WISCONSIN REAL ESTATE MAGAZINE

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August 2021 Vol. 37, No. 11

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[1]CoreLogic Mortgage Recordings: Dane County 39 consecutive months as of March of 2021.

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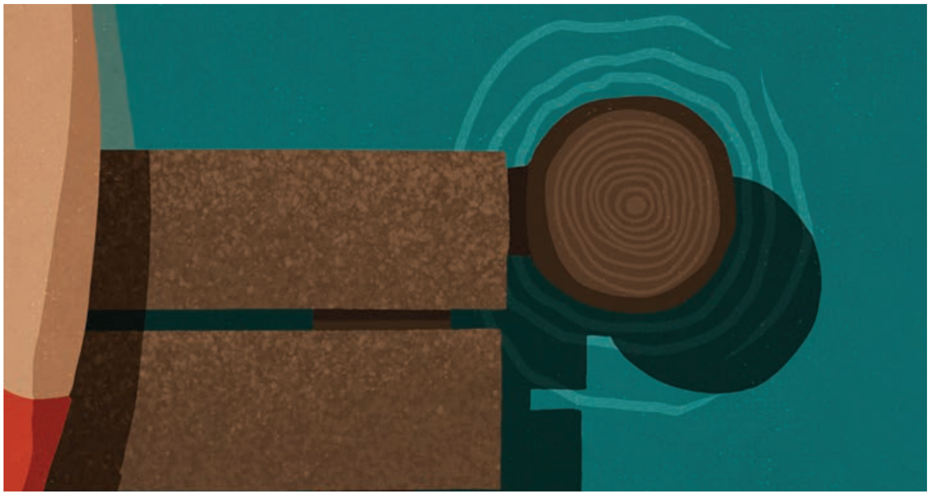

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Riparian Rights Restored
Last month, Gov. Tony Evers signed into law AB 37/SB 46, legislation that will return 140 years of riparian rights to waterfront property owners across the state. In this month's feature story, learn how this new legislation will affect your waterfront property transactions and why this is a major win for property rights in the Badger State.

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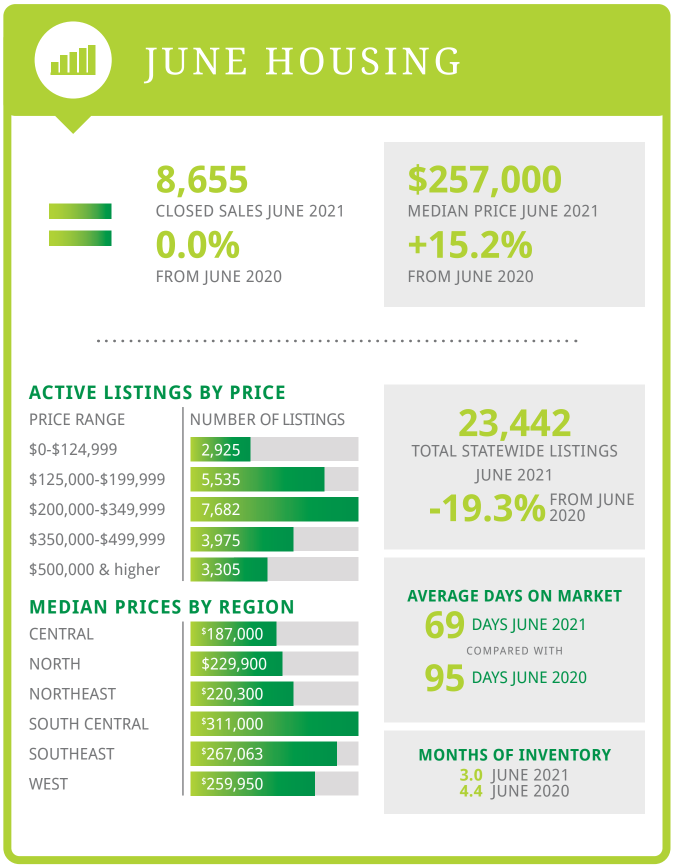
BY **DAVE CLARK**
PROFESSOR OF ECONOMICS AT MARQUETTE UNIVERSITY
PRINCIPAL AT ECON ANALYTICS, LLC
WISCONSIN MONTHLY HOUSING REPORT

WISCONSIN HOUSING MARKET *Strong in First Half of 2021*

The housing report at a glance:

- Through the first half of 2021, existing home sales rose 8.4% relative to that same period last year, and median prices were up 11.9% over that same period to $235,000 on continued tight inventory.
- June home sales kept pace with sales in June 2020, whereas median prices rose 15.2% to $257,000 over the 12-month period.
- While total listings in June were 19.3% below listings from a year earlier, the number of new listings were up 9.6% compared to June 2020.
- Average days on the market dropped to just 69 days in June, down from 96 days in June 2020. This is the lowest statewide figure on record since the WRA began tracking days on the market in 2005.
- The strong price pressure caused housing affordability to slip 9.5% compared to June 2020.

See the full report: www.wra.org/HSRJune2021



HOUSING STATISTICS MONTHLY ACTIVITY

Statewide	June 2021	June 2020	% Change	YTD 2021	YTD 2020	% Change
New Listings	11,548	10,532	+9.6%	N/A	N/A	N/A
Total Listings	23,442	29,038	-19.3%	N/A	N/A	N/A
Closed Sales*	8,655	8,659	0.0%	38,531	35,549	+8.4%
Median Sales Price	$257,000	$223,000	+15.2%	$235,000	$210,000	+11.9%
Months of Inventory	3.0	4.4	-31.8%	N/A	N/A	N/A
Avg. Days on Market	69	95	-27.4%	N/A	N/A	N/A
Affordability Index	182	201	-9.5%	N/A	N/A	N/A

	Median Price			Closed Sales		
Region	**June 2021**	**June 2020**	**% Change**	**June 2021**	**June 2020**	**% Change**
Central	$187,000	$165,000	+13.3%	571	610	-6.4%
North	$229,900	$190,000	+21.0%	881	1,011	-12.9%
Northeast	$220,300	$184,000	+19.7%	1,495	1,620	-7.7%
South Central	$311,000	$262,000	+18.7%	1,746	1,741	+0.3%
Southeast	$267,063	$240,000	+11.3%	3,188	2,865	+11.3%
West	$259,950	$210,000	+23.8%	774	812	-4.7%

*Report criteria: Reflecting data through June 2021. *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

Enhance Your Professionalism with Professional Pointers

Introducing Professional Pointers, an exciting new feature to enhance professionalism and success in your practice. You'll find the weekly Professional Pointer every week in your inbox, your social media feed and on the WRA website. Be sure to subscribe to the WRA Legal News Weekly email and follow the WRA on social media to see the Professional Pointer each week. Plus, you'll find the most recent Professional Pointer on the WRA homepage.

The Inaugural Pointer: Professional Communication
Is a listing agent required to provide a buyer's agent or a buyer, upon their request, with a copy of their rejected offer, showing it was rejected by the seller?

Although it is wonderful when this documentation is provided to the buyer, the listing agent cannot compel the seller to document their rejection on the offer. An agent is, however, required to provide a written statement indicating when an offer was presented if requested by the buyer or the agent working with the buyer. Additionally, if requested by the agent working with the buyer or the buyer, the listing agent shall provide a written statement indicating when the offer was rejected or expired without acceptance.

The mark of a professional is to go beyond what is required by law and voluntarily let buyers know what has happened to their offer. A professional agent promptly communicates with others and does not leave buyers and their agents waiting in suspense. No agent wants to be put in the position of trying to give an answer to a frustrated buyer when they have no idea what has happened.

See all pointers: www.wra.org/ProfessionalPointers.

WRA Holiday Hours

The WRA and the WRA Legal Hotline will be closed the following dates in celebration of Labor Day:

• Sunday, September 5: The hotline will be closed during its usual Sunday hours.

• Monday, September 6: The WRA and the hotline will be closed.

Normal business hours for both the WRA and the hotline will resume on Tuesday, September 7. The WRA wishes our members a very happy and safe Labor Day!

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BY **TOM LARSON**
EXECUTIVE VICE PRESIDENT
FEATURE

Riparian Rights Restored

The classic tale of a family feud, collateral damage and righting a wrong

On June 18, 2021, Gov. Tony Evers signed into law 2021 Wis. Act 47, one of the most impactful pieces of Wisconsin property rights legislation in recent years. But how did we get here?

Like all classic court cases that lead to legislation, the story begins with a brother and sister arguing over something.

The Lobermeiers, the brother, own land beneath the waters of Sailor Creek Flowage. Historically, the flowage was a creek, but in the 1940s, the city obtained the rights to flood the area with a dam, which resulted in the flowage. The property adjacent to the flowage was subdivided, and waterfront lots were sold off as part of Sailor Creek Flowage Subdivision.

The Movriches, the sister, purchased one of the waterfront lots in the subdivision. For years, the Movriches and the other waterfront property owners placed seasonal piers that sat on the bed of the flowage. The Movriches and Lobermeiers had a dispute, and the Lobermeiers demanded that the Movriches and the other property owners remove their piers from the water and refrain from using the water for recreational purposes.

THE LEGAL PROCESS

In response to the demand, the Movriches filed a lawsuit, asking the circuit court for a declaratory judgment establishing their right to install a pier. The Movriches maintained that waterfront property owners have an inherent right to reasonable use and access to the waters that are adjacent to their property, and that the Public Trust Doctrine set forth in the Wisconsin Constitution guarantees public access to the water.

The Lobermeiers argued the Movriches did not have pier rights because the Lobermeiers owned the flowage bed, as set forth in the legal description of their deed, which allowed them to prevent others from trespassing on their property, including the placement of a pier that touched the flowage bed.

What is a flowage?

A flowage is a body of water created by a dam, but not all flowages are the same. Some are created by damming lakes, while others are formed by damming rivers and streams. The bed of a flowage created by a lake is generally owned by the public, and the bed of a flowage created by a river or stream is generally owned by a private entity. Wisconsin has approximately 260 flowages around the state.

Both the circuit court and Court of Appeals agreed with the Movriches and held that riparian owners have the right to place a pier in all navigable waterways.

What is a riparian owner?

Under Wisconsin law, an owner of property adjacent to a navigable waterway, who is often referred to as a "riparian," has certain rights related to reasonable use and enjoyment of the waterway. Generally, these riparian rights were considered to include the right to place a pier as long as the pier did not unreasonably restrict the public's right to reasonable use and enjoyment of the waterway, which is protected under the Public Trust Doctrine in the Wisconsin Constitution.

