WISCONSIN
REAL ESTATE MAGAZINE
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December 2020 Vol. 37, No. 3

Inside this Issue:

New Policies and Standards from NAR

Q&As: Residential Offer Revisions

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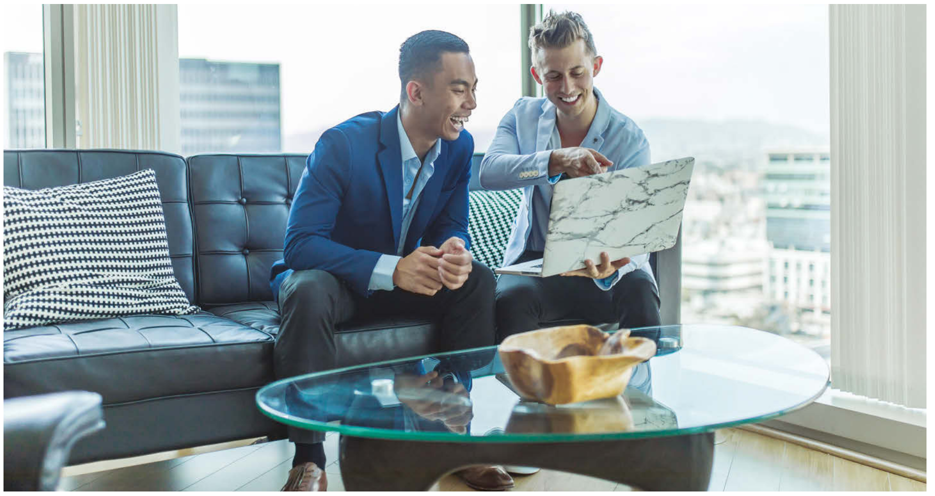
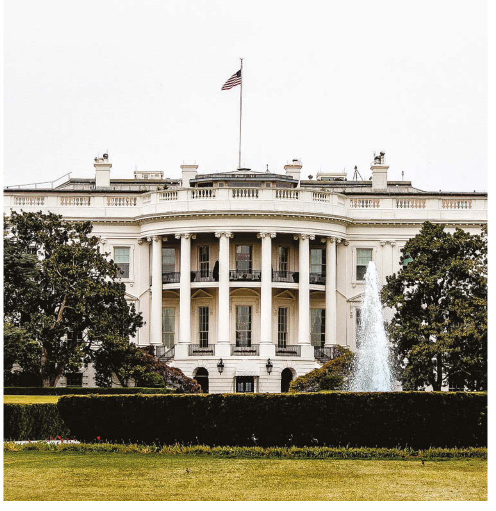
[1]Corelogic mortgage recordings: Dane County 32 consecutive months as of August 2020.
[2]UW Credit Union critical measure survey data from 2019.

TABLE *of* CONTENTS

DECEMBER 2020 | Vol 37, No. 3





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

WISCONSIN
Housing Continued Its Robust Pace in October

Fueled by record-low mortgage rates, Wisconsin's existing home market saw another sharp increase in sales and prices in October, according to the most recent monthly analysis. For the seventh straight month, mortgage rates fell into record-low territory, with the 30-year fixed-rate mortgage dropping to 2.83% in October. As a result, existing home sales increased 24.9% in October 2020 compared to October 2019, and the median price increased 16.3% to $227,324 over that same 12-month period. On a year-to-date basis, home sales are up 4.5% relative to the sales in the first 10 months of 2019, and the median price rose to $220,000, which is an increase of 11.1% compared to the January-through-October period of 2019.

See the full press release at www.wra.org/HSROct2020.

David Clark, Ph.D., is a professor of economics at Marquette University and principal at ECON Analytics, LLC, and serves as a consultant for 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.

HOUSING STATISTICS MONTHLY ACTIVITY — OCTOBER 2020

Statewide	October 2020	October 2019	% Change	YTD 2020	YTD 2019	% Change
New Listings	8,293	8,398	-1.3%	N/A	N/A	N/A
Total Listings	23,961	32,809	-27.0%	N/A	N/A	N/A
Closed Sales*	9,447	7,563	+24.9%	73,457	70,285	+4.5%
Median Sales Price	$227,324	$195,500	+16.3%	$220,000	$198,000	+11.1%
Months of Inventory	3.3	4.8	-31.3%	N/A	N/A	N/A
Avg. Days on Market	83	91	-8.8%	N/A	N/A	N/A
Affordability Index	199	213	-6.5%	N/A	N/A	N/A

	Median Price			Closed Sales		
Region	**October 2020**	**October 2019**	**% Change**	**October 2020**	**October 2019**	**% Change**
Central	$167,000	$155,750	+7.2%	645	550	+17.3%
North	$201,000	$170,000	+18.2%	1,161	817	+42.1%
Northeast	$200,000	$165,000	+21.2%	1,676	1,475	+13.6%
South Central	$265,000	$242,000	+9.5	1,762	1,303	+35.2%
Southeast	$240,000	$215,000	+11.6%	3,318	2,650	+25.2%
West	$221,000	$200,000	+10.5%	885	768	+15.2%

*Report criteria: Reflecting data through October 2020. *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

WRA Annual Membership Meeting

WRA members are invited to attend the WRA's Annual Membership meeting.

- Date: Friday, January 29, 2021
- Time: 9:00 a.m.
- Location: Zoom
- Meeting agenda:
  I. Call to Order – Mary Duff, WRA Chair
  II. Association Issues
  III. Adjournment

Contact Sandy Bolgrihn at SandyB@wra.org or 608-242-2262 for the Zoom information.

REALTOR® Children Scholarships

The selection process is underway for the Wisconsin REALTORS® Foundation's REALTOR® Children's Scholarship. This program awards college scholarships to children of WRA members. The foundation is offering 20 scholarships in the amount of $1,000 each.

If you're a REALTOR® and your son or daughter meets the eligibility criteria, apply today. The application is available at www.wra.org/Scholarship or by contacting Sandy at SandyB@wra.org.

Application deadline is March 13, 2021.

SAVE THE DATE

WRA Holiday Hours

The WRA office will be closed for the holidays on the following dates:

- Thursday, December 24: Closed
- Friday, December 25: Closed
- Normal business hours resume on Monday, December 28
- Thursday, December 31: Closed
- Friday, January 1: Closed
- Normal business hours resume on Monday, January 4

The WRA wishes our members a very happy and safe holiday season!

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FAREWELL & THANK YOU

What an interesting year … to say the least. It certainly turned out to be more of a challenging year than any of us thought when I took over as WRA Chairman in September 2019.

The year began in a normal fashion with a warm response from the members to the concept of "Agent Agency" outlining simple ways for agents to work more responsibly and professionally together. The WRA was also making great progress pushing some of our new legislative, professional and administrative issues.

Then March came, and that all changed. To say we did a pivot would be dramatically understating the events — it was more like a double-twisting, back somersault. Today, most everyone's business is churning away at full throttle, which we all are very thankful for after dipping over into the virus abyss in March and April. During that time, the real estate business in Wisconsin was in jeopardy.

Thanks to our long-term relationships and the hard work of our WRA team, we were successfully able to have the real estate industry in Wisconsin deemed an "Essential Business" by Gov. Tony Evers. If you have ever wondered what the value of the WRA is, keep this moment at the top of your benefits list.

Additionally, the WRA successfully advocated for REALTOR® independent contractors to qualify for unemployment compensation. Another first.

During those confusing times, the WRA also became the trusted source for COVID-19 information as it pertained to the real estate business in Wisconsin. We also continued to work with the governor's office, giving important input on a variety of issues that affected real estate in our state during the pandemic.

While this has been an unusual year — and I know most of us would love to hit the reset button on 2020 — it's been a really productive year. We've learned a lot and made a lot of changes that will be of great benefit to the organization, the real estate professional and Wisconsin property owners in the years to come.

I can truly say it has been a wonderful experience working with our leadership team. They are not only solid REALTORS® but great people as well. Incoming WRA Chair Mary Duff will lead a talented and dedicated team in 2021, including Chairman-elect Brad Lois and Treasurer Joe Horning as well as vice presidents Shawn Govern, Mary Jo Bowe and myself as your immediate past chair member of the WRA executive committee. This leadership team will work closely with the entire board of directors and of course our great WRA staff. From my experienced perspective, the future of the WRA is in very good hands.

I want to personally thank everyone who has helped me and encouraged me over the year. I have enjoyed the year and hope I've left things a little bit better than when I started.

Steve Beers

Thank you,
Steve Beers
2019-20 WRA Chairman of the Board

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

The National Association of REALTORS®

Responds to REALTOR® Conduct Against Protected Classes

On November 13, the National Association of REALTORS®' (NAR) board of directors adopted policies reflecting a commitment to fair housing. In a significant and unprecedented step in the adoption of new rules, NAR implemented the changes effective immediately instead of its usual effective date for new rules at the start of a calendar year.

