March 2023 Vol. 39, No. 4

WISCONSIN REAL ESTATE MAGAZINE

INSIDE this Issue:

Prep for Fair Housing Month

WRA DEI Initiatives

Vacant Land Listing Scam

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WRA

THE LATEST VIDEOS

HOUSING MINUTE

Monthly analysis in Wisconsin housing

January 2023 Housing Recap

High prices and low affordability hampered January 2023 home sales. "In late October, 30-year fixed mortgage rates hit a weekly average of just over 7%, so it's good to see them start coming down. However, we will need to see both lower mortgage rates and lower price pressure before there is appreciable improvement in housing affordability in the state," said 2023 WRA Chairman Joe Horning.

Watch: www.wra.org/HousingMinute

LINE BY LINE

Comprehensive forms training

Kick Forms Frustration to the Curb

The most in-depth Wisconsin real estate forms training is free for WRA members! If drafting errors or contract issues cause delays in your transactions, the WRA's Line by Line online video series has what you need to get back on track. With Line by Line training, you'll be ready to draft forms with confidence and conduct a smooth closing.

Watch: www.wra.org/LineByLine

2023 GOVERNMENT DAY

What's on the April 26 event agenda

Property Tax Freeze

Since Wisconsin placed a freeze on local property tax levy increases in 2011, Wisconsinites have saved $3.5 billion. But thawing isn't always good.

On April 26, 2023, join fellow REALTORS® from across the state for your chance to speak to Wisconsin lawmakers as one voice to advocate for maintaining Wisconsin's property tax freeze.

Watch: www.wra.org/RGD23/Snowman

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JANUARY HOUSING

HIGH PRICES AND LOW AFFORDABILITY HAMPER JANUARY HOME SALES

BY DAVE CLARK

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

January 2023 Wisconsin housing at a glance:

- The median price in January stood at $250,000.
- Months of inventory remained identical year over year.
- Homes sales slid 33.8% compared to January 2022.
- Affordability continues to be the reason demand is so weak.
- Average days on the market dropped 4.8% year over year.

See the full report: **www.wra.org/HSRJan2023**

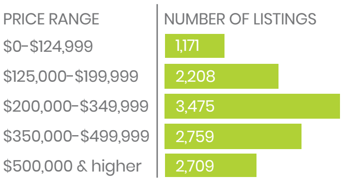
David Clark, Ph.D., is a professor of economics at Marquette University and principal at ECON Analytics LLC, and serves as a consultant to the WRA in the analysis of home sales data as well as in the preparation of the monthly Wisconsin housing report. For more information, contact Clark at 414-803-6537.

JANUARY HOUSING

3,114
CLOSED SALES JAN 2023
-33.8%
FROM JAN 2022

$250,000
MEDIAN PRICE JAN 2023
+8.5%
FROM JAN 2022

ACTIVE LISTINGS BY



12,322
TOTAL STATEWIDE LISTINGS JAN 2023
-16.2%
FROM JAN 2022

MEDIAN PRICES BY REGION

AVERAGE DAYS ON MARKET
80 DAYS JAN 2023
COMPARED WITH
84 DAYS JAN 2022

MONTHS OF INVENTORY
1.9 JAN 2023
1.9 JAN 2022

HOUSING STATISTICS MONTHLY ACTIVITY

Statewide	January 2023	January 2022	% Change	YTD 2023	YTD 2022	% Change
New Listings	3,896	5,280	-26.2%	N/A	N/A	N/A
Total Listings	12,322	14,709	-16.2%	N/A	N/A	N/A
Closed Sales*	3,114	4,702	-33.8%	3,114	4,702	-33.8%
Median Sales Price	$250,000	$230,450	+8.5%	$250,000	$230,450	+8.5%
Months of Inventory	1.9	1.9	0.0%	N/A	N/A	N/A
Avg. Days on Market	80	84	-4.8%	N/A	N/A	N/A
Affordability Index	150	212	-29.2%	N/A	N/A	N/A

	Median Price			Closed Sales		
Region	**January 2023**	**January 2022**	**% Change**	**January 2023**	**January 2022**	**% Change**
Central	$207,000	$180,250	+14.8%	213	273	-22.0%
North	$203,000	$192,000	+5.7%	241	422	-42.9%
Northeast	$230,000	$210,000	+9.5%	570	908	-37.2%
South Central	$300,000	$278,000	+7.9%	628	929	-32.4%
Southeast	$260,000	$235,000	+10.6%	1,164	1,730	-32.7%
West	$245,000	$230,000	+6.5%	298	440	-32.3%