THE WISCONSIN SUPREME COURT GOT IT WRONG

In a 4-3 decision, the Wisconsin Supreme Court ruled in favor of the Lobermeiers, finding that the property owners along a flowage created by a creek do not have an inherent right to place a pier. The court explained that the Lobermeiers owned a fee simple interest in the land underneath the flowage waters, which entitled them to exclude others from placing a pier or structure on the property. Because the Movriches' deed did not explicitly authorize them to place a pier on the Lobermeiers' property, the court concluded that they did not have pier rights. The court stated in part, "Any property rights the Movriches may enjoy in regard to the man-made body of water created by the flowage easement must be consistent with the Lobermeiers' property rights or the flowage easement's creation of a navigable body of water."

The court, however, determined the Movriches and the other riparians along the flowage may directly access the water from their property. The Lobermeiers argued that the Movriches could not access the water from their property and, instead, must access the water from a public access area.

THE IMPACTS OF THE COURT'S HOLDING WERE FAR-REACHING

Property values

By declaring not all riparians have the right to place a pier, this case had a significant impact on the value of numerous waterfront properties in Wisconsin because the ability to place a pier adds value to waterfront property. According to a 2007 Wall Street Journal article, "When the Dock Is Worth More Than the House," homebuyers in certain parts of the county sometimes pay twice as much for a home that includes its own dock. In some areas of the Midwest, the ability to place a pier can add $15,000 to $20,000 to a property's value, according to the article.

In Wisconsin, while difficult to measure in terms of exact dollars, the financial impact of pier rights to waterfront property values will likely be substantial throughout the state. Some homeowners have invested thousands of dollars on piers, boats and other recreation vehicles with the expectation these items could be used to enjoy their waterfront property. Moreover, some businesses have likely purchased property along a flowage with the expectation that their customers will be able to access their business directly from the water. In fact, some businesses such as restaurants, marinas and gas stations rely exclusively on customers who access their businesses by a boat and park at their pier.

v**Thousands of properties impacted**

The court's ruling applies to all flowages and potentially other man-made bodies of water in Wisconsin. Thousands of lakes in Wisconsin are considered man-made, resulting from either the artificial raising of water levels or the damming of rivers and streams, including large bodies of water such as Lake Koshkonong, Lake Wisconsin and the various chains of lakes in areas like Minocqua and Eagle River.

All piers were implicated

The court's ruling applies broadly to (a) all piers, even floating piers, (b) existing piers that have been placed for decades, and (c) waterfront property that has been assessed for property tax purposes as having pier rights for years. Because of the court's ruling, affected property owners may now be forced to either remove their pier or pay several hundred dollars for a "dock license fee" to keep their existing pier.

WRA RESPONSE: LEGISLATION

Introduced in the 2019-20 legislative session, the WRA supported legislation seeking to clarify that all waterfront property owners, even those with land abutting flowages and artificial waterways, have the right to place a pier subject to the regulations in Chapter 30 of the Wisconsin Statutes. However, due to COVID-19, the Senate did not meet, and the bill failed to pass its final step. Therefore, once the legislature was back in the Capitol and engaging in bills, the legislation was reintroduced on January 28, 2021, as SB 46/AB 37, was signed into law and became effective June 20, 2021.

WHAT DOES THE NEW LAW DO?

The new law restores the presumption of riparian rights for waterfront property owners, including a right to place a pier, other structures or deposits, unless those rights are specifically prohibited by the deed to the land, written agreement or other recorded instrument. The riparian rights are subject to federal law, state law or a federal energy regulatory commission (FERC) license.

What is a FERC license?

Under the Federal Power Act, FERC "can license or re-license hydroelectric projects, including new hydrokinetic technologies" according to "Hydropower Licensing – Get Involved: A Guide for the Public," available at **www.ferc.gov/sites/default/files/2020-04/hydro-guide.pdf.**

With respect to flowage beds owned by hydroelectric utilities, the following provisions are included:

- Existing piers and structures are grandfathered. No fees can be charged unless the fee was authorized as part of an existing agreement.

- New piers and structures must receive authorization from hydroelectric utilities, but authorization can be denied only if the placement of the structure would violate federal or state law or invalidate a FERC license. A reasonable fee can be charged, but only in an amount necessary to administer the FERC license program. Fees can be appealed to the Public Service Commission (PSC).

- A hydroelectric utility is immune from liability if someone gets hurt on the riparian's structure.

Effective July 1, 2022, new disclosures are added to the Real Estate Condition Report and the Vacant Land Disclosure Report to make prospective buyers aware of the limited riparian rights possessed by waterfront property owners along flowages with beds owned by hydroelectric utilities.

Please note that while both of the WRA's condition reports currently include the disclosure, because the language is not yet statutorily required, the language has been placed in italics.

QUICK TIPS FOR REALTORS® ABOUT THE NEW LAW

The deed controls

Check the deed. If the deed expressly states the property does not have pier rights, or that the property is not waterfront, or that the property owner does not have riparian rights, then the deed controls. The new law does NOT trump the deed language.

Not all waterways are the same

Know the type of body of water on which the property is located. Under the new law, property owners looking to place new piers and structures on a flowage bed owned by hydroelectric utilities will need to request permission from the hydroelectric utility before doing so. While such requests can be denied only in very limited circumstances, the placement of such piers and structures is not a guarantee.

Wisconsin has over 15,000 lakes and 84,000 miles of rivers and streams. Thus, the case serves as a good reminder that not all bodies of water are the same. Each body of water is unique, and the regulations, restrictions and rights associated with the use of each body of water may be different.

Tom Larson is Executive Vice President for the WRA.

30.132 Riparian rights.

(1) DEFINITIONS. In this section:

(a) "Commission" means the public service commission.

(b) "Hydroelectric operator" means an operator of a project.

(c) "Project" means a hydroelectric project regulated by the federal energy regulatory commission or the department.

(d) "Project riparian" means an owner of land that abuts a navigable waterway, the abutting bed of which is owned by a hydroelectric operator.

(2) PRESUMPTION OF RIPARIAN RIGHTS. An owner of land that abuts a navigable waterway is presumed to be a riparian owner and is entitled to exercise all rights afforded to a riparian owner, including the right to place a pier, other structures, or deposits, even if the bed of the waterway is owned in whole or in part by another, unless those rights are specifically prohibited by the deed to the land, written agreement, or other recorded instrument. The exercise of these riparian rights is subject to the requirements of this chapter and, if the waterway is within the boundaries of a project, the reasonable restrictions imposed by the hydroelectric operator necessary for the hydroelectric operator to comply with requirements imposed under state or federal law or a federal energy regulatory commission license.

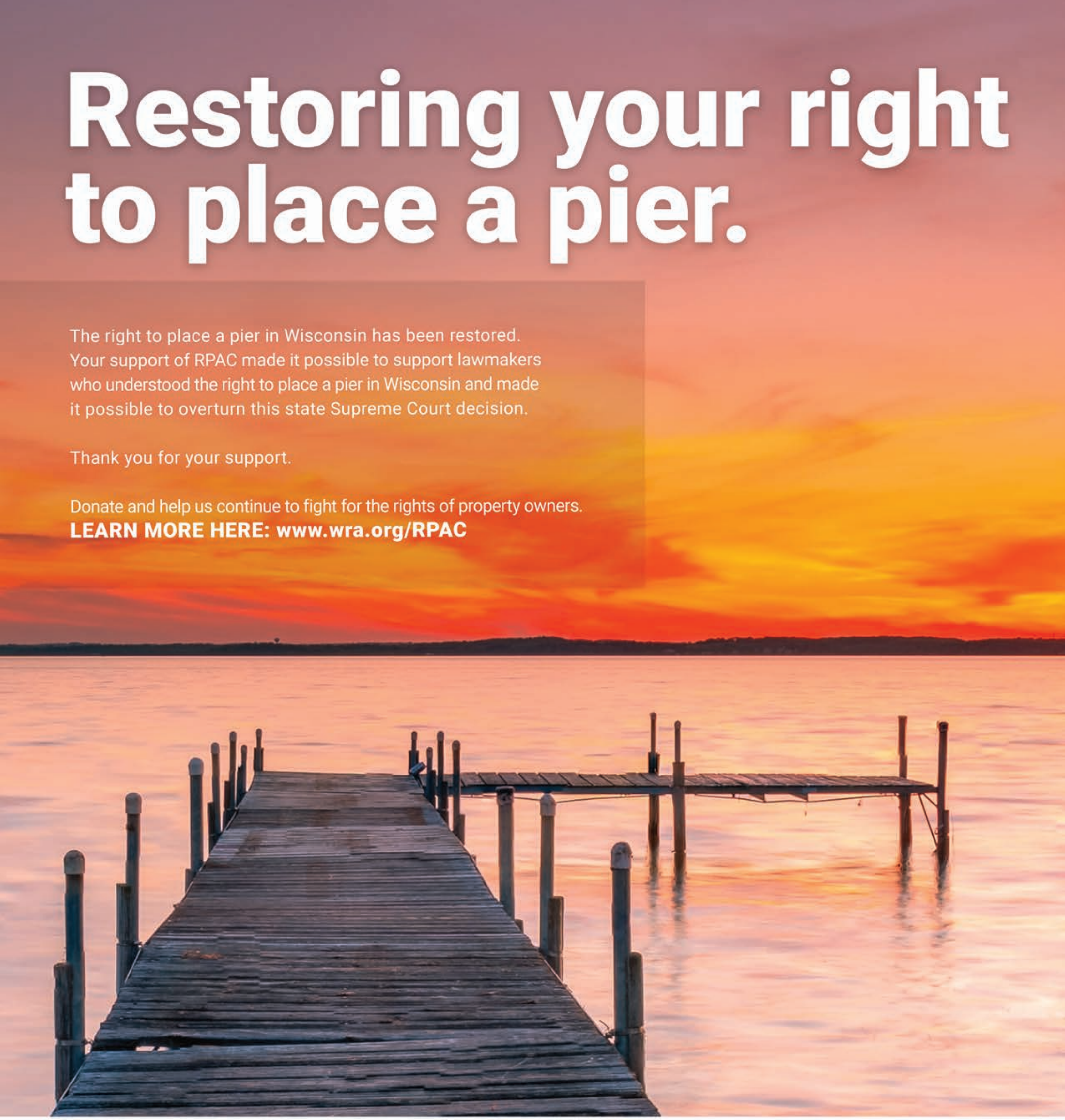
(3) PROJECT RIPARIAN RIGHTS. (a) Application to exercise riparian rights. A project riparian may make written application to the applicable hydroelectric operator for permission to exercise a riparian right in a waterway within the boundaries of a project, including the right to place a pier or other structures or deposits and the right to modify an existing structure authorized under par. (b), subject to the requirements of this chapter. The hydroelectric operator shall approve or deny an application under this paragraph no later than 60 days after receiving the application. The hydroelectric operator may deny an application under this paragraph only if necessary for the hydroelectric operator to comply with requirements imposed under state or federal law or a federal energy regulatory commission license but may approve the application subject to reasonable restrictions necessary for the hydroelectric operator to comply with requirements imposed under state or federal law or a federal energy regulatory commission license. The hydroelectric operator may charge an applicant a reasonable fee to cover the hydroelectric operator's administrative costs related to a structure or deposit that is approved under this paragraph.