In the last year, the number of complaints relating to the conduct of REALTORS® to national, state and local associations has grown exponentially. The claims of inappropriate discriminatory conduct by REALTORS® relates to in-person, online and social media activity. In response to the unprecedented complaints, NAR president Vince Malta directed NAR's professional standards committee to consider the scope and applicability of the REALTOR® Code of Ethics and the professional standards process by which the association addresses alleged violations of the Code.

The committee convened the interpretations and procedures advisory board to investigate, assess and promulgate changes to policy and the Code. The deliberations were extensive, including many meetings and months of input and discussion. In November, the recommendations went to the NAR board of directors.

The actions of the NAR board allow local associations to raise awareness of the Code. There is now a process to allow a complainant to file an ethics complaint alleging a violation of the Code for a REALTOR®'s conduct as it relates to the protected classes enumerated in the Code. A member may be subject to discipline, as with any Code violation, if the hearing panel finds clear, strong and convincing evidence of the member's conduct contrary to the Code.

Beginning November 13, 2020, there are four categories of changes to the Code and professional standards policies and procedures:

- The first is a change to the Code applicability to member activities beyond the scope of a real estate transaction.
- The second is a new Standard of Practice corresponding to Article 10, prohibiting discriminatory speech and conduct.
- The third change relates to a revision of the definition of "public trust."
- Finally, administrative changes to educate and implement the aforementioned changes.

MODIFICATION TO POLICY STATEMENT 29

Prior to the board vote in November, Policy Statement 29 of the Code of Ethics and Arbitration Manual limited the applicability of the Code to real estate-related activities and transactions. To address the discriminatory speech used on social media, the scope or reach of the Code needed to be expanded.

> **29. APPLICABILITY OF THE CODE OF ETHICS**
>
> **A REALTOR® shall be subject to disciplinary action under the Code of Ethics with respect to all of their activities.**

In the context of discriminatory speech and conduct, such speech or conduct no longer needs to be tied directly to real estate-related activity or a transaction. Having said this, for most other conduct by a member, there still needs to be a nexus to real estate-related activity or a transaction because most of the remaining articles of the Code specify real estate-related conduct.

> **STANDARD OF PRACTICE 10-5**
>
> **REALTORS® must not use harassing speech, hate speech, epithets, or slurs" against members of those protected classes.**

NEW STANDARD OF PRACTICE 10-5

A violation of Article 10 may be found when a REALTOR® engages in the enumerated conduct about a member or members of a protected class. The enumerated conduct consists of harassing speech, hate speech, epithets or slurs against any of the Code's nine protected classes:

- Race
- Color
- Religion
- Sex
- Handicap
- Familial status
- National origin
- Sexual orientation
- Gender identity

Four types of conduct are addressed in Standard of Practice 10-5: harassing speech, hate speech, epithets and slurs. What is considered harassing speech? NAR's Code of Conduct and Sexual Harassment Policy includes the following about harassment:

Examples of harassment include, but are not limited to:

epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and the display or circulation of written or graphic material that denigrates or shows hostility toward an individual or group based on a protected characteristic.

A hearing panel will consider the existing standards on harassment to determine whether harassing speech has occurred. Then the panel will determine whether the harassing speech was based on one of the protected classes. In addition to harassing speech, the panel may find evidence of hate speech, which is speech that is intended to insult, offend or intimidate a person because of some trait, such as a protected class. Epithets are disparaging or abusive words or phrases. Slur is an insulting or disparaging remark or innuendo. To find a violation of Article 10 of the Code, a hearing panel would need to find — by clear, strong and convincing evidence — that a member engaged in the enumerated conduct against one of the nine protected classes in the Code.

MODIFICATION TO THE DEFINITION OF "PUBLIC TRUST" AND NOTIFICATION TO REGULATORY BODIES

The policy also changed the definition of public trust. The previous definition of public trust included: "misappropriation of client or customer funds or property, willful discrimination and fraud resulting in substantial economic harm." The newly adopted changes now provide: "misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics and fraud."

The professional standards process has included the responsibility of the association to notify the regulatory body when an ethics decision finds a violation of the public trust. During a professional standards hearing, the REALTOR® in question is allowed to have counsel present. While the right to counsel has not changed, the criteria for when ethics violations can be sent to regulatory bodies has changed. For example, the newly modified definition of public trust now allows the association to notify the regulatory body in any case where fraud or discrimination against a protected class occurs.

After a professional standards hearing, when the hearing panel finds a violation of the Code relating to fraud or discrimination, the decision will be forwarded to the appropriate regulatory body. The notification is not based on a claim of a violation but is based on a finding of a violation after a due process hearing.

Specific to Wisconsin, a local association could forward findings of discrimination to any of these regulatory bodies:

- The Wisconsin Department of Safety and Professional Services (DSPS)
- The Real Estate Examining Board (REEB) of the DSPS
- The Equal Rights Division of the Wisconsin Department of Workforce Development
- The Fair Housing and Equal Opportunity Office of the U.S. Department of Housing and Urban Development

In the event the conduct was fraud, the appropriate distribution might include these regulatory bodies:

- The Real Estate Examining Board (REEB) of the DSPS
- The Wisconsin Department of Agriculture, Trade, and Consumer Protection

Prior to these changes, notification of discrimination or fraud by a REALTOR® was limited to the licensing authority; now, the notification adds and includes other appropriate governmental agencies.

MODIFICATION TO ADDRESS IMPLEMENTATION OF THE CHANGES

Additionally, changes occurred in the ***Code of Ethics and Arbitration Manual*** to facilitate the implementation of the changes. Appendix VII to Part Four, Sanctioning Guidelines has been amended, including how panels impose discipline if a violation includes discriminatory conduct by a member. Historically education has been an enumerated discipline; for example, a member found in violation may be required to take implicit bias training. A section of Appendix VII to Part Four reads:

Conversely, cases in which there is reason to believe that violations of the public trust, including demonstrated misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud have occurred should be considered particularly egregious violations of the Code of Ethics when determining appropriate discipline.

The *Code of Ethics and Arbitration Manual* has been amended to include new Appendix XII Appropriate Interpretation of Standard of Practice 10-5 and Statement of Professional Standards Policy 29. The new appendix includes context for hearing panel members presented with a case that may include Article 10. The appendix includes the definitions of harassing speech, hate speech, epithets and slurs.

A question raised about the new Standard of Practice 10-5 is, what about free speech? Since the adoption of the Code in 1908, REALTORS® have always subscribed to a set of standards — sometimes higher standards than those found in the law. Given REALTOR® membership is voluntary and the association is a private organization, the association may adopt ethical obligations for members.

The Code continues to evolve to forward the goals found in the preamble and captured by the Golden Rule. The NAR board has taken affirmative steps to accomplish the goals of the American Dream for all: open housing and equal opportunity in housing.

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

Hate Speech vs. Discussion

A participant during the Legal Update Live last month about NAR's changes asked an important question: "What about conversations that involve persons who are in a protected class?"

Webinar host Tracy Rucka used an example of transgender students participating in high school sports to provide clarity between the use of hate speech vs. engaging in discussion about members of a protected class. That discussion explores what that sports scenario might look like or the school policies surrounding the scenario. Tracy described the discussion as being part of the "marketplace of ideas."

A conversation that is communicative or educational in nature does not place a REALTOR® in violation of Article 10 of the REALTOR® Code of Ethics. On the other hand, a REALTOR® who engages in hate speech, and who says or posts negative or nasty comments about members of the LGBTQ community would be engaging in behavior that falls under the umbrella of hate speech and harassing speech.

Watch online: www.wra.org/LUL/Episode9

More Information

WRA resources

- Legal Update Live episode 9: "New Professional Standards and MLS Policy Changes": www.wra.org/LUL/Episode9
- "Long Island Steering Investigation" in the February 2020 *Wisconsin Real Estate Magazine*: www.wra.org/WREM/Feb20/Steering

NAR and national resources

- NAR Code of Conduct and Sexual Harassment Policy: www.wra.org/NAR/SexualHarassmentPolicy
- Code of Ethics & Professional Standards Policies: www.wra.org/NAR/CodeOfEthics
- Appendix XII to Part Four Appropriate Interpretations of Standard of Practice 10-5 and Statement of Professional Standards Policy 29: www.wra.org/NAR/AppendixXII
- *Newsday*'s "Long Island Divided" investigative report: www.wra.org/NewsdayReport

BY **CORI LAMONT**
SENIOR DIRECTOR OF LEGAL AND PUBLIC AFFAIRS
LEGAL

I Want to Buy and Sell Property for Myself. Now What?