*Report criteria: Reflecting data through January 2023. *Total statewide closed sales may differ from the summed regional sales due to a small number of sales not being assigned to a county.*

INSIDE THE WRA

MAKE A DIFFERENCE WITH COMMITTEE SERVICE

Applications are now available for 2024 WRA committee positions. Interested in serving? Apply at **www.wra.org/committees**. Application deadline: **May 1, 2023.**

- **Diversity, Equity and Inclusion Committee:** Provides resources and tools for members on fair housing laws, cultural diversity and DEI initiatives, and administers the Partnership for Success Program.
- **Legal Action Committee:** Selects and funds legal expenses in administrative matters and cases that are of statewide interest and concern to the real estate industry.
- **Professional Standards Committee:** Resolves allegations of ethical violations and controversies between REALTORS® as described in the WRA bylaws.
- **Real Estate Forms Committee:** Provides counsel and advice on behalf of the WRA regarding the use of and modification to Wisconsin forms utilized in real estate transactions.
- **Wisconsin REALTORS® Foundation Board:** Provides financial support to statewide charities as well as relief efforts in response to natural disasters in Wisconsin.

FIRMS: ARE YOU READY FOR THE BUSY SEASON WITH NEW AGENTS? THE WRA CAN HELP!

Be sure your firm is ready for the peak selling season with skilled and licensed agents. The WRA's sales pre-license training is completely online and gives students the most cutting-edge, convenient education experience to prepare for their new career.

Plus, the WRA is your trusted partner when it comes to agent training. With our Broker Club program as well as decades of experience in instructing thousands of students about the fundamentals of Wisconsin real estate, we're ready to help your recruits prep for their new career. Visit **www.wra.org/SPL**.

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FEATURE

CULTURAL DIVERSITY COMMITTEE MOVES ONWARD TO DEI

BY DEBBI CONRAD
WRA SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS

Before it was the Equal Opportunity in Housing Committee. Then it became the Cultural Diversity in Housing Committee. This same committee is once again expanding its horizons and shifting to a new focus under the new name: the WRA Diversity, Equity and Inclusion (DEI) Committee.

ACCESSIBILITY FEATURES REPORTS

The Cultural Diversity in Housing Committee has an admirable list of accomplishments, an impressive catalog of great success. Its most recent projects include the Modern Era Accessibility Features Reports. The WRA Basic Sellers' Accessibility Features Report is two pages long and focuses on physical features or attributes of the seller's home that would tend to be of the greatest interest to a buyer with mobility concerns, although the items regarding motions sensors, good illumination and strobe light alerts will appeal to a broader spectrum. The WRA Sellers' Accessibility Features Report is five pages long, is in slightly larger font, and includes more property features that persons with vision and hearing disabilities may desire. Reading through the reports is sure to educate everyone about all the various features that may be incorporated in a home to make it more comfortable for persons with different special needs. The two new AFR forms may be found in Transactions (zipForm edition) and on the WRA Customers with Disabilities resource webpage at **www.wra.org/Disabilities**.

IMPLICIT BIAS

Launched in the February 2022 issue of *Wisconsin Real Estate Magazine* and designed to educate the REALTOR® community about implicit bias, the WRA implicit bias posters highlight various images of individuals with three arbitrary nouns as descriptions of the individual. The campaign images may be the faces of your prospective clients, customers, buyers, sellers, renters, landlords, investors, lenders, title agents, attorneys, members of your community or your fellow REALTORS®. The posters challenge the viewer, "who do you see?" Does your conscious mind or your subconscious brain — your implicit bias — provide the first answer?

The NAR video "Bias Override: Overcoming Barriers to Fair Housing," was an important aspect of this implicit bias campaign. After watching the video, the committee felt the video was a bit complex and hard to watch because it was full of so many important concepts packed back-to-back. The committee decided to watch the video, pinpoint important segments that resonated with the committee members, and have committee members share a summary of the concept and their personal observations and reactions. This content provided short summaries of some of the key lessons in the video for the benefit of WRA members. You can meet some of these awesome committee members and read how implicit bias concepts apply in their real estate business and personal life experiences by following the "read full narrative" links at **www.wra.org/ImplicitBias**.