(b) Existing structures. Notwithstanding par. (a), a project riparian may maintain a structure that was placed in a waterway within the boundaries of a project prior to June 20, 2021, subject to the requirements of this chapter and the reasonable restrictions imposed by the hydroelectric operator necessary for the hydroelectric operator to comply with requirements imposed under state or federal law or a federal energy regulatory commission license. A hydroelectric operator may not charge a fee related to a structure authorized under this paragraph unless a fee is provided for in an agreement between the hydroelectric operator and the project riparian that existed prior to June 20, 2021.

(c) Appeal to the commission. A project riparian whose application is denied or approved with restrictions or who is charged an unreasonable fee under this subsection may appeal in writing to the commission. The commission may investigate the appeal and issue an order based on its investigation. The commission may not issue an order under this paragraph without a public hearing conducted in accordance with s. 196.26 (2).

(d) Immunity from liability. A hydroelectric operator is not liable to any person for any injury or damage arising from a project riparian's use of the hydroelectric operator's property as provided in this section.

(4) EFFECT ON ENFORCEABLE INTERESTS. Nothing in this section invalidates any interest, whether designated as an easement, covenant, equitable servitude, restriction, or otherwise, which is otherwise enforceable under the laws of this state.



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BY **TRACY RUCKA**
DIRECTOR OF PROFESSIONAL STANDARDS AND PRACTICES
LEGAL

The Best of the Legal Hotline

Riparian rights and piers

Wisconsin is fortunate to have thousands of lakes and thousands of miles of rivers and steams. Chances are you will find yourself in a transaction where the buyers and sellers are discussing piers. This month's hotline article provides resources and answers about piers.

A buyer is concerned that a pier/dock is not included in the sale of a home because the seller is asking the buyer to pay for it separately if the buyer wants it. It was not specifically mentioned in the offer to purchase, however it was indicated in the "exterior features" of the home on the MLS. The buyer thought this meant the pier was being conveyed with the home. How to proceed?

The WB-11 Residential Offer to Purchase on lines 17-18 informs buyers and sellers that the offer, not the listing or marketing materials, determines what is or is not included in the sale. The WB-11 definition of "fixtures" at line 36 includes docks and piers on permanent foundations. Therefore, if the pier is on a permanent foundation, it is included. If, on the other hand, it is removable or portable, then it would need to be specifically listed as an inclusion to be part of the sale.

The buyer and seller have an accepted offer on a lake property. The buyer just received the loan commitment from the lender, and one of the conditions on the loan commitment is that the pier needs to be removed from the offer to purchase. The buyer doesn't want to do that because they want to ensure that the removable pier sections are being left. How can the agent proceed so that the underwriter gets what they're looking for and the buyer is still protected?

Removable piers are personal property, and it is understandable why the lender has made the request. However, the broker and buyer must proceed with caution to assure any amendment to the offer accurately reflects what is occurring to avoid mortgage fraud and simultaneously assure the piers are sold to the buyer and not removed by the seller. To have an amendment stating the piers are no longer a part of the offer allows the seller to remove them. To just say the piers are not a part of the transaction, and the buyer and seller have a side deal to leave them, could be considered mortgage fraud. Likewise, using phrases such as "left at convenience of seller" or "no value," when there is, could also be problematic.

The broker has a lake property listed. After the offer was accepted, it was discovered there is a 10-foot-wide easement over the property to provide access to the lake for an adjacent landowner. The buyer wants to know if he can block the owner of the backland from crossing over the easement to get to the lake. How should the broker advise the parties about these questions?

The Wisconsin Statutes, in §§ 30.133 and 31.131, regulate riparian easements and pier placement. Wis. Stat. §30.133 prohibits the conveying of riparian rights except the crossing of land after 1994. The law ended the right for a riparian owner to convey the right of a non-riparian owner to build a pier; however certain preexisting easements may be grandfathered. Because the value of the property and the rights in the easement are unique in each easement, it is important to make sure that buyers and sellers of property subject to easements understand the meaning of the easement language. There are several Wisconsin cases addressing the scope of easements and riparian rights, therefore REALTORS® should encourage parties to seek the advice of legal counsel to help them better understand the meaning of the easement and the scope of the rights conferred.

The broker will best serve the potential buyer by referring the potential buyer to private legal counsel because the broker cannot give legal advice. The broker may work with the title company to obtain a copy of the easement to facilitate review by the buyer's attorney. The broker may suggest that the buyer and the owner of the backland speak with an attorney and the Wisconsin Department of Natural Resources regarding riparian rights and the rights of easement holders.

If a pier is included with the purchase, is the lake aerator attached to the pier also included?

The first question is, did the buyer and seller specifically include the aerator in the offer? If not, the fixture provisions of the offer to purchase provide some general guidelines for analyzing such items. For the aerator to be included as a fixture, is must be an item of property, which, under certain circumstances, may be treated legally as personal property, but which has become so attached to land or buildings, or is used in such close association with the land or buildings, that it is treated as a part of the land. The courts have attempted to lay down certain tests to determine when an article takes on the character of a fixture. (1) Is the article physically attached? Is it easily removable without damage to the premises? If it cannot be removed without serious damage either to the item or premises, it is practically conclusive that it is a fixture. (2) Is there a special adaptation between the article and the premises? (3) What is the intent of the person attaching the article to the premises? Are there general community "customs"?

If the parties are unable to reach a resolution about the lake aerator themselves or a financial adjustment therefor, they may be referred to private legal counsel to review the transaction. If the parties cannot agree, these questions may need to be resolved by the court.

See pages 11–12 of **Legal Update** 03.11, "Overcoming Residential Transaction Obstacles," at www.wra.org/LU0311 for a discussion regarding fixtures.

The buyer is considering purchasing a waterfront property. What information may the broker provide on riparian rights?

In Wisconsin, a person who owns land on a lake or river has what are known as riparian rights. These include the right to use the water adjacent the property, the shoreline and the water, and access to the water. The riparian owner's rights are regulated by statute, the public trust doctrine, shoreland zoning and local ordinances. The Wisconsin Department of Natural Resources (DNR) provides one of the most comprehensive sources for information at https://dnr.wisconsin.gov/topic/Waterways.

Tracy Rucka is Director of Professional Standards and Practices for the WRA.

Resources

Piers

- General information about piers and waterway recreation in Wisconsin: dnr.wi.gov/topic/waterways/recreation/piers.html

DNR Pier Planner

- Specific information about piers and pier permits: dnr.wi.gov/topic/waterways/factsheets/pier_planner_082012.pdf

- The interactive feature at dnr.wi.gov/topic/waterways/recreation/piers.html allows the consumer to find information for new or existing piers.

Public Trust Doctrine

- dnr.wisconsin.gov/topic/Waterways/about_us/whyRegulate.html

Shoreland zoning

- General information about shoreland zoning: dnr.wi.gov/topic/ShorelandZoning

- October 2016 *Legal Update*, "Shoreland Zoning Update 2016": www.wra.org/LU1610

- WRA informational summary of issues of interest for riparian property owners including zoning and non-conforming structures: www.wra.org/WREM/Jun12/LegalHotline

Mitigation plans

- If the property is subject to a shoreland mitigation plan, that plan must be recorded with the county. The owners may contact the registrar of deeds or the title company for copies of any recorded mitigation plan. See pages 3-5 of the September 2010 *Legal Update*, "County Shoreland Zoning Rules," at www.wra.org/LU1009, and check with the county zoning authority for any applicable specific rules.

- A copy of Wis. Stat. Chapter 30: http://docs.legis.wisconsin.gov/statutes/statutes/30

BY **DEBBI CONRAD**
SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS
LEGAL

Ransomware Runs Rampant

How much would you pay for your data?

Have you been following the news abut the ransomware attacks worldwide? Ransomware is a threat to the security of your business data, computer system, local REALTOR® association and MLS, and it also can impact other aspects of your life including the gas in your car and the meat on your table. Hackers from Russia and former Soviet bloc countries have been breaking into private computer systems with increasing frequency to the extent this has become a national security issue in 2021.

In recent months, ransomware gangs have launched several high-profile attacks, including on major fuel supplier Colonial Pipeline, meat processor JBS with several facilities in Wisconsin, schools working virtually in the midst of a pandemic, and hospitals such as Universal Health Systems where nurses resorted to pen and paper. Then there was the REvil ransomware attack on Kaseya, a company that provides remote management software. Sixty of its managed service providers and 1,500 of their small business clients worldwide were impacted. On its dark website, REvil offered Kaseya a universal decryptor software key that would unscramble all affected machines in exchange for $70 million in cryptocurrency. Most recently Cloudstar, a cloud-hosting service for several real estate-related industries, became the victim of a highly sophisticated ransomware attack on July 16, 2021. Cloudstar operates five data centers and provides support to more than 42,000 title insurance, mortgage and other professionals throughout the U.S. Commentators have noted this appears to be an emerging trend in ransomware attacks where hackers disrupt industries' infrastructures rather than targeting individual businesses.

RANSOMWARE

Ransomware is an extremely lucrative type of cybercrime. Hackers use malicious software to encrypt a victim's files or lock an operating system and demand a ransom payment to make them functional again. Sometimes the hackers will steal and threaten to publish sensitive files if their demands are not met. Ransomware is designed to spread across a network and target database and file servers, so it can quickly paralyze an entire organization. But ransomware also can target individuals and companies of all sizes.

Ransomware attacks have grown rapidly in recent years. American victims lost an estimated $1.4 billion in 2020. Criminal hackers, often based in countries like Russia where they are largely protected from U.S. law enforcement, have targeted practically every major industry to shake down victims for payment. The White House is engaging directly with the Russian government on this matter and delivering the message that responsible states do not harbor ransomware criminals.

PROTECTING AGAINST RANSOMWARE

First it is important to understand how cybercriminals get into a computer system. Ransomware infections are initiated in various ways.

The most common means of infection according to the FBI's 2020 Internet Crime Report are:

- Email phishing campaigns: The cybercriminal sends email containing a malicious file or link that deploys malware when clicked by a recipient. Once they've gained access, criminals may also use a victim's email account to further spread the infection.

