a primary residence. The increase in NOO property, especially in single-family homes, has exploded with the growth of both individual and institutional investors.

RESO: REAL ESTATE STANDARDS ORGANIZATION

Think of RESO as real estate’s *Rosetta Stone*. RESO makes it possible for all the data collected from hundreds of different MLSs to be standardized. For example, RESO’s work makes MLS data usable in the national mobile apps consumers use to search for properties. RESO is to real estate as the IEEE is to Bluetooth. RESO may be invisible to most agents and their clients, but real estate transactions are improving from the standardized data work that RESO volunteers are doing.

SAAS: SOFTWARE AS A SERVICE

You can thank the internet, or the “cloud,” for the massive proliferation today of SaaS firms and the subscription services you pay to use your favorite software. SaaS caused the death of the software CD. Today, the most popular software is delivered and accessed through the cloud. In real estate, most technology is SaaS, from transaction management platforms to comparative market analysis (CMA) solutions.

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