THE COLOR OF LAW

The next project tackled was to find a way to share with WRA members the story of de jure segregation as told in the documented account, *The Color of Law*. The historical account of the measures taken by the government to ensure that segregation would prevail, to prevent integration and to exclude Blacks from reasonable mortgage loans and the purchase of even modest homes in nice neighborhoods is very unpleasant if not shocking. It is a tough read for many, so the committee members decided they would read the book and provide *Readers' Digest* snippets to give a taste of the information found in the chapters of *The Color of Law*. Thus committee members read *The Color of Law* and revealed some of facts they learned and their reactions to this information so that WRA members can get a sense of what the book divulges and hopefully want to learn more about the history of segregation in this country via the resources found at **www.wra.org/ColorOfLaw**.

PARTNERSHIP FOR SUCCESS PROGRAM

In the background to all of these activities, the committee has administered the Partnership for Success Program. As reported in the January 2023 issue of *Wisconsin Real Estate Magazine*, that program is undergoing exciting new changes to enhance the success of new minority agents. Thus, it seems fitting that the committee also undergo exciting new changes. One thing that will not change, however, is that a subcommittee within the new DEI Committee will continue to administer the Partnership for Success Program.

DIVERSITY, EQUITY AND INCLUSION

The DEI Committee is turning the page and focusing on new issues and goals. Many of the committee members have changed over the years, yet there is a core group that has stayed the same that is embarking upon the journey to determine how to bring a culture of diversity, equity and inclusion to the WRA.

First, the basics. DEI terms are related, but each carries its own meaning:

- **Diversity** describes differences in characteristics like race, religion, age, gender, sexual orientation and ability.
- **Equity** ensures everyone receives fair treatment and equal access to resources, opportunities and success.
- **Inclusion** is about fostering a sense of value and empowerment and engaging everyone to contribute, participate and succeed.

The concepts of diversity, equity and inclusion are intended to address and eliminate societal divisions and disparities we might find in our midst or in our communities. The committee will look for ways to increase DEI within the WRA. Committee members will explore appropriate training that leadership, committees and others might benefit from to ground them and give them perspective to implement DEI initiatives within this organization, including the development of a DEI policy. DEI should become an integral component of the WRA's values and culture, and the committee will seek ways to achieve that mission.

ADDITIONAL RESOURCES

"Enhanced Partnership for Success Program," in the January 2023 *Wisconsin Real Estate Magazine*: **www.wra.org/WREM/Jan23/Partnership**

February 2022 *Legal Update*, "Finding Accessible Homes for People with Disabilities": **www.wra.org/LU2202**

"Modern Era Accessibility Features Reports," in the January 2022 *Wisconsin Real Estate Magazine*: **www.wra.org/WREM/Jan22/FeaturesReports**

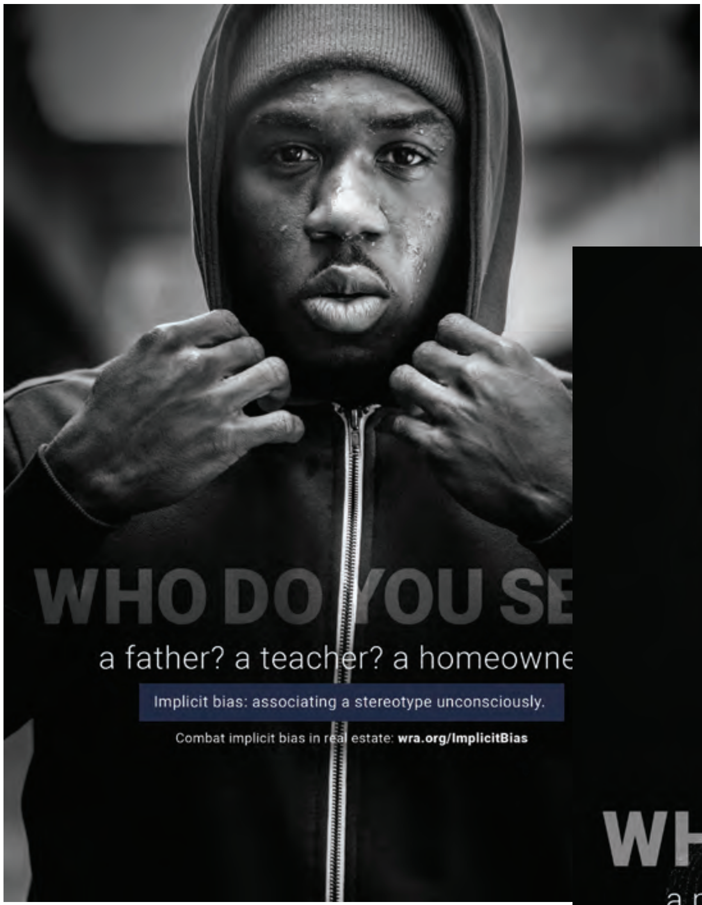
NAR video: "Bias Override: Overcoming Barriers to Fair Housing": **www.nar.realtor/videos/bias-override-overcoming-barriers-to-fair-housing**