- Remote Desktop Protocol (RDP) vulnerabilities: RDP is a proprietary network protocol that allows individuals to control the resources and data of a computer over the internet. Cybercriminals have used both brute-force methods, using trial-and-error to obtain user credentials, and credentials purchased on dark web marketplaces to gain unauthorized RDP access to the victim's systems. Once they have RDP access, criminals can deploy their malware.

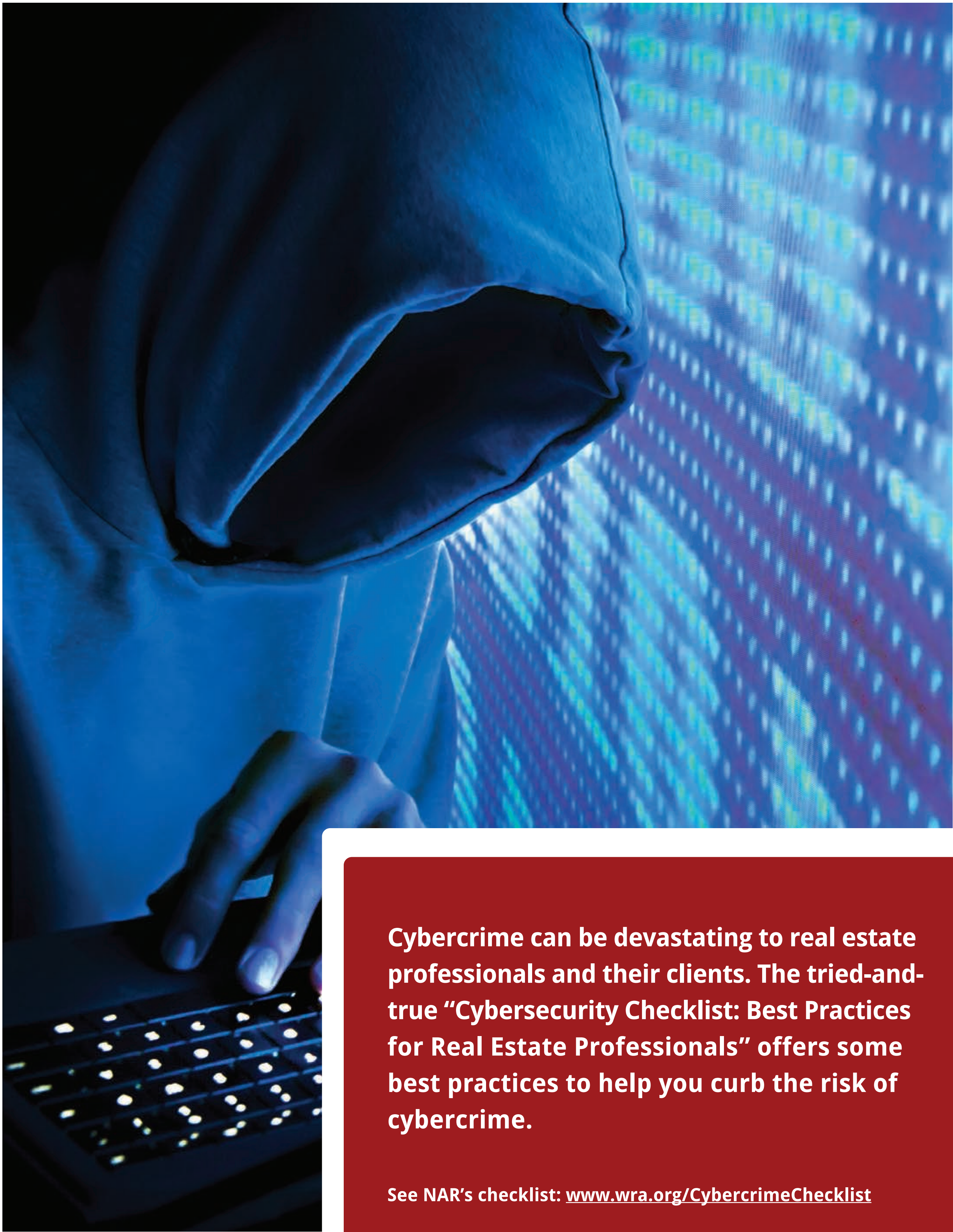
- Software vulnerabilities: Cybercriminals can take advantage of security weaknesses in widely used software programs to gain control of the victim's systems and deploy ransomware.

Accordingly, the following factors might make you the target of a ransomware attack:

- Device that is no longer state-of-the-art
- Device with outdated software
- Browsers or operating systems that are no longer patched (updated)
- No proper backup
- Insufficient attention to cybersecurity

Tips to prevent a ransomware infection:

- Never click on unsafe links: Avoid clicking on links in spam messages or on unknown websites.



Cybercrime can be devastating to real estate professionals and their clients. The tried-and-true "Cybersecurity Checklist: Best Practices for Real Estate Professionals" offers some best practices to help you curb the risk of cybercrime.

See NAR's checklist: www.wra.org/CybercrimeChecklist

- Avoid disclosing personal information: If you receive a call, text message or email requesting personal information, do not reply.
- Do not open suspicious email attachments: Avoid opening any dubious-looking attachments. To make sure the email is trustworthy, pay close attention to the sender and check that the address is correct. Never open attachments that prompt you to run macros to view them.
- Never use unknown USB sticks: Never connect USB sticks or other storage media to your computer if you do not know where they came from. Cybercriminals may have infected them.
- Keep your programs and operating system up to date: Regularly updating programs and operating systems helps to protect you from malware. Use the latest operating software and security patches.
- Use only known download sources: Never download software or media files from unknown sites. Make sure the browser address bar of the page you are visiting uses "https" instead of "http." A shield or lock symbol in the address bar can also indicate the page is secure.
- Use VPN services on public Wi-Fi networks: To stay protected, avoid using public Wi-Fi for sensitive transactions or use a secure Virtual Private Network (VPN).
- Back up data: Make sure critical data is always backed up in case your computer becomes infected with ransomware and decryption is impossible. Use an external hard drive and disconnect it from your computer after creating the backup.
- Consider cloud technology: A secure cloud storage system helps protect files should there be a cybersecurity breach.
- Make sure your insurance includes cyber liability coverages: Insurance coverage may be available to help mitigate the damages of a cyberattack or wire fraud incident.
- Raise employee awareness: Implement a security protocol that enables employees to assess whether an attachment, link or email is trustworthy.

As reported by the Federal Bureau of Investigation Internet Crime Complaint Center IC3, 13,638 people in the United States were victims of real estate/rental fraud in 2020, a 16.7% increase in victims from 2019. Combined, these people lost over $213 million. In Wisconsin, 8,308 reported victims lost a total of $36,081,681.

To see the 2020 Internet Crime Report, to file a complaint or for more information, visit www.ic3.gov.

WIRE FRAUD HAS NOT GONE AWAY

In 2020, a California professor found the perfect $1.4 million home for his family of six. He wired $921,235.10 from his account for closing. Two days later, the mortgage company asked where the money was. You know the rest of the story. They had been hit by real estate wire fraud. The homebuyer apparently was having an email conversation with his real estate agent and representatives from the title company. Hackers somehow inserted themselves into the conversation, using email addresses designed to look like one or more of the participants in the deal. As a result, every time they sent an email, they were communicating with the criminals. The fraudsters emailed digital copies of the real closing documents and wire instructions that looked real from the fake email account. The closing documents were real, but the wiring instructions contained the wrong account information. The banks involved did not verify the account before processing the transfer because there is no federal law that requires them to do so.

According to the FBI, consumers lost more than $220 million in schemes like this by October 2020, a 13% increase from the same period in 2019. But this particular story had a happy ending. Incredibly, the bank was able to get the buyer's money back.

Real estate transactions continue to be an attractive target for sophisticated fraud scams. Cybercriminals identify a pending sale transaction and build a profile of the parties including the title company, real estate agents, and the buyer and seller. They hack into one or more parties' email accounts and monitor email traffic for their opportunity to strike, usually sending false wire instructions.

OTHER REAL ESTATE SCAMS

Other cyberscams described in the FBI report include "bait and switch" where a buyer with an accepted offer will come back and tell the seller that they need to dramatically reduce the price because of excuse A and B. Once that is agreed to, they may come back again asking for a second price reduction.

Fake or fraudulent listings are familiar to many Wisconsin practitioners. The crooks find a property for sale, use the information and photos from that listing, and post it on Craigslist or another site for rent. Many REALTORS® have discovered that information from their listings is being used to create fake Craigslist rental listings. Potential tenants may be asked to provide private personal information on an application such as the applicant's Social Security number and bank account information, and are directed to wire deposit money, often overseas.

RESOURCES FROM THE WRA

Wisconsin Real Estate Magazine:

- December 2018: "This Is Not Test: Cybercrime Is real," at www.wra.org/WREM/Dec18/Cybercrime
- October 2017: "The Risks of Sending Wire Transfer Instructions," at www.wra.org/WREM/Oct17/WireTransferFraud

Legal Update:

- February 2017, "Combating Cybercrime Concerns," at www.wra.org/LU1702

LegalTalks:

- Wire Transfer Fraud with Debbi Conrad: www.wra.org/LegalTalks/WireTransferFraud

Resources from NAR

- Protecting Your Business and Your Clients from Cyberfraud handout: www.wra.org/CyberfraudProtection
- New Cyber Liability Insurance Member Benefit: www.nar.realtor/realtor-benefits-program/risk-management/cyberpolicy

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Debbi Conrad is Senior Attorney and Director of Legal Affairs for the WRA.

Buyer Agency? Tenant Representation?

Why not both?

BY **JENNIFER LINDSLEY,** STAFF ATTORNEY AND DIRECTOR OF TRAINING
AND **WENDY HOANG,** LEGAL INTERN
LEGAL

A potential buyer contacts an agent and is looking for a home to purchase in the area. The agent explains that the residential market is quite competitive right now and that some buyers are having a challenging time getting an accepted offer on a property. The potential buyer is moving for work and would prefer to purchase a home but ultimately needs a place to live in the area and will consider renting. The potential buyer will be in town for one week and has asked the agent to set up showings for homes fitting the potential buyer's specifications but also asks the agent to set up showings for rental properties as a backup. The agent wants to make sure she gets paid for her work whether the buyer ends up purchasing or renting a home. How should the agent proceed?