New guidance from the WRA helps licensees who want to purchase and sell real estate for themselves

You went through the pre-license requirements; passed your test; got your license; began assisting others in the purchase, lease or sale of their properties; and now you want to buy or sell real estate for yourself. So you ask: "can I buy and list my own property?"

Often with many legal responses, the answer depends on the circumstances.

A licensee can be either an agent or a principal in a transaction, but conflicts of interest occur when a licensee tries to be both. Although it is technically not prohibited for a licensee to list their own property or to be the buyer, it is arguably disingenuous for the agent to attempt to represent the seller and simultaneously be the buyer or be the seller and draft an offer for a buyer.

However, licensees associated with a firm should check company policy as to participating in transactions where the licensee is purchasing or selling their own real estate.

Therefore, the WRA legal team created the "Frequently Asked Questions — Licensee Purchasing or Selling Their Own Real Estate" document. This document is intended to help answer the series of statements and frequently asked questions to provide clarity relating to licensees purchasing or selling their own real estate. This document covers various questions relating to topics including disclosure of licensure, commission vs. incentive, licensee with an ownership interest in an entity, and licensee/seller as listing agent.

For instance, this document provides guidance relating to Wis. Admin. REEB 24.05, Wis. Stat. 452.19, Article 4 of the Code of Ethics as well as including educational notes such as there is a distinction between incentive, referral, commission and finder's fees. Additionally, questions range from the use of the firm's forms as a licensee/buyer, to completing lines 1-2 of the offer to purchase, to receiving an MLS offer of compensation.

This document is available on the WRA website at www.wra.org/FAQLicenseeBuySell and will be updated as needed. We will keep you informed as it changes.

Cori Lamont is Senior Director of Legal and Public Affairs for the WRA.

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

The Best of the Legal Hotline: *Offer Revision Revelations*

This year, we have been introduced to a revised WB-11 Residential Offer to Purchase, not just once but twice, and to an updated WB-14 Residential Condominium Offer to Purchase. The questions on the WRA Legal Hotline have shed some light on which revisions are well received as well as which updates may not have had the intended impact.

See page 4 of the October 2019 *Legal Update*, "WB-11 Residential Offer to Purchase – 2020 Edition – Part 2," at www.wra.org/LU1910.

APPRAISAL CONTINGENCY OFFERS FLEXIBILITY

If the buyer and the seller decide to agree by amendment to lower the purchase price to the appraised amount, before the buyer delivers notice to the seller objecting to the appraised value, would the buyer need to add to the amendment that the notice is no longer required to be delivered to the seller per the Appraisal Contingency terms in the new WB-11?

A buyer in receipt of an appraisal report indicating an appraised value that is less than the purchase price has several options:

1. The Appraisal Contingency will be deemed satisfied unless the buyer delivers a notice objecting to appraised value, so a buyer may allow the deadline for the Appraisal Contingency to pass and proceed with the transaction.

2. Per the contingency, the buyer may deliver a notice objecting to the appraised value along with a copy of the appraisal report to the seller. If the seller has the right to cure, the notice triggers that right to cure. If there is no right to cure, timely delivery of the documents makes the offer null and void.

3. Notwithstanding the Appraisal Contingency, the buyer may propose an amendment to modify the purchase price. The amendment might propose the amount in the appraisal report, or it may be any other amount the parties agree upon. If the buyer takes this approach, the buyer is not required to deliver a notice and a copy of the appraisal report because they are not triggering the Appraisal Contingency. Note, however, the seller may want to see a copy of the appraisal report before agreeing to an amendment. Delivery of only a copy of the appraisal report, without a notice objecting to the appraised value, does not trigger the seller's election to cure, nor does it make the offer null and void if there is no right to cure.

WHEN LOAN COMMITMENT REQUIRES APPRAISAL

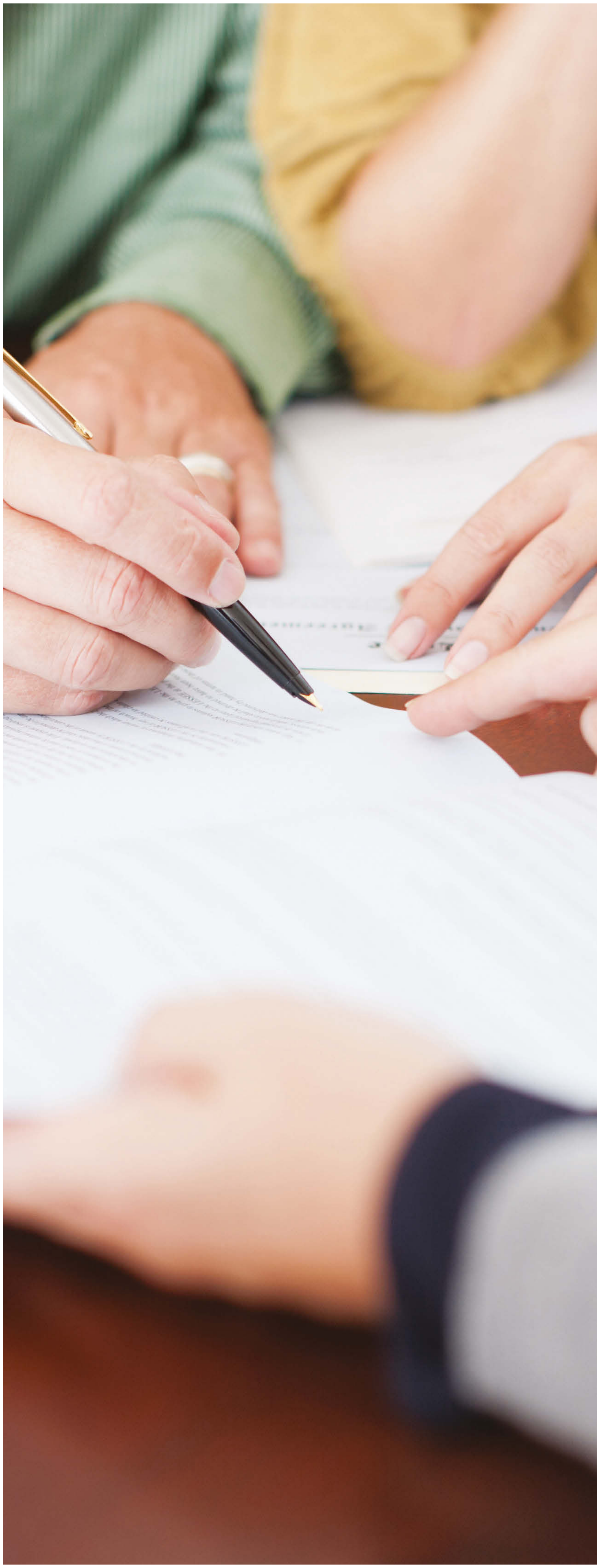
The appraisal was due July 25, the loan commitment was due August 2, and the closing was originally scheduled for August 7 but was extended by amendment to August 13. The cooperating agent drafted an amendment to extend the appraisal deadline as well as the loan commitment deadline, but the seller declined to extend them. The buyer delivered to the seller a loan commitment letter on August 3 (one day after the deadline) that included conditions to satisfy, including an appraisal. The commitment was accompanied by a notice stating, "Buyer acknowledges and accepts this loan commitment and authorizes its distribution to the seller and seller's agent. Buyer recognizes buyer's obligation to close is no longer contingent upon buyer obtaining financing." The buyer received the appraisal report on August 5 (after the deadline) and the appraised value was less than the purchase price.

The cooperating agent and broker have said since the loan commitment had an appraisal condition, the buyer is able to renegotiate or walk. The listing agent believes since the Appraisal Contingency deadline passed and the buyer has properly delivered a loan commitment, the buyer is obligated to close this transaction. Who is correct in this situation?

Pursuant to lines 270-277 of the WB-11 Residential Offer to Purchase, the buyer's delivery of written loan commitment, signed or accompanied by written direction to deliver, satisfied the Financing Commitment Contingency. The Caution at lines 278-280 provides:

> CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender to provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.

The Appraisal Contingency in the offer at lines 308-326 is not



in play because the deadline for the buyer providing a copy of the appraisal and notice objecting to the value has passed by.

The delivery of the loan commitment to the seller, with conditions stated therein, satisfies the Financing Commitment Contingency. If there are no other unsatisfied contingencies in the offer, the offer will be "firm," and the buyer will be obligated to go through with the purchase.

The conditions stated in the loan commitment do not become conditions of the offer — they are not incorporated into the offer. If the conditions in the loan commitment cannot be met, the buyer would have to work that out with the lender. If the buyer cannot close because the lender will not provide the funds because of the low appraisal or any other unfulfilled condition in the loan commitment, the seller would have a legal claim against the buyer for breach of contract and can pursue the remedies in the Default section of the offer.