Many agents are familiar with using the WB-36 Buyer Agency/Tenant Representation Agreement to work as a buyer's agent for a client who is looking to purchase a home. This versatile form, however, also includes provisions for an agent to work as a tenant representative for a person who is looking for a rental property. The form also allows an agent to work as both a buyer's agent and a tenant representative at the same time and potentially earn a commission regardless of whether the client ends up purchasing or renting a property. Given the competitive nature of the residential real estate market, an agent may wish to discuss the possibility of renting with a potential buyer in case the buyer is unable to find a property to purchase. The buyer and agent may then choose to enter into a WB-36 Buyer Agency/Tenant Representation Agreement, allowing the agent to act as both a buyer's agent and tenant representative at the same time.

USING THE WB-36 BUYER AGENCY/TENANT REPRESENTATION AGREEMENT TO REPRESENT A CLIENT AS A BUYER, A TENANT OR BOTH

The first section of the WB-36 Buyer Agency/Tenant Representation Agreement explains that the Client, as defined on lines 188-189, gives the firm and its agents the exclusive right to act as Buyer's Agent and/or Tenant's Agent. The WB-36 Buyer Agency/Tenant Representation Agreement allows a firm and its agents to represent a client as a buyer, a tenant, or both to aid the client in finding a property that best suits their needs, regardless of whether it is a purchased property or a leased space. Agents who do commercial transactions may already be familiar with representing a person as a buyer and a tenant at the same time. Often in a commercial setting, the person seeking a property is more interested in finding the perfect location regardless of whether it is for sale or lease and may be willing to be a buyer or a tenant, depending on the terms being offered by the owner of that ideal property.

The scope of the firm's authority to act on behalf of the client is outlined in the first lines of the WB-36 Buyer Agency/Tenant Representation Agreement. The firm may locate property or negotiate the acquisition of property on behalf of the client except for properties excluded under lines 17-32 or 264-279. The firm has no agency authority for those excluded properties. As such, the client can work with other agents with regard to those properties. However, with exception to the excluded properties, the client cannot enter into any other agency agreements during the term of the WB-36 Buyer Agency/Tenant Representation Agreement.

The next section, located at lines 7-10, is bolded and placed in a box for emphasis. The section explains that if the client has contact with an owner or another firm and its agents during the term of the WB-36 Buyer Agency/Tenant Representation Agreement, or has previously worked with an owner or another firm and its agents, then there is a risk to the client to pay compensation to the firm. When a client works directly with an owner or other firms, there is a chance that the firm cannot collect compensation from property owners or the owners' agents. If this happens, the client must pay any uncollected amount to the firm.

Lines 7-10 of the WB-36 Buyer Agency/Tenant Representation Agreement

If Client has contact, or has had previous contact with an owner, a firm or its agents in locating and/or negotiating the acquisition of an Interest in Property and Client's contact with those parties results in the Firm not collecting full compensation under this Agreement from the owner or the owner's agent, Client shall be responsible to pay any uncollected amount.

BUYER PAYS BUYER'S FIRM

A buyer signs a WB-36 Buyer Agency/Tenant Representation Agreement with a firm on a Wednesday. That following Saturday, the buyer attends an open house hosted by the listing firm but is not accompanied by the buyer's agent. The buyer insists that the listing agent draft an offer at the open house. The listing agent, being a conscientious professional, asks the buyer whether the buyer is working with an agent. The buyer indicates that the buyer is working with a buyer's agent but insists the offer must be drafted right now. The listing agent encourages the buyer to contact the buyer's agent for assistance. The buyer says, "There is no time! I need to submit an offer immediately." The listing agent reminds the buyer that the buyer may be responsible to pay the buyer's firm's commission even though the buyer's firm was not involved in the transaction. At the buyer's urging, the listing agent proceeds to draft the offer, which the seller accepts. The transaction closes, and although the property was listed in the MLS with an offer of compensation to cooperating firms, the listing firm believes that the listing firm is procuring cause and does not pay the buyer's firm the MLS offer of compensation. The buyer will be responsible to pay the buyer's firm's commission based on the terms of the WB-36 Buyer Agency/Tenant Representation Agreement even though the buyer's firm was not involved in the buyer getting an accepted offer.

LISTING FIRM PAYS BUYER'S FIRM

A buyer signs a WB-36 Buyer Agency/Tenant Representation Agreement with a firm. The buyer and the buyer's agent attend an open house by the listing firm. After attending the open house, the buyer decides to make an offer and has the buyer's agent draft the offer. The seller accepts the offer, and the transaction closes. The listing firm entered the property in the MLS with an offer of 2.5% of the purchase price to cooperating firms. The buyer's firm charges 3% commission. According to the terms of the WB-36 Buyer Agency/Tenant Representation Agreement, the buyer is responsible to pay for the commission of the buyer's firm reduced by any amounts the buyer's firm receives from the seller or the listing firm. Because the listing firm offers 2.5% of the purchase price to cooperating firms and the buyer's firm was procuring cause in this transaction, the listing firm will pay 2.5% of the purchase price to the buyer's firm, and the buyer will be responsible to pay the leftover 0.5% commission to the buyer's firm.

EARNING A COMMISSION AS A BUYER'S AGENT

The WB-36 Buyer Agency/Tenant Representation Agreement has separate compensation sections for purchase commission and lease commission. Purchase commission can be found on page 1 on lines 33-58. Lease commission can be found on page 6 on lines 280-305.

Headings and subsections outline the different parts of compensation. There is a blank section where commission can be stated and subsections explaining how commission is earned, when commission is due and payable, and how commission is calculated.

The subsection titled "Payment by Owner or Owner's Agent" on lines 50-53 states that the firm can seek commission payment from the owner or the owner's agent provided that all parties in the transaction give prior written consent. This means that the buyer only has to pay the commission amount that is not paid by the owner or the owner's agent.

The blank lines at lines 35-36 are where the commission for purchase can be stated. The firm and the buyer can state whatever commissions or fees might apply.

According to lines 37-40, the commission is earned if the buyer, or any Person Acting on Behalf of the Buyer, acquires an Interest in Property or enters into an enforceable written contract to acquire an Interest in Property. Please note that Person Acting on Behalf of the Buyer and Interest in Property are specifically defined on page 4 of the WB-36 Buyer Agency/Tenant Representation Agreement. The firm earns a commission if the buyer acquires an Interest in Property during the term of the WB-36 Buyer Agency/Tenant Representation Agreement or during an extension of the term based on property protection created by the provisions on lines 219-229 and 252-257.

Once earned, per lines 41-42, the commission is due and payable at the earlier of closing or the date set for closing, even if the transaction does not close, unless otherwise agreed in writing.

The Commission Calculation subsection on lines 43-45 provides that a percentage commission will be based on the total consideration for a purchase or an option and on the fair market value if there is an exchange or effective change in ownership. Lines 46-47 provide for other types of compensation and fees such as retainer fees, an hourly rate, an advancement payment or other compensation.

Person Acting on Behalf of Buyer

Betty Buyer signs the WB-36 Buyer Agency/Tenant Representation Agreement with a firm. Betty Buyer goes to see the property and decides she wants to purchase the property. She writes an offer, but the buyer instructs her agent to draft the offer in the name of Betty Buyers LLC instead of Betty Buyer herself. The seller accepts the offer. However, the commission of the buyer's firm is still earned because Betty Buyers LLC constitutes as a "Person Acting on Behalf of Buyer." This is because Betty Buyers LLC is a limited liability company affiliated with and owned by Betty Buyer.

Lines 208-212 PERSON ACTING ON BEHALF OF BUYER: "Person Acting on Behalf of Buyer" means any person joined in interest with Buyer, or otherwise acting on behalf of Buyer, including but not limited to Buyer's immediate family, agents, employees, directors, managers, members, officers, owners, partners, incorporators and organizers, as well as any and all corporations, partnerships, limited liability companies, trusts or other entities controlled by, affiliated with or owned by Buyer in whole or in part whether created before or after expiration of this Agreement.

EARNING A COMMISSION AS A TENANT'S REPRESENTATIVE

A firm can also earn commission as a tenant representative. The lease commission section can be found on lines 280-305 of the WB-36 Buyer Agency/Tenant Representation Agreement. In Wisconsin, working as a tenant representative is far more common in commercial real estate transactions than it is in residential. In many larger cities including Chicago, Seattle, San Francisco and New York, it is common for a tenant to engage a tenant representative to assist the tenant in finding

a residential property to rent. Real estate firms in those larger markets often have a whole division of the company related to residential rentals with services ranging from landlord representation, tenant representation and property management.

The lease commission subsections delineate what is the commission, how the firm earns commission, and when it is due and payable.

The subsection titled "Payment by Owner or Owner's Agent" on lines 296-299 provides that the firm may seek commission payment from the owner or the owner's agent provided that all parties to the transaction give prior written consent. The Tenant only has to pay any remaining balance if the owner or owner's agent does not pay the full amount due. Given that a residential rental property in Wisconsin may not be listed in the MLS with an offer of compensation to cooperating firms or may not even be listed with a real estate firm at all, it is important for an agent engaging in tenant representation to discuss the tenant's responsibility for compensation unless it can be negotiated that the landlord or listing firm — if the property is listed — will contribute toward a firm's commission earned as a tenant representative.

The blank lines at lines 281-282 are where the firm states the commission on a rental or lease transaction. Lines 283-284 provide that commission be calculated based on total rent for the Rental Agreement, unless stated otherwise. Note that Rental Agreement is defined on lines 230-232.

Under the Commission Earned subsection on lines 285-288, commission is earned if the Tenant, or any Person Acting on Behalf of Tenant, acquires an Interest in Property or enters into an enforceable Rental Agreement, at any terms and rent acceptable to owner and Tenant, regardless of the rent range. Tenant and Person Acting on Behalf of Tenant are specifically defined on lines 233-234 and 213-217, respectively.

A firm earns commission if the Interest in Property is acquired during the term of the WB-36 Buyer Agency/Tenant Representation Agreement or during an extension of the term. Per lines 289-295, commission is due and payable upon execution of the Rental Agreement; at the commencement of the Rental Agreement term, even if the Tenant does not take occupancy, unless otherwise agreed in writing; or one-half upon execution of the Rental Agreement and one-half upon occupancy.

Lines 300-303 provide an opportunity to state other compensation such as retainer fees, an hourly rate, an advancement payment or other compensation. The Tenant Qualifications subsection states that the Tenant agrees to pay any credit report fees or background check fees charged by the owner or the owner's agent.

The WB-36 Buyer Agency/Tenant Representation Agreement allows agents to work both as a buyer's agent for a client looking to purchase a home and as a tenant representative for a client looking to lease a property. Under the WB-36 Buyer Agency/Tenant Representation Agreement, an agent can represent a client as a buyer, a tenant, or both. This way, an agent can earn commission whether a client buys or rents a property. The versatility of the WB-36 Buyer Agency/Tenant Representation Agreement provides flexibility for both agents and clients in a competitive real estate market.