See pages 1-3 of October 2019 Legal Update,

See pages 1-3 of the October 2019 *Legal Update,* "WB-11 Residential Offer to Purchase – 2020 Edition – Part 2," at www.wra.org/LU1910 and "Pick Me! I Didn't Include an Appraisal Contingency!" in the October *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Oct20/PickMe.

ONCE IS ENOUGH FOR RADON

The buyer submitted an offer and checked off the Radon Testing Contingency on both the offer and also on Addendum A. The seller is countering the offer, saying it is redundant and asking to strike out the lines on Addendum A. The cooperating agent realizes it is redundant, but why even ask to strike it out? The agent is asking this stupid question because he does not want the case to be, "line so and so from Addendum A is hereby stricken" to mean that the contingency is coming out of the offer as well. The agent is thinking if the buyer agrees to strike the radon testing contingency out of Addendum A, then the other party is going to assume the contingency is also being removed from the offer.

Sometimes with two contingencies covering the same topic, it can be concerning since they may have different standards or deadlines, so it makes sense to just have one. As far as the concern about countering out the language of one of the contingencies being interpreted as both, the parties may draft the counter-offer so it makes it clear that the "Radon Testing Contingency at lines __________ in the (offer/addendum) is hereby deleted but the Radon Testing Contingency at lines _________ in the (offer/addendum) is a part of this transaction."

See pages 7-8 of the September 2019 *Legal Update*, "WB-11 Residential Offer to Purchase – 2020 Edition – Part 1," at www.wra.org/LU1909 and pages 3-4 of the July 2020 *Legal Update*, "WB-11 Residential Offer to Purchase – Take 2," at www.wra.org/LU2007.

THE SOCIAL SECURITY NUMBER HOT POTATO

Do the sellers have to disclose their Social Security numbers to the buyers on the Seller Certification of Non-Foreign Status form? The agent recently had one where that line was left blank. The agent usually does not even ask for Social Security numbers anymore and has the seller give them directly to the title company. The agent sent the form with the offer to the title company, and the title company said it needs the Social Security numbers on the certification form. The agent knows most people would like to give that information to as few people as possible.

Although the broker may provide the seller with a blank copy of the WRA Seller Certification of Non-Foreign Status as an example or for reference purposes, it is intended in the WB-11 Residential Offer to Purchase for the sellers to complete, sign and deliver the form without involving or copying any licensees. Under the modified FIRPTA provision language, if the seller is not a foreign person, the certification is provided no later than closing. A certification of non-foreign status is to be delivered to the buyer or a qualified substitute, with the qualified substitute, that is, the title company, being the clear preference. The seller would provide the certification directly to the title company so a licensee would never receive, transmit or hold a completed seller certification of non-foreign status form. Firms obviously do not want to be involved with a form that includes a seller's taxpayer identification number, such as a Social Security number; and sellers do not want that information sent to the buyer. Such information typically is, however, provided to the title companies.

In other words, it is critical for all licensees working with sellers to emphasize to them in no uncertain terms that they should provide any completed seller certification of non-foreign status form directly to the title company and never provide a copy or transmit it to a licensee. This is important for the sellers' best interests to help ensure their Social Security numbers will not fall into illicit hands, will not become part of the firm's files, and will not be unnecessarily transmitted — every time personal information is transmitted or retained, another opportunity for the crooks and hackers is presented.

The safest course is for the seller to always complete and transmit the form to the title company in accordance with the title company's instructions and in whatever manner the title company prefers in the interest of safeguarding this private, identifying seller information. Completing a certification at the title company would be the most secure because there is no transmittal needed.

The IRC definition of a "qualified substitute" includes a title company or attorney responsible for closing the transaction. If the qualified substitute receives a completed seller certification of non-foreign status, the qualified substitute is then, in accordance with § 1445 of the Internal Revenue Code, to deliver a statement to the buyer, under penalty of perjury, advising they are in possession of the seller's certification. The broker may retain a copy of this certification from the title company without worry or risk as it does not contain any Social Security number or other sensitive information in it.

See "Hit Me FIRPTA One More Time – FIRPTA
See "Hit Me FIRPTA One More Time – FIRPTA
'Take 2'" in the August 2020 *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Aug20/FIRPTA, pages 4-8 of the July 2020 *Legal Update*, "WB-11 Residential Offer to Purchase – Take 2," at www.wra.org/LU2007 and the November 2019 *Legal Update*, "WB-11 Residential Offer to Purchase – 2020 Edition – Part 3," at www.wra.org/LU1911.

CHECK THE BOX AND WATCH THE RESCISSION DEADLINES

The buyer client has an accepted offer on a condominium. The buyer did not have the condominium minutes or budget when drafting the offer; those were just provided by the seller. The buyer is objecting to the financial state of the condominium per the budget. The buyer did not check the box at line 149 in the WB-14 Residential Condominium Offer to Purchase for the Contingency for Additional Condominium Information. Is the buyer still protected and able to kill the offer pursuant to the offer language in the Condominium Disclosure Materials section on lines 107-148?

The buyer has a limited time to exercise their right to rescind as stated on lines 131-133 of the WB-14:

> BUYER RESCISSION RIGHTS: As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days after receipt of all the required disclosure documents or following notice of any material changes in the required disclosure documents, rescind this Offer by written notice delivered to Seller.

“IF THERE ARE NO OTHER UNSATISFIED CONTINGENCIES IN THE OFFER, THE OFFER WILL BE “FIRM,” AND THE BUYER WILL BE OBLIGATED TO GO THROUGH WITH THE PURCHASE.

The timeline is key with respect to when the seller received the budget and other required condominium disclosure materials. To assure proper rescission, the buyer would provide the seller with written notice, in a timely manner, delivered by an authorized delivery method. The buyer may use any form of writing but may wish to use a WB-41 Notice form.

See pages 1-4 of the August 2020 *Legal Update*, "WB-14 Residential Condominium Offer to Purchase 2020," at www.wra.org/LU2008.

1, 2, 3 – YOU'RE BUMPING ME!

The agent has a question about the bump clause provision on lines 335-347 of the WB-11 Residential Offer to Purchase. Below line 341 (3), there are two boxes to check, and then there is a new line that says "Other." Is "Other" a third option for line 341 (3)? The agent wants to add an accepted offer on the buyer's home as a third option and wants to make sure if the agent adds that, it is part of line 341 (3), and a third option.

The Bump Clause is now a separate check box item in the WB-11 and has that "spread out" formatting with lists of numbered items and bullet points to enhance user understanding. In terms of what a buyer must deliver to the seller to avoid being bumped, the provision gives a numbered list:

1. Item (1) at line 338 states a written waiver of the Closing of Buyer's Property Contingency must be delivered to the seller if the box on line 328 has been checked, making the Closing of Buyer's Property Contingency a part of the offer.

2. Item (2) gives the opportunity to make other provisions in the offer subject to the bump clause. A waiver of any contingencies written in the blank at lines 339-340 must also be delivered. If "N/A," a dash (—) or nothing is written in, then the second item does not apply and may be disregarded.

3. Item (3) on lines 341-347 lists other items, if any, the buyer also must deliver to avoid being bumped. There are check boxes for a bridge loan and for third-party reasonable written verification of funds, and a blank to write in other requirements where is says "Other." For instance, additional earnest money might be written on the Other line.

If the seller wants to require the buyer deliver a copy of an accepted offer on the buyer's home as something that the buyer must deliver to avoid being bumped, it may be written in at lines 345-346.

Thus, there is a laundry list of the items on lines 338-347 a buyer must deliver to the seller if the buyer receives a bump notice and wants to avoid being bumped.

See page 5 of the October 2019 *Legal Update*, "WB-11 Residential Offer to Purchase – 2020 Edition – Part 2," at www.wra.org/LU1910.

Be sure to see the videos and other forms resources at www.wra.org/FormsUpdate.

Debbi Conrad is Senior Attorney and Director of Legal Affairs 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 that you practice real estate legally and correctly. Below are the latest resources from the WRA.

LEGAL HOTTIPS

Latest Discussions on the WRA Legal Hotline

- How long licensee has to reinstate license if the licensee misses the December 14 renewal.
- Offers accepted prior to offer presentation date stated in the MLS.
- Showing tenant-occupied home when tenant may have COVID-19.
- Agent just discovered failure to report misdemeanor conviction.
- Fence from property for sale encroaches 8 feet on neighbor's property.

Read: **WRA.ORG/LEGALHOTTIPS**

LEGAL UPDATES

Prohibited Conduct and Disclosure of Compensation and Interest

This *Legal Update* reviews disclosure related to scenarios in which the licensee provides brokerage services on behalf of oneself, family or a business entity.