Jennifer Lindsley is Staff Attorney and Director of Training for the WRA. Wendy Hoang is a legal intern for the WRA.

Latest Legal Resources

As a REALTOR®, your everyday business transactions are legal in nature. Your WRA membership includes access to various WRA legal resources, all designed to ensure you practice real estate legally and correctly.

PROFESSIONAL POINTERS

Enhance professionalism in your practice

Introducing Professional Pointers, an exciting new feature to enhance professionalism and success in your practice.

You'll find the weekly Professional Pointer every week in your inbox, your social media feed and on the WRA website. Be sure to subscribe to the WRA Legal News Weekly email and follow the WRA on social media to see the Professional Pointer each week. Plus, you'll find the most recent Professional Pointer on the WRA homepage.

See the pointers: **WRA.ORG/PROFESSIONALPOINTERS**

LEGAL UPDATE LIVE

"Being Competitive" Six-part Miniseries

Things move fast in a competitive market, and the "Being Competitive" Legal Update Live miniseries moved just as quickly! Last month, the WRA legal team hosted a fast series of webcast discussions about transactional trends taking place in the current market. Spanning across Legal Update Live episodes 13 to 18, the "Being Competitive" miniseries explored scenarios you may find in today's aggressive market, like the use of "Dear Seller" letters, not including an inspection contingency, situations with multiple offers and more.

Watch: **WRA.ORG/LUL/EP13-18**

LEGAL HOTTIPS

Search Q&As from the WRA Legal Hotline

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. (WRA login required.)

Search the Q&As: **WRA.ORG/LEGALHOTTIPS**

LEGAL UPDATE

July 2021: Pier Rights Restored for Wisconsin Property Owners

In June 2021, Gov. Evers signed into law AB 37/SB 46, which returns 140 years of riparian rights to property owners across Wisconsin. This *Legal Update* explores how the new law will affect Wisconsin's riparian owners.

Read: **WRA.ORG/LEGALUPDATES**

WRA LEGAL HOTLINE

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

CONTACT:
Phone: 608-242-2296 or 800-799-4468
Online question submission: www.wra.org/legalhotline
Hours: Monday-Friday, 8:30 a.m. to 5:00 p.m. Central and Sunday 1:00 p.m. to 4:30 p.m. Central. Holidays may affect these hours; check the hotline webpage for details.

Learn more:
WWW.WRA.ORG/LEGALHOTLINE

Visit **FAIRHAVEN** today!

Check out **fairhaven.realtor** — an online simulation training about discrimination in the homebuying process.

NATIONAL ASSOCIATION OF REALTORS®

BY **DEBBI CONRAD**
SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS
RECOGNITION

Partnership for Success Awards

The WRA Cultural Diversity in Housing Committee is pleased to announce the following Partnership for Success award winners. The Partnership for Success Program is designed to promote diversity within REALTOR® membership and enhance the probability of long-term success for new minority agents. The program offers the successful minority candidate the opportunity to have one year of REALTOR® dues and six months of MLS fees covered, and to attend real estate practice courses and networking events. Most program benefits are "paid forward" via cash reimbursements or community service hours within three years. Potential applicants and their sponsoring brokers can learn more at www.wra.org/Partnership.

Please join us in congratulating these amazing new agents and their remarkable sponsoring brokers!

Award winner: LaShawne Hunt

Firm: First Weber Inc. – Madison, West Towne
Sponsoring broker: Dan Lee
Mentor: Stacy Ozanne
LaShawne Hunt holds a bachelor's degree in psychology and works as a social worker assisting persons with disabilities and the elderly in finding housing and other resources. She wants to educate individuals in the community and help them purchase homes and build wealth. Her mentor, Stacy Ozanne, loves Hunt's work ethic and desire to help minorities, the elderly and those with disabilities — commitments that align with the firm's ideals. First Weber's comprehensive training includes modules that address combating bias as well as the history of real estate.

Award winner: Kevin Brown

Firm: First Weber, Inc. – Madison, West Towne
Sponsoring broker: Dan Lee
Mentor: Stacy Ozanne
Kevin Brown worked as a field technician at Veridian Homes for many years but is ready to soak up the schooling and transition to a new career in real estate sales. He wants to teach others the path to homeownership and family prosperity and become a super-agent. His mentor, Stacy Ozanne, is impressed with his genuine personality and desire for self-improvement and is sure he will succeed with his valuable construction background. First Weber's comprehensive training includes modules that address combating bias as well as the history of real estate.

Award winner: Toya Jackson

Firm: First Weber Inc. – Fond du Lac
Sponsoring broker: Jenelle Bruno
Toya Jackson works for an insurance company and participates in a wide spectrum of community volunteer activities as she proceeds toward her new career, where she will be one of the first agents of color in the Fond du Lac area. She is in the process of purchasing a home and is excited to share that journey and encouragement with other homebuyers going forward. Broker Jenelle Bruno is impressed with Jackson's heart for service and desire for education and knows she will be an asset to the community.

Award winner: Tia Lee

Firm: eXp Realty LLC – Milwaukee
Sponsoring broker: Deborah Cappello
Tia Lee went back to finish her real estate classes when the pandemic shut down other career opportunities. She wants to be able to go that extra mile, excel at real estate and give back to others by helping provide decent, safe environments for their families. eXp broker Deb Cappello finds Tia to be motivated, driven to be successful and passionate, and believes a real estate career is the perfect job for single mothers to achieve their dreams. Cappello engages in hands-on mentoring 24/7 and has been known to help new agents writing offers at 11:30 p.m.

Award winner: Colleen Jamrock

Firm: EXIT Elite Realty – Appleton
Sponsoring broker: Lori Muller
Mentor: Michele Hansen
Colleen Jamrock is committed to helping people through her endless volunteer work with homeless shelters, the Jaycees and her church. She wants her full-time profession to be real estate — helping people learn about buying homes and become successful in buying homes. She hopes to someday create transitional housing facilities for the homeless and others as a steppingstone to homeownership. Broker Lori Muller finds Colleen to be a spitfire and a great communicator. Jamrock's mentor, Michele Hansen, knows Jamrock through years of volunteer work with the Jaycees and will be her accountability monitor and coach. EXIT Elite Realty combines 10 weeks of bootcamp training programs with personal mentorship.

Wisconsin REALTORS® Foundation

Thank you!

The Wisconsin REALTORS® Foundation (WRF) raised more than 56,000 meals during Team Up Against Hunger week held June 14-20, 2021! With your help, we exceeded our goal of 45,000 meals to help Wisconsin's children who rely on school-provided meals while they are out of school for the summer.

THE WRF THANKS THE FOLLOWING PARTICIPANTS:

Peggy Ausloos
Jane Bechtel
Faye Becker
Jordan Bishop
Sandy Bolgrihn
Mary Jo Bowe
James Buck
LuAnn Butkiewicz
Derrick Capra
Valerie Cohn-Gehrke
Debbi Conrad
Greg Dallaire
Robert Denniston
Alberta Dhillon
Denny DiSalvo
Kassandra Dixon
Frank Flynn
Katherine Ford
Daniel Foytik
Jessica Friedericks
Jenna Galegher
Mary Gandolfo
Michelle Germain
Brandon Grosse
Paula Hall
Jere Hendrickson
Gail Howard
Courtney Johnson
Bruce King
Kevin King
Glena Kojis

Susan Koutsios
Julie Kowalski
Heidi Krenz-Buchanan
Colleen Kuchta
Kitty Kuhl
Cori Lamont
Stephanie Larson
Thomas Larson
Rita Leichtle
Eric Lenz
Patricia Libke
Barbara Lundberg
Jody Marr
Kim Marty
Sonya Mays
Nicole Meacham Ahlborg
Jill Meier
Shannon Melloy
Dennis Midthun
Jeremy Moe
Jean Moore
Thomas Moore
Kathy Mortl
Joe Murray
Laurie Newhouse
Lauren Nobbe
Cynthia O'Brien
Jennifer Oefstedahl
Clint Otto
Kathleen Paramore
Mark Person
Connie Poggensee
Colleen Prostek
Melissa Pups
Paul Quick
Nancy Resto
Paul Richert
Erna Russert
Rob Rybarczyk
Annie Sadler
Thomas Sanford
Barbara Schmidt
Lynn Schwarm
Matt Seegert
Michael Sewell
Barbara Shannon
Barbara Simonis
Nancy Smith
Jeffrey Smyth
Mike Spranger
Courtney Stefaniak
Ryan Stefaniak
Amy Stelk
Sutten Stephan
Kelly Sweeney
Pat Tasker
Peggy Terry
Michael Theo
Deborah Vesling
Julie Walber
Marie Zellmer

AND A SPECIAL THANKS TO:

Greater Northwoods MLS

UPCOMING WRF EVENTS

September 17, 2021: Hunger Action Day
Help food banks feed more children during the biggest hunger awareness day across the country.

October 5, 2021: Backpack Meal-building Challenge
During the 2021 WRA Annual Convention in Milwaukee, compete against fellow REALTORS® in a race against the clock assembling backpack meal kits for kids! Start building your team now.

Legislative Alert

The WRA successfully lobbied for a real estate-friendly state budget

On July 8, 2021, Gov. Tony Evers signed Wisconsin's 2021-23 state budget into law. The recently passed state budget includes several provisions that are beneficial to homeowners, taxpayers and the real estate industry, including REALTORS®.

The budget includes:

- **A $650 million property tax cut for homeowners: $300 in property tax relief for the typical home.**
- **$225 million for broadband expansion in Wisconsin: $177 million more than two years ago for badly needed expansion.**
- **$5 million for DSPS technology upgrades to simplify online credentialing. This will improve customer service for license status, affiliation, disciplinary actions and more.**
- **Removal of numerous proposals that would have been detrimental to landlord-tenant law in Wisconsin. Reforms passed over the last 10 years remain current law.**

These victories were made possible through member advocacy including REALTOR® & Government Day, the Wisconsin Homeowners Alliance and RPAC. Your participation makes a real difference.


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BY **JOE MURRAY**
DIRECTOR OF POLITICAL
AND GOVERNMENTAL AFFAIRS
GOVERNMENT AFFAIRS

2022 Wisconsin Attorney General Race

In 2022, the race for Wisconsin attorney general will be one of a handful of statewide contests that will be on the ballot for the fall election. The attorney general is the head of the state Department of Justice (DOJ) and the chief legal officer for the state, and provides legal advice and representation for all state government agencies.

The incumbent, Democrat Josh Kaul, was first elected in 2018, narrowly defeating former Attorney General Brad Schimel, a Republican. Kaul announced his bid for reelection on July 12 in Madison.