Read: **WRA.ORG/LEGALUPDATES**

LEGAL NEWS EMAIL

New IRS Regulations for Like-kind Exchanges of Real Property

On November 23, 2020, the Treasury Department and Internal Revenue Service issued final regulations relating to section 1031 like-kind exchanges. The regulations address the definition of real property under section 1031 and the receipt of personal property incidental to real property received in a like-kind exchange.

Read: **WRA.ORG/HOTTIPSPDF/120720/NEWS**

LEGAL UPDATE LIVE

New Professional Standards and MLS Policy Changes

Watch a discussion about the new professional standards and MLS policy changes, adopted by NAR last month, that both have a focus on a commitment to fair housing.

Watch: **WWW.WRA.ORG/LUL/EPISODE9**

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

New Extended Hours!
The hotline extended its hours in October 2020 and is now available to answer your questions during weekends. In addition to the usual Monday-Friday hotline hours, the hotline is accessible on Sundays from 1:00 p.m. to 4:30 p.m.

Learn more:
WWW.WRA.ORG/LEGALHOTLINE

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

2020 WRA ELECTION RECAP

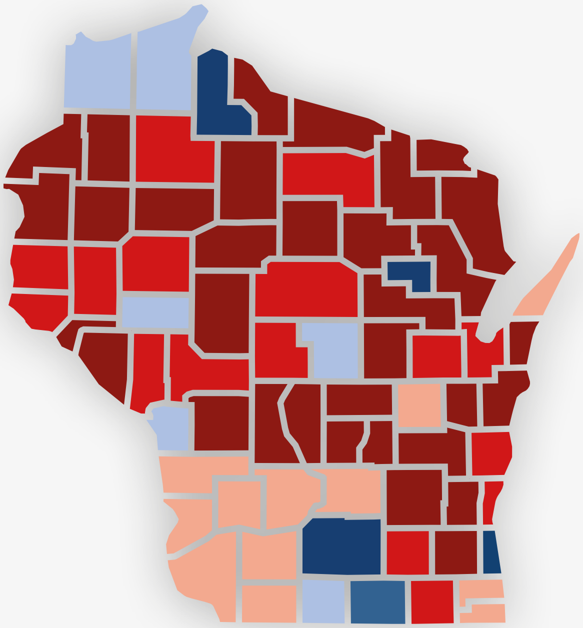
With the 2020 elections in the rearview mirror, it's time to take a deep breath and explore how the elections turned out in Wisconsin. As you know, the WRA and local boards spend a lot of time and effort in congressional and state legislative elections in the Badger State, so let's review how the candidates the WRA supported fared in the November 3 elections.

PRESIDENTIAL ELECTION RESULTS

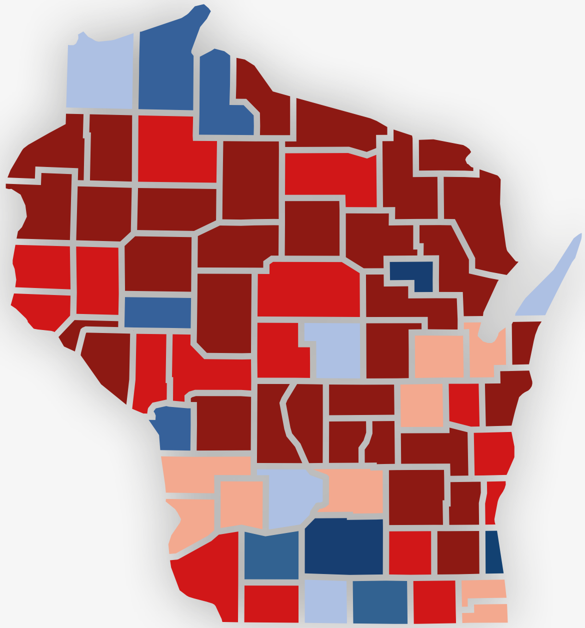
MARGIN OF VICTORY

DEM 0-10 | 10-20 | >20 **GOP** 0-10 | 10-20 | >20

2016



2020



2016:

Trump (R): 1,405,284 (47.2%)

Clinton (D): 1,382,526 (46.5%)

Johnson (Lib): 106,674 (3.6%)

Stein (Green): 31,150 (1.2%)

Other candidates: 45,506

Winning margin: 22,748

Vote total: 2,972,150 (67.34%)

2020:

Biden (D): 1,630,570 (49.6%)

Trump (R): 1,610,030 (48.9%)

Jorgensen (Lib): 38,415 (1.2%)

Other candidates: 10,459 (.04%)

Winning margin: 20,540

Vote total: 3,289,474 (72.67%)

Source: Associated Press, Wisconsin Elections Commission

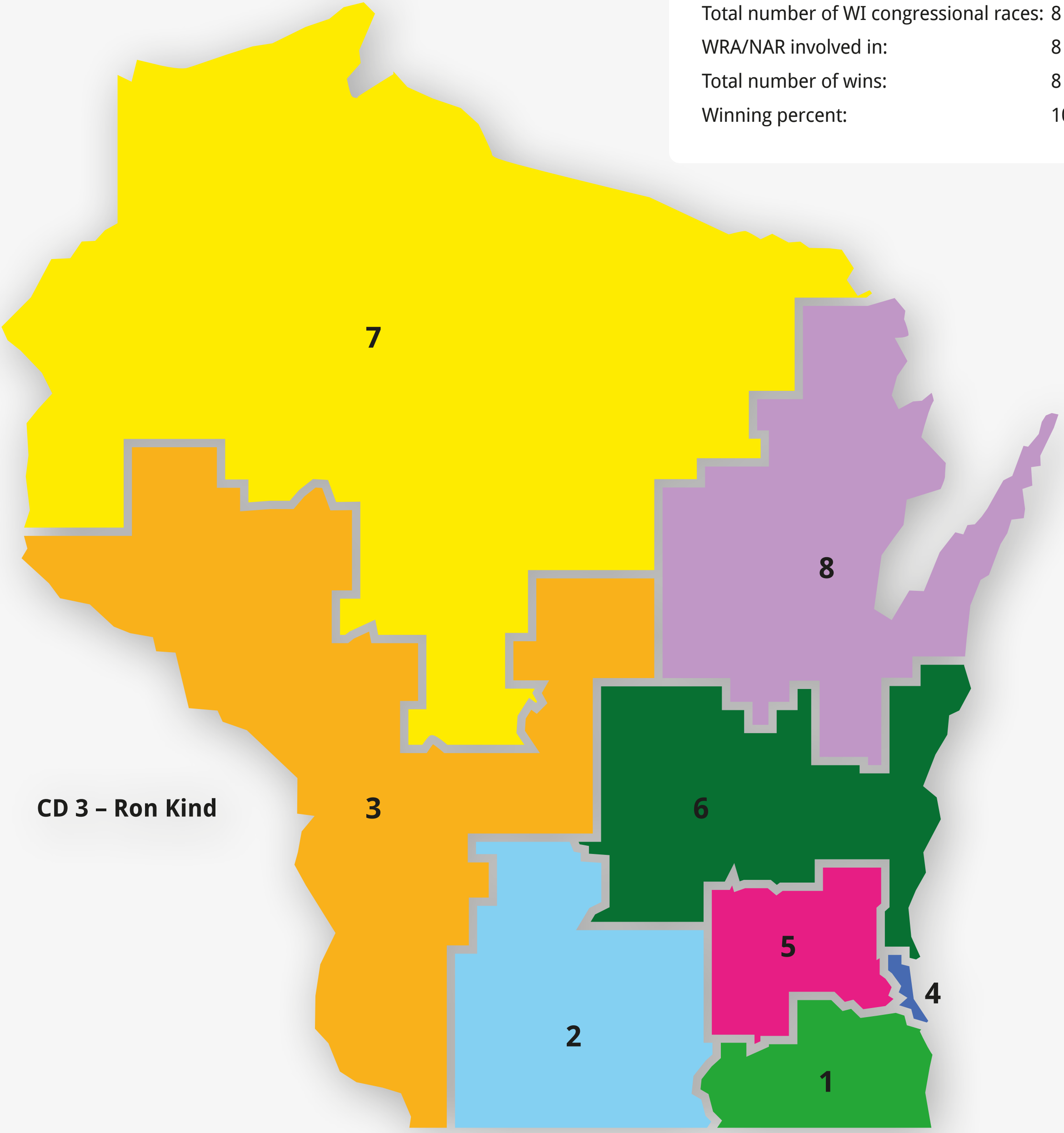
The WRA and the National Association of REALTORS® do not take a position in the presidential contest. However, top-of-the-ticket elections have significant influence on down-ballot races, and the results from the 2020 presidential race in Wisconsin surprised many political prognosticators in November. For the most part, polling showed a clear and comfortable lead for Joe Biden, but the polls were wrong.

The Biden-Trump race was, once again, extremely close. Biden won Wisconsin by only 20,540 votes, which is less than one percentage point. In 2016, Trump carried Wisconsin by only 22,748 votes, just under one percentage point. In the end, Wisconsin was truly "in play" for both sides, and Biden hung on for a very narrow victory.

CONGRESSIONAL RACES

WRA/NAR 2020:

Total number of WI congressional races:	8
WRA/NAR involved in:	8
Total number of wins:	8
Winning percent:	100%

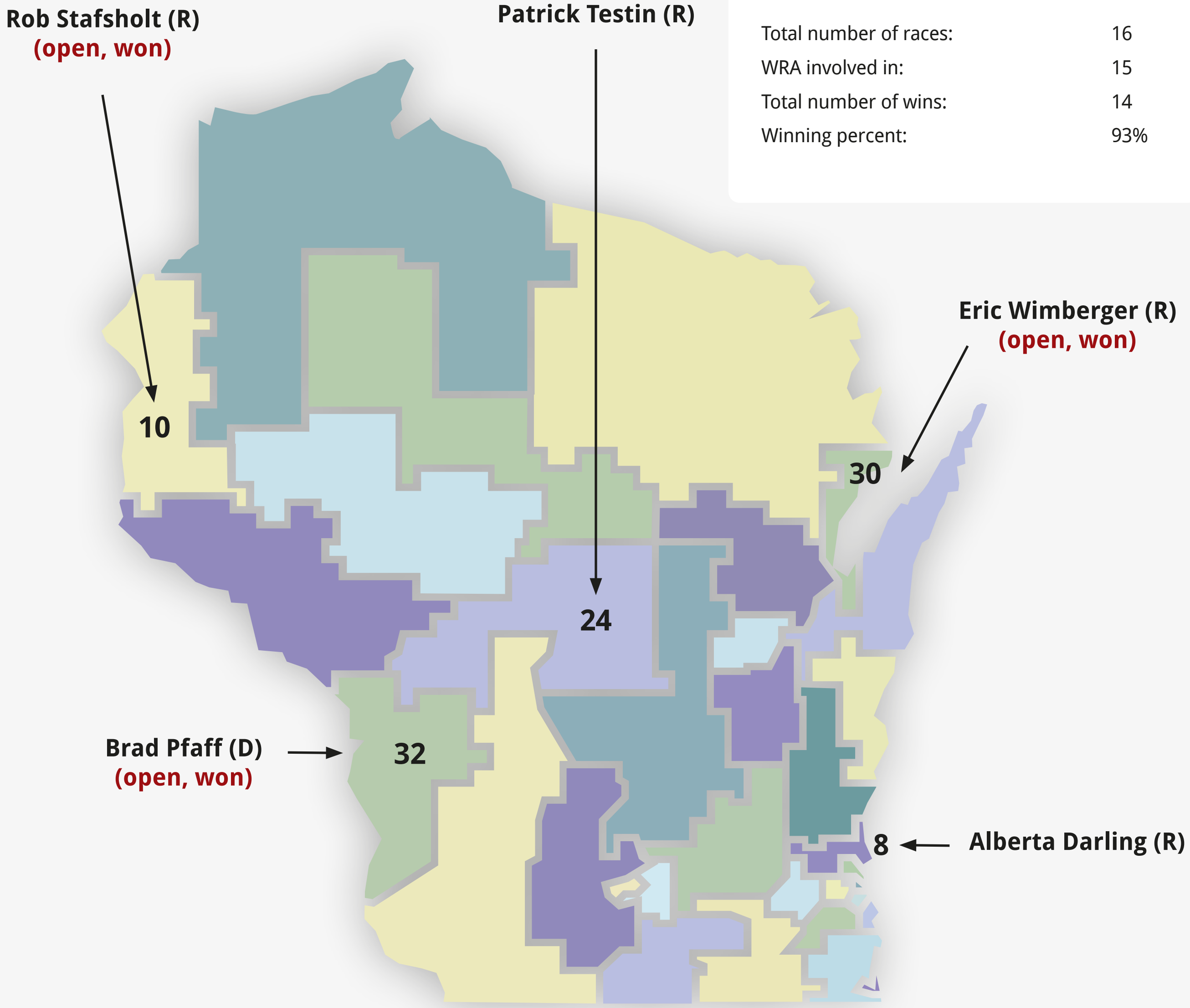


Going into the November 3 elections, most political insiders didn't think there would be a lot of competition in Wisconsin congressional elections, except for the 3rd Congressional District in western Wisconsin held by Ron Kind (D-WI). Kind did have a close election, but in the end, he pulled out a narrow win.

All other members of the congressional delegation had easy victories. A couple of facts are noteworthy: State Sen. Scott Fitzgerald (R-Juneau) will replace longtime Congressman Jim Sensenbrenner in the 5th Congressional District; and with his 24 years of service, Ron Kind is now the senior member of the Wisconsin congressional delegation.

STATE SENATE

Total number of races:	16
WRA involved in:	15
Total number of wins:	14
Winning percent:	93%



Wisconsin Competitive Senate Districts
This district map shows the November 3, 2020, election winners in the respective Senate Districts.

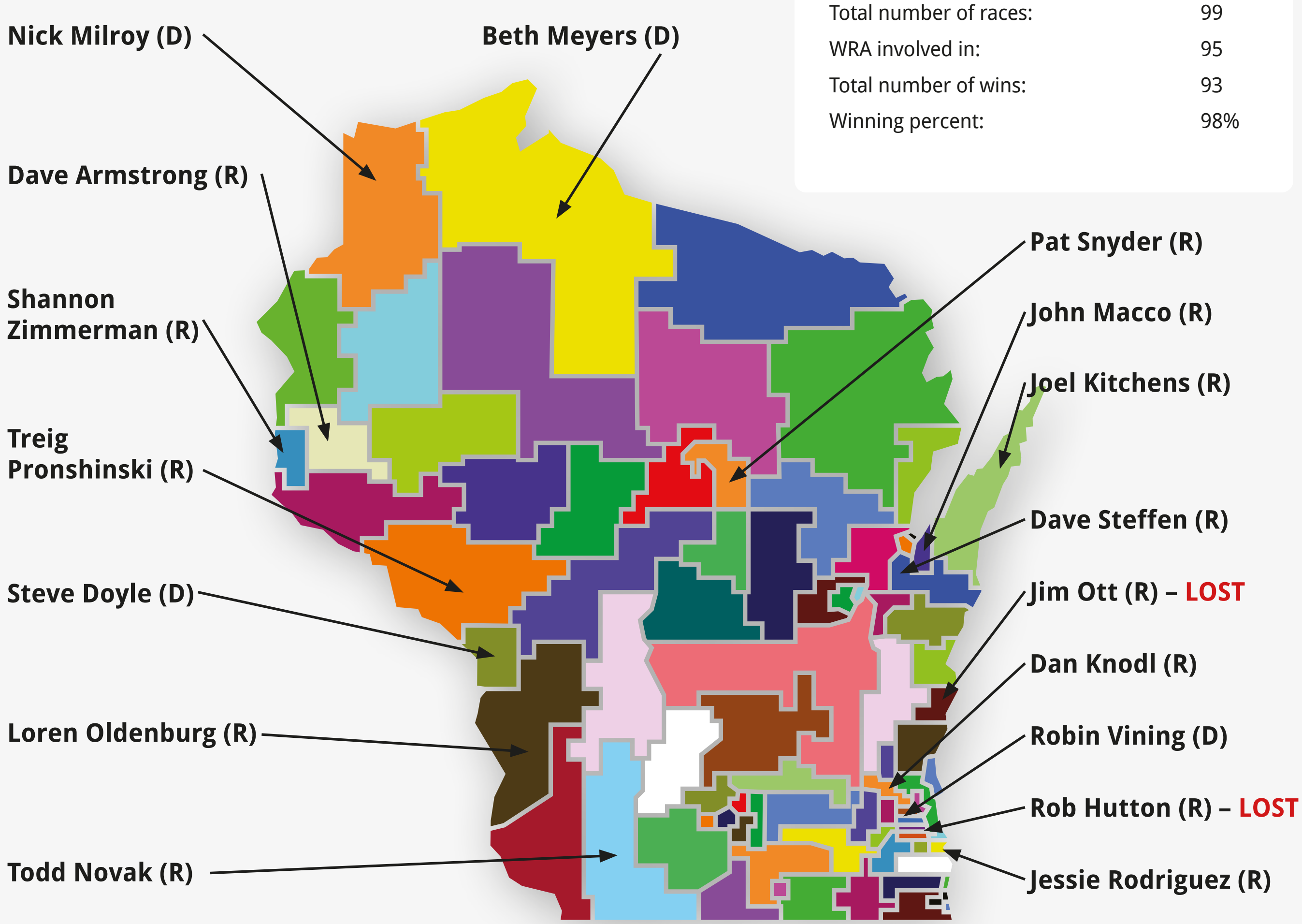
Every two years, one half of the Wisconsin Senate must run for reelection. In 2020, the even-numbered seats were on the ballot, and five of these 16 total seats were seriously contested. Heading into November 3, Senate Republicans held a 19-14 majority.