On the Republican side, two candidates have entered the race and will compete for the GOP nomination in the August 2022 primary election: Ryan Owens, a constitutional lawyer and professor as well as the former head of the Tommy G. Thompson Center on Public Leadership at UW-Madison; and current Fond du Lac County District Attorney Eric Toney. One of these two candidates will earn the right to take on Kaul in the November 2022 election.

With five statewide elections on the ballot next year, including governor and U.S. Senate, the race for attorney general will likely receive far less attention than it deserves for such an important office. The office of attorney general has enormous power, one that can have a significant impact on property rights and the real estate industry.

With 14 months to go before November 2022, here's a brief overview of the candidates and what to watch for as this race unfolds.

Targeted race: In the 2018 election, Kaul defeated Schimel by only 22,673 total votes, about 1% of the vote. Of the three marquee statewide races in 2018 — U.S. Senate, governor and attorney general — the race for attorney general was the closest. Republicans believe Kaul is vulnerable in 2022 with President Joe Biden in the White House. The party of the president typically loses seats in midterm elections, and Kaul narrowly won in 2018 with the political wind at his back during former President Donald Trump's one and only midterm election. If history is any guide, the 2022 midterm dynamic will be reversed and work against Democrats next year, making Kaul's reelection bid more complicated.

Professor vs. prosecutor: Owens is a first-time candidate, constitutional lawyer and professor with no prosecutorial experience. Toney is a third-term district attorney with lots of prosecutorial experience. Toney is making his background as a prosecutor the focal point of his primary campaign; Owens is stressing his background as a constitutional attorney and focusing on his support for defending constitutional rights in his campaign. The two candidates are highlighting their backgrounds and biographies to drive their messages to GOP primary voters.

For example, when Owens entered the race in April, Toney issued a statement saying, "I welcome Professor Owens to the race, and I look forward to letting the voters hear about our records – his in the classroom and mine in the courtroom." Owens responded, "It's probably noteworthy that Kaul at one point had prosecuted cases and look where that's gotten us in the state."

Kaul's record: As the incumbent, Kaul's record over the last four years will be the focal point of next year's campaign. From press releases, news stories and social media postings, these are the issues that Kaul's opponents will highlight:

1. Failure to work cooperatively with the GOP legislature to pass legislation important to the DOJ.
2. Lack of support for law enforcement.
3. Response to the racial unrest and violence in Kenosha in 2020.
4. Executive overreach during the COVID-19 pandemic lockdowns.

As the incumbent, Kaul will run on his record, highlighting his priorities in consumer protection, the environment and voting rights. And his early name recognition is a strength. But Kaul faces the difficulty in running for reelection as a Democrat in a midterm election cycle that will likely be a better political environment for Republicans in 2022.

Watch for more information on this race in the months ahead.

Joe Murray is Director of Political and Governmental Affairs for the WRA.

Wisconsin
Attorney General
Josh Kaul (D)

Lawyer and Professor
Ryan Owens (R)

Fond du Lac County
District Attorney
Eric Toney (R)

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- WB-28 Cooperative Agreement
- WB-3 Vacant Land Listing Contract
- WB-13 Vacant Land Offer to Purchase
- WB-5 Commercial Listing Contract
- WB-38 and WB-47 Commercial Buyer Agency/Tenant Forms
- WB-15 Commercial Offer to Purchase
- WB-37 Residential Listing Contract – Exclusive Right to Rent
- WB-24 Option to Purchase
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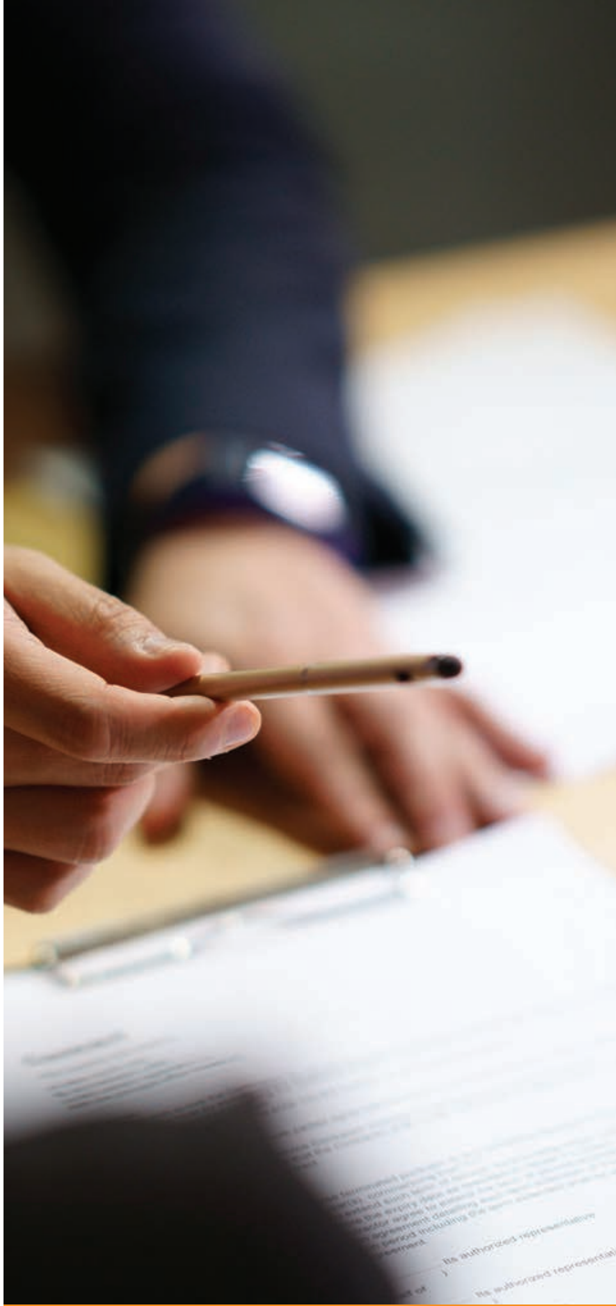

REAL ESTATE READS

Perfect Phrases for Real Estate Agents and Brokers
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Read: www.wra.org/Aug21-Pub2345

Moving in the Right Direction
Author Bruce Nemovitz explores what you can expect when helping seniors move away from their longtime home.
Read: www.wra.org/Aug21-Pub212

How Successful People Think Differently
What are successful people doing differently? Author Akash Karia explores the answer and shows how you can think successfully and differently too!
Read: www.wra.org/Aug21-Pub1715

Individual and Group Insurance Plans with Spectrum Insurance Group Inc.

As we start to emerge from a global pandemic, healthcare has been a big concern for some Americans. It's more important than ever to protect our health, but finding healthcare that fits into a family's budget can be difficult.

This is why Spectrum Insurance Group has partnered with multiple companies to offer their clients an alternative solution to "traditional" health insurance, one that is both convenient and affordable. While certain restrictions apply, some of these alternative options include unlimited virtual visits at no cost to you, which are a key to navigating the healthcare system in quarantine.

Another feature is care navigation, which assists members in obtaining the most cost-effective care possible. Cost-sharing options for larger scale medical issues are also offered. When paired together, these options can save upwards of $500 per month for family coverage compared to a traditional insurance plan purchased in the marketplace.

These options are not just limited to individuals looking for an alternative. There are also similar options that are available to employers looking to reduce the cost of their employee benefits by implementing an alternative coverage option. By implementing the options above on a group level, employers can help keep their healthcare costs lower while offering their team a refreshing alternative to healthcare. Outside of alternatives to health insurance, there are also different funding options and approaches to traditional options that can be implemented to reduce overall employer and employee costs in most cases.

For more information on employer group options and alternatives, contact Spectrum Insurance Group at **info@spectrumgroupinc.com**.

To learn more about individual or family enrollment, visit **www.redirecthealth.com/spectruminsurance.**

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Every two weeks, we'll draw a winner* from the list of C2EX-Endorsed Wisconsin REALTORS® for a $100 WRA education gift card. That's right: your C2EX Endorsement could lead to professional development training from the WRA, totally free! When your Endorsement is complete through NAR, you'll be automatically entered into the WRA drawing. It's that simple: complete your Endorsement, and you're in the drawing.

Why C2EX?
Succeeding in real estate — especially in today's aggressive market — involves an elevated level of professionalism and commitment to excellence. And holding the Commitment to Excellence (C2EX) designation from the National Association of REALTORS® can get you there.

C2EX is not a class. It's not a course. It's actually not even a designation. C2EX is an Endorsement that allows you to better cultivate community connections, boost business and position yourself as a powerhouse REALTOR® in your market. Think of C2EX as an elevated version of the REALTOR® title and brand: a C2EX-Endorsed REALTOR® is a REALTOR® who is practicing real estate at the highest professional standard in the industry. Read that again and get goosebumps.

The C2EX experience
Unlike most educational experiences that involve finishing a course with a completion exam, the C2EX experience is the opposite. You'll begin your C2EX journey with a self-assessment test up front.

The C2EX path is unique to every REALTOR®. The C2EX self-assessment test measures your proficiency in all aspects of professionalism, ranging from customer service to the use of technology. Based on your assessment, the C2EX platform immediately generates a customized learning path designed to enhance your individual skill set. Plus, there's no time wasted here! This innovative and tailored learning path guides you through only the specific subjects where you need improvement so you don't focus on topics in which you already have expertise.

Your learning path might include:

- Completing online games and quizzes
- Participating in interactive or digital coursework
- Watching online videos

The C2EX journey is designed to be fun, mobile-friendly and enlightening. And you can progress through your custom-built C2EX path entirely online and on your own schedule. Because the learning path is unique to each participant, the time designated to earn the C2EX varies from REALTOR® to REALTOR®. The average C2EX path takes 7-10 hours to complete.

Excellence for the win
Earning the C2EX Endorsement costs you nothing. That's right — you pay zero, zilch, nada. You pay nothing up front to earn the C2EX, and you pay nothing afterward to keep the C2EX after your name!

But excellence doesn't end there — your Endorsement could make you a winner. Every two weeks, we'll draw a winner* from the list of C2EX-Endorsed Wisconsin REALTORS® for a $100 WRA education gift card. That's right: your C2EX Endorsement could lead to professional development training from the WRA, totally free! When your Endorsement is complete through NAR, you'll be automatically entered into the WRA drawing. It's that simple: complete your Endorsement, and you're in the drawing.

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*Winners only eligible to win a single drawing. Promotion ends April 30, 2022.


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2021 REAL Trends + Tom Ferry's "America's Best Real Estate Professionals" list recognizes the most productive U.S. agents and teams based on 2020 closed transaction sides and sales volume.

AGENTS

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Kim Brixius
Jenny Coleman
Brooke Damaske
Jody DeLasky
James Depas
Rod Drendel
Mike Drexler
Sandy Ertel
Lisa Fabiano
Natalie Finkley
Levi Foss
Cora Frank
Sean Gitzlaff
Jennifer Heiring
Sharon Helwig
Jonathan Hile
Glen Hupfer
Mike Husnick
Margaret Jacobson
Otis Johnson
Bonnie Johnson-Caylor
Tim Kapellen
Michael Keller
Lisa Kind
Mike Klug
Randy Kozelka
Terry Lesperance
Sally Luehman
Benjamin Lyons
Jared Murphy
Bruce Olson
Sheryl Reedy
Lisa Reinecke
Janie Rivera Conley
Karen Sorenson
Adriane Stuebs
Brenda Thompson
Kathy Tutt
Susie Vehrs
Michelle Volkmar
Jennifer Vozka

TEAMS

2 Bridges Real Estate Group
THE 608 TEAM
Acker Maly Home Team
Acker-Farber Team
Action Acton Team
The Benson Group
The Beth Goethel Team
The Brian Stephan Team
The Brost Group
The Busha Team
The Combs Team
The Dan Stacey Team
The Felicia Pavlica Team
The Hometown Lake WI Group
The Huemmer Home Team
Julie Brown Team
Julie Sells Team!
Julie Winter-Paez
Ken & TD Biegel Team
The Krickeberg Group
Kristy Thiess Team
Lonnie Larson Team
Mad City Dream Homes
The Marciniak Team
Marg Real Estate Group
Merz and Goldsworthy
Michael Richgels Team
Pure Integrity Homes
Real Estate By Redlich Team
Real Estate Dream Team
The Riesterer Team
Service First Pros
Sheehan Mohns Group
Team Beaudoin
Team Hoffmann
Terry Ault Team
Tom Didier Team
We Know Houses Team
The Werth Team
The WI Real Estate Team
Wisconsin Home Team

REAL Trends "The Thousand" survey ranks participating U.S. agents and teams based on their 2020 residential transaction sides and sales volume. REAL Trends' "America's Best Real Estate Professionals" list ranks participating U.S. agents and teams based on their 2020 residential transaction sides and volume.

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2021 REALTrends + Tom Ferry's "The Thousand" list ranks the top U.S. real estate agents and teams based on 2020 transaction sides and sales volume.

Michelle Volkmar
RE/MAX Newport Elite | Kenosha, WI
Ranked 204 in Individuals by Sides

The Dan Stacey Team
RE/MAX Results | La Crosse, WI
Ranked 35 in Small Teams by Sides

The Felicia Pavlica Team
RE/MAX Newport Elite | Kenosha, WI
Ranked 18 in Small Teams by Sides

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Sign up: **WWW.WRA.ORG/AUG21-ABR**

CONVENTION EDUCATION TRACKS

October 5-6: Milwaukee or virtual

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Participate in the tracks in person on October 5-6 in Milwaukee, or sign up for a virtual convention package to watch select tracks livestreamed to you.

Sign up: **WWW.WRA.ORG/AUG21-EDUTRACKS**

CONNECT

CONVENTION CE
Add credits to your scoreboard on October 5-6

Looking to earn your residential CE or appraisal CE credits? Look no further. The 2021 WRA Annual Convention offers three live CE courses and one live appraisal CE course this October in Milwaukee. Plus, when you register for the live convention, real estate CE is automatic with your registration fee. Be sure to register early – spots fill up fast.

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CONNECT

CRS: SHORT SALES & FORECLOSURES
October 4: Milwaukee or virtual

Working with buyers and sellers of distressed properties can be a totally different ballgame! This one-day specialized training course at the 2021 convention gives you practical approaches to the pre-foreclosure and foreclosure processes to ultimately achieve successful disposition of these properties. You'll learn about the intricacies of the short sale and foreclosure processes as well as the roles of lenders, sellers, buyers and cooperating agents involved. Plus, you'll earn the Short Sale and Foreclosure Resource (SFR) certification with this course!

Take the course in person in Milwaukee at the convention or watch it livestreamed to you.

Sign up: **WWW.WRA.ORG/AUG21-CRS**

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TRAINING PRODUCT	TRAINING FORMAT	DETAILS & REGISTRATION
EVENTS		
WRA Annual Convention: October 4-6, 2021	Milwaukee and virtual	www.wra.org/Aug21-Convention
PRE-LICENSE TRAINING		
ONGOING VIRTUAL TRAINING		
Appraisal Pre-license Course	On Demand	www.wra.org/Aug21-APL
Broker Pre-license Course	On Demand	www.wra.org/Aug21-BPL
Sales Pre-license Course	On Demand	www.wra.org/Aug21-SPL
SCHEDULED TRAINING		
Sales Pre-exam Review Webinar: September 3, 2021	Virtual webinar	www.wra.org/Aug21-SPLwebinar
Sales Pre-exam Review Webinar: October 1, 2021	Virtual webinar	www.wra.org/Aug21-SPLwebinar
PROFESSIONAL DEVELOPMENT		
ONGOING VIRTUAL TRAINING		
GRI On Demand	On Demand	www.wra.org/Aug21-GRI
Line by Line Forms Training	Online Video Series	www.wra.org/Aug21-LinebyLine
Quick Start	On Demand	www.wra.org/Aug21-QuickStart
SCHEDULED TRAINING		
CRS: Short Sales & Foreclosures: October 4, 2021	CRS: Short Sales & Foreclosures	www.wra.org/Aug21-CRS
ABR Designation Course: October 26-27, 2021	ABR Designation Course	www.wra.org/Aug21-ABR
APPRAISAL CONTINUING EDUCATION		
SCHEDULED TRAINING		
Learning from Mistakes: October 6, 2021	Milwaukee	www.wra.org/Aug21-Convention
7-hour National USPAP Update: October 28, 2021	Appleton	www.wra.org/Aug21-AppCE
Proper Questions: October 29, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
USPAP, Your Workfile and You: October 29, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
Rock-solid Report Writing: November 2, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
Tools and Analysis: November 2, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
Beyond Lending Appraisals: November 3, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
7-hour National USPAP Update: November 4, 2021	Madison and virtual	www.wra.org/Aug21-AppCE
REAL ESTATE CONTINUING EDUCATION		
SCHEDULED TRAINING		
Course 1: September 9, 2021	Virtual	www.wra.org/Aug21-VirtualCE
Course 2: September 9, 2021	Virtual	www.wra.org/Aug21-VirtualCE
Course 3: September 14, 2021	Virtual	www.wra.org/Aug21-VirtualCE
Course 4: September 14, 2021	Virtual	www.wra.org/Aug21-VirtualCE
Course 5: September 22, 2021	Virtual	www.wra.org/Aug21-VirtualCE
Course 6: September 22, 2021	Virtual	www.wra.org/Aug21-VirtualCE

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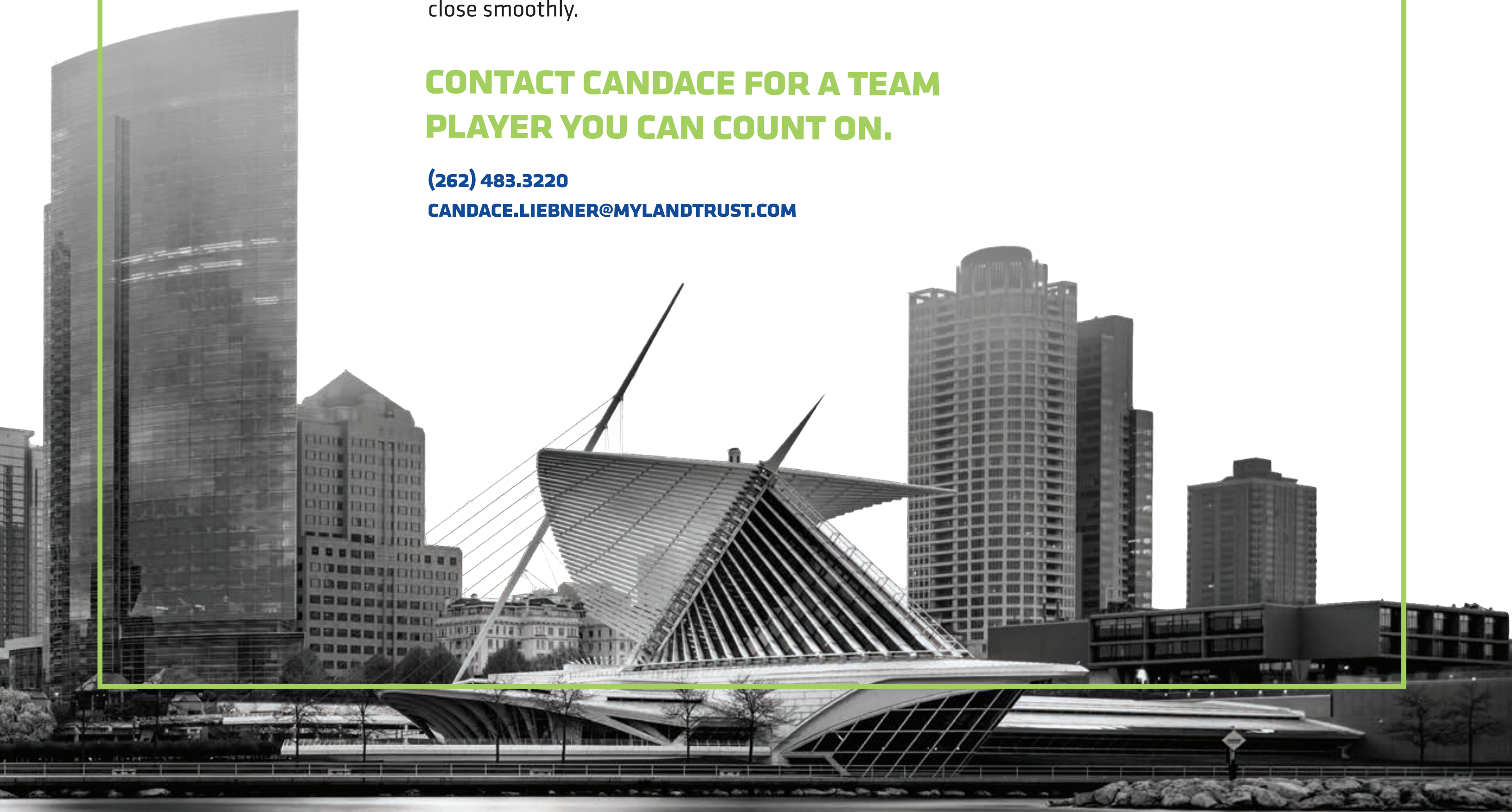

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