The goal for Senate Republicans in the 2020 election cycle was to grow their 19-14 Senate majority by three seats to reach a 22-11 supermajority. The goal for Senate Democrats was to stop the Republicans from reaching their goal. In the end, Republicans picked up two seats, bringing their new majority to 21-12.

Democrat Brad Pfaff of Senate District 32 narrowly defeated former GOP Senator Dan Kapanke by 600 votes to keep the Republicans from reaching supermajority in the state Senate. Republicans, however, carried all four remaining targeted seats including Senate District 8 with Alberta Darling, 10 with Rob Stafsholt, 24 with Patrick Testin, and 30 with Eric Wimberger.

STATE ASSEMBLY

Total number of races:	99
WRA involved in:	95
Total number of wins:	93
Winning percent:	98%



Wisconsin Competitive Assembly Districts
This district map shows the November 3, 2020, election winners in the respective Senate Districts.

Every two years, all 99 members of the Wisconsin Assembly must run for reelection. Going into this election cycle with a historically large and very comfortable 63-36 majority, Assembly Republicans, just like their Senate colleagues, had a similar supermajority goal. To reach that goal, Assembly Republicans needed to hold all 63 of their current seats as well as add three more to reach a total of 66 seats.

In the end, the Assembly Republicans failed to meet their supermajority goal for two significant reasons. First, with a 63-36 majority heading into a potentially difficult election cycle, Assembly Republicans were on defense. With a big majority and what appeared at the time as a “blue wave” election unfolding, Assembly Republicans found themselves in a defensive posture trying to protect a number of potentially vulnerable suburban seats from flipping from red to blue in November. Secondly, the Democratic Party of Wisconsin raised a record amount of money that was transferred into state legislative seats all over Wisconsin, putting more seats “in play” with a two-to-one or better cash advantage. After all the votes were counted, Assembly Republicans lost only two seats and maintained a solid 61-38 majority.

In the end, there was no blue wave in the November election, and while Assembly Republicans lost two seats in suburban Milwaukee, Senate Republicans picked up two. Bottom line: legislative Republicans held 82 seats going into November 3 and have 82 seats today. Joe Biden defeated Donald Trump in Wisconsin, but very little changed in down-ballot congressional and legislative elections.

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

REALTORS® Insurance Place

Helps NAR Members Navigate Health Care Options During Open Enrollment and Beyond

By the National Association of REALTORS®' REALTOR Benefits® Program Team

Health insurance options have become ever more complex, and, particularly for the self-employed, this has made choosing the right coverage increasingly challenging and time-consuming.

The National Association of REALTORS® developed REALTORS® Insurance Place as a resource for its members to address these issues; it's a place for trusted advice and access to an array of coverage options, with competitively priced plans from top-rated insurance companies and providers.

Does the name sound familiar? Originally introduced as REALTORS® Insurance Marketplace, the newly re-named REALTORS® Insurance Place better reflects the ever-growing menu of exclusive insurance products and creative coverage solutions available to NAR members and their families. And, it makes clear that plan options are in no way limited to ACA Marketplace plans.

Here, NAR members will find health, dental and vision coverage, plus telemedicine and a variety of wellness solutions — all with unique benefits for REALTORS®. Members will find plans for all stages of life, and even an offering that extends to their pets!

No matter what a member's unique needs may be, licensed benefit specialists are available to help navigate their options and identify cost-savings strategies.

REALTORS® Insurance Place is made available through the National Association of REALTORS®' REALTOR Benefits® Program and is administered by SASid (Smart And Simple Insurance Development), Inc., a trusted, long-term NAR partner.

REALTORS® who want to learn more about this member resource can visit REALTORSInsurancePlace.com or call 1-877-267-3752.

TeleHealth:

Trustworthy Health Advice, Delivered Safely and Conveniently

This is the year to embrace virtual health care. Members TeleHealth provides an efficient, cost-effective way to address non-emergency medical conditions, when and where you need it.

This innovative health coverage solution gives NAR members access to MDLIVE, a leading telemedicine provider. MDLIVE's network of over 2,300 U.S. state-licensed and board-certified physicians are accessible 24/7/365 by phone, web chat or email.

Telemedicine has become a popular alternative to traditional in-person doctor's appointments or emergency room visits. According to a recent report,

Member Benefits at the State Level

In addition to NAR's REALTOR Benefits® Program, the WRA offers unique benefits exclusively for WRA members, ranging from CRM software to a legal hotline.

WRA EXCLUSIVE PARTNERS

Save on products and services with the WRA's exclusive benefit partners.

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Energize your wardrobe with custom apparel.
www.wra.org/LandsEndBusiness

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www.wra.org/PaperlessAgent

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Insurance designed for the real estate industry.
www.pearlinsurance.com

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Simple CRM for your business.
www.realtyzamcrm.com/WRA

SPECTRUM INSURANCE
Save on insurance premiums.
www.wra.org/spectrum

TAXBOT
Bulletproof your records against audits.
www.wra.org/taxbot

Learn more about these exclusive partners:
www.wra.org/ExclusivePartners

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The WRA offers products and services to give you a competitive edge.

INMAN SELECT SUBSCRIPTION
Get the latest real estate news, award-winning commentary, special reports and more.
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WRA LEGAL HOTLINE
Discuss your real estate practice questions with a real estate attorney.
www.wra.org/LegalHotline

WRA THURSDAY TAKEAWAYS
Boost your knowledge with expert advice with this weekly video series.
www.wra.org/ThursdayTakeaways

Learn more about all WRA member benefits:
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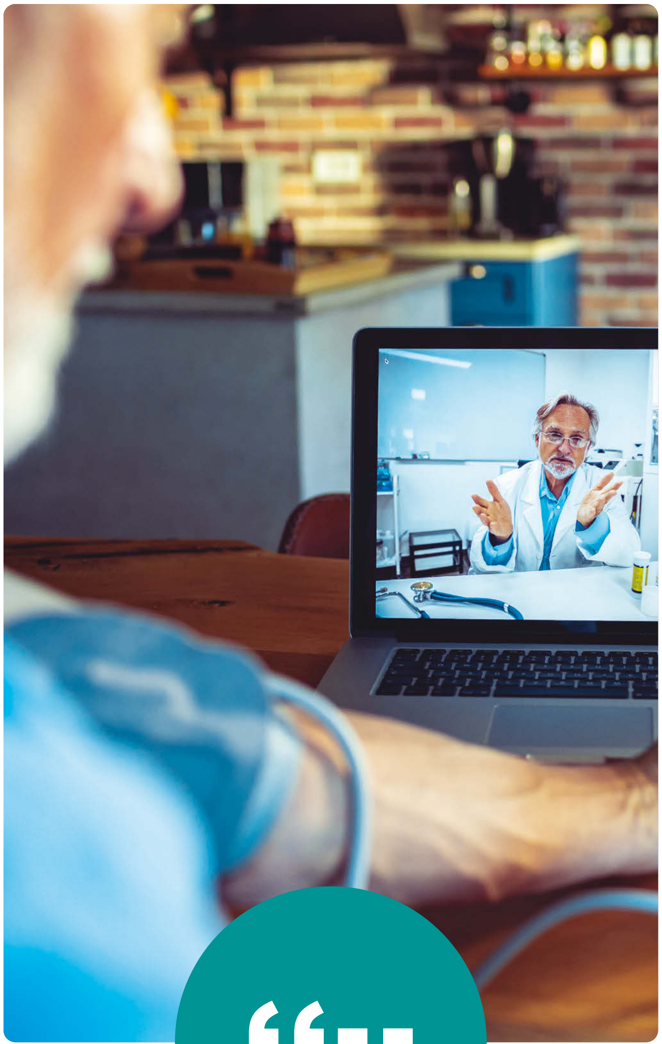

I got immediate relief and avoided the outrageous costs and inconvenience of using urgent care. My insurance deductible is $6,700, and without MDLIVE, I probably would've delayed treatment. It was a lifesaver.

"Telehealth—A Technology-Based Weapon in the War Against the Coronavirus, 2020," by research firm Frost and Sullivan, "demand for telehealth is steadily rising and is expected to soar during the next five years."

Members Telehealth is offered as a monthly subscription service and is an appealing option for NAR members looking for trustworthy health advice with flexibility and affordability. Members receive a group discounted monthly rate of $7, which covers members and their immediate family members. Through NAR's program, the enrollment fee is also waived, and the monthly payment covers unlimited consultations and no copay.

One NAR member who used TeleHealth twice in one month said, "I got immediate relief and avoided the outrageous costs and inconvenience of using urgent care. My insurance deductible is $6,700, and without MDLIVE, I probably would've delayed treatment. It was a lifesaver."

FLEXIBLE TERM HEALTH PLANS

NAR members who miss open enrollment or wish to explore major medical alternatives to ACA health plans may wish to explore flexible-term health plans.

These plans, often called short-term plans, feature a limited coverage period that ranges from 30 days to 364 days. They are designed to bridge coverage gaps or provide primary coverage for an extended time.

Flexible Term Health Insurance works particularly well for those facing unique circumstances: Some may need coverage for a college student, others may be awaiting the start of open enrollment, and still others may want alternatives to COBRA or ACA qualified plans.

Highlights of Flexible Term Health Insurance:

- Typically less expensive than traditional individual major medical plans.
- Qualification for coverage consists of answering only a few questions.
- Next-day coverage available, if approved.
- Select a specific number of days for coverage or choose a monthly plan option.
- Many plan designs available (patient selects deductibles and coinsurance options).
- Freedom to choose any provider (any doctor, hospital, specialty).

More information about Flexible Term Health Plans and Members Telehealth can be found at REALTORSInsurancePlace.com.

The REALTOR Benefits® Program is the exclusive member benefits program of the National Association of REALTORS®, bringing savings and special offers just for NAR members. In one year, over 800,000 REALTORS® gained an edge by leveraging at least one REALTOR Benefits® Program offering, saving $74 million on member benefits from industry-leading companies. Program partners are carefully selected and understand the unique needs of real estate professionals. Learn more and save by visiting NAR.realtor/RealtorBenefits.

Upgrade Your Forms Knowledge

... and upgrade your transaction

Contract catastrophes or forms frustration bogging you down? If you're plagued by transaction derailments or closing delays, look to the Line by Line online video series for solutions. The video series provides in-depth forms analysis so you can enhance your understanding of your contracts. With Line by Line training, you'll ultimately draft your real estate forms with confidence and enjoy a smooth transaction!

Explore these WB forms on a granular level with Line by Line training:

- WB-1 Residential Listing Contract
- WB-36 Buyer Agency/Tenant Representation Agreement
- WB-4 Residential Condominium Listing Contract
- WB-11 Residential Offer to Purchase (2020)
- WB-14 Condominium Offer to Purchase
- 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 Buyer Agency/Tenant Forms
- WB-15 Commercial Offer to Purchase
- WB-37 Residential Listing Contract – Exclusive Right to Rent
- WB-24 Option to Purchase
- WB-2 Farm Listing Contract and WB-42 Amendment to Listing
- WB-12 Farm Offer to Purchase
- WB-6 Business Listing Contract – Exclusive Right to Sell
- WB-16 Offer to Purchase – Business with Real Estate Interest
- WB-17 Offer to Purchase – Business Without Real Estate Interest
- WB-36 Simultaneous Exchange Agreement

More information: WWW.WRA.ORG/LINEBYLINE

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This four-course series dives into must-know topics relevant for securing a competitive edge in today's marketplace:

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- Contracts
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- Fair housing laws
- Goal-setting
- Inspection issues
- Listing appointments
- Negotiation
- Principles of pricing
- Prospecting
- Real estate laws
- REALTOR® Code of Ethics
- REALTOR® safety
- Showing a property
- The buyer presentation
- The closing process

With Quick Start training entirely online, you can get started today. Your career will thank you!

More information: WWW.WRA.ORG/QUICKSTART

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Weekly guide on sales tips for your business

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EP. 59: "Seller Tested Positive for COVID-19. Now What?" with Jennifer Lindsley

EP. 58: "Exceptions to License Renewals" with Sara Norberg

EP. 57: "The Pre-determination Process" with Jennifer Lindsley

EP. 56: "How Do I Renew My License?" with Jennifer Lindsley

Catch it online: wra.org/thursdaytakeaways

CAPITOL INSIGHTS

Podcast highlighting real estate advocacy

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EP. 13: "Blue Sky or Dark Clouds?"

EP. 12: "2020 Wisconsin Election Recap"

EP. 11: "The WRA Crystal Ball"

EP. 10: "The WRA Legal Action Program"

Listen to the latest: www.wra.org/capitolinsights

LICENSE RENEWAL STEP-BY-STEP GUIDE

Find out how to renew your license using the DSPS website

Watch: wra.org/2020renewalvideo

LEGAL UPDATE LIVE

New Professional Standards and MLS Policy Changes

Catch it online: wra.org/LUL/Episode9

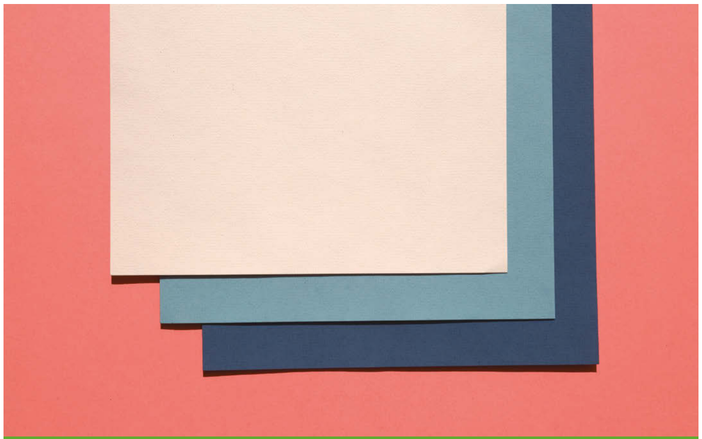
BROKER PRE-LICENSE

Build a new you in 2021!

The new year is just around the corner, and that means personal and professional goals are too. Thinking about climbing the real estate ladder in 2021?

The WRA's broker pre-license training gives you the inside scoop on real estate brokerage fundamentals and a full slate of exam prep instruction so you'll be ripe and ready for the official broker's license exam.

More information: **WWW.WRA.ORG/BPL**



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- Includes 100+ digital WB and WRA real estate forms.
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- The DR and member agents access the library on a WRA website portal.
- Users can download all forms at once or just a single form when needed.

Buy your annual subscription at **WWW.WRA.ORG/FORMSLIBRARY/ENROLL.**

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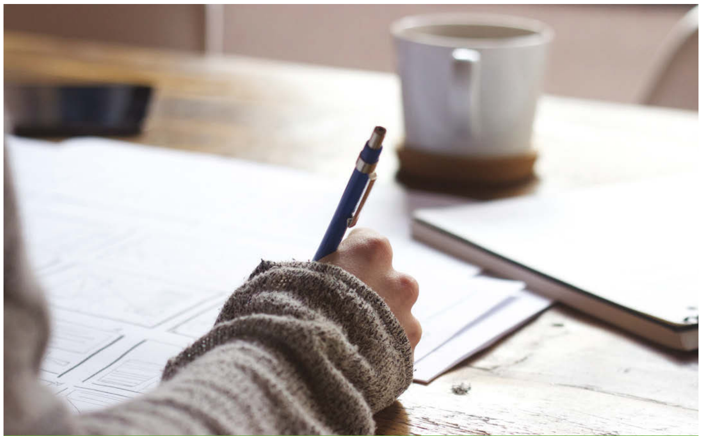
Take a break and watch Thursday Takeaways

Have you checked out the Thursday Takeaways video series? The WRA's online training series is your weekly guide to learn about new industry trends and what's cutting-edge for your business. Plus, the video series is free with your WRA membership!

More than 60 Thursday Takeaway episodes are available online. Grab your phone, sit back, and catch up on the latest real estate trends like COVID-19 procedures, new MLS policies and more.

Get started today: **WRA.ORG/THURSDAYTAKEAWAYS**



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Boost your industry expertise with Graduate, REALTOR® Institute (GRI) designation training. Half of your GRI credits can be completed with GRI On Demand, available whenever and wherever you want. All you need is an internet connection.

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Sales Pre-license Course	On Demand	www.wra.org/SPL
SCHEDULED TRAINING		
Sales Pre-exam Review Webinar: Jan. 8, 2021	Virtual webinar	www.wra.org/SPLwebinar
Sales Pre-exam Review Webinar: Feb. 5, 2021	Virtual webinar	www.wra.org/SPLwebinar
Sales Pre-license Course: Feb. 8-12; 15-17	Blended (virtual sessions and online activities)	www.wra.org/SPLBlended
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ONGOING VIRTUAL TRAINING		
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Quick Start	On Demand	www.wra.org/QuickStart
EDTalks Speaker Education Showcase	Online video series	www.wra.org/EDTalks
Thursday Takeaways	Online video series	www.wra.org/ThursdayTakeaways