WRA implicit bias webpage: **www.wra.org/ImplicitBias**

WRA *The Color of Law* webpage: **www.wra.org/ColorOfLaw**

FAIR HOUSING QUIZ

BY DEBBI CONRAD
WRA SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS



TEST YOUR FAIR HOUSING KNOWLEDGE AND CHOOSE THE BEST ANSWER TO THESE QUESTIONS.

1. Implicit bias is looking at people and tying in stereotypes and attitudes toward them or about them without even acknowledging we are doing so. How does implicit bias affect real estate professionals?

A. Our conscious minds always override our unconscious brains and the unconscious bias and stereotypes hidden therein, so it is not a concern when agents focus on selling property.

B. It describes what happens when, despite their best intentions and without their awareness, racial stereotypes and assumptions creep into the minds of real estate professionals and cause them to make assumptions and steer buyers.

C. Real estate professionals know they must treat people fairly, according to buyers' property preference criteria, and they always avoid biases.

D. Agents act unprofessionally if they have not watched the video "Bias Override: Overcoming Barriers to Fair Housing," at **www.nar.realtor/videos/bias-override-overcoming-barriers-to-fair-housing**.

2. About 13.2% of the current population speaks Spanish rather than English at home, according to the U.S. Census Bureau. The National Association of Hispanic Real Estate Professionals (NAHREP) found that 18.1% of new homeowners were Latino or Hispanic in 2021. What tools are available to assist agents working with Latino homebuyers?

A. The Spanish translations of the WRA's Explanation of Residential Listing Contract, Explanation of Residential Offer to Purchase, and Explanation of Buyer Agency/Tenant Representation can be accessed at **www.wra.org/ConsumerBrochures** to use with clients and customers.

B. Resources for interpreters and translators may be found at **www.wra.org/CulturalDiversity**.

C. The National Association of REALTORS® NAR en Español website at **www.nar.realtor/nar-en-espanol**.

D. All of the above.

3. The 5-4 decision by the U.S. Supreme Court in *Obergefell v. Hodges* reached what fundamental conclusion?

A. The 14th Amendment of the U.S. Constitution requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex that was lawfully licensed and performed in another state.

B. The Due Process Clause of the 14th Amendment guarantees the right to marry as one of the fundamental liberties it protects, and that analysis applies to same-sex couples in the same manner as it does to opposite-sex couples.

C. The First Amendment protects the rights of religious organizations to adhere to their principles, but it does not allow states to deny same-sex couples the right to marry on the same terms as those for opposite-sex couples.

D. All of the above.

4. A real estate professional suggests an African-American couple focus their search on a neighborhood that is predominantly African American and discourages them from looking at a nearby neighborhood that they expressed interest in and that is predominantly white. Which of the following describes this scenario?

A. The agent is violating fair housing law by steering the buyers toward or away from neighborhoods based upon perceived protected characteristics, such as race.

B. The agent is doing his job, using his expertise and applying his best judgment to do what is beneficial for the parties and the real estate agents.

C. This is legal steering done to fulfill what the agent assumes the buyers really want and can afford.

D. This practice will help maintain the respective property values in each neighborhood.

5. Which of the following is not true when a residential tenant asks the landlord to change the locks to the tenant's premises based on the Safe Housing Act?

A. The request must be accompanied by a certified copy of a domestic abuse injunction, harassment injunction, criminal complaint alleging sexual assault or stalking, or similar order as stated in Wis. Stat § 704.16.

B. A landlord shall have the locks changed, or give the tenant permission to change the locks, within 48 hours after receipt of the tenant's request and a certified copy of one of the documents listed in the statute.

C. The person threatening the tenant shall be responsible for the cost of changing the locks.

D. If the landlord gives the tenant permission to change the locks, within a reasonable time after any lock has been changed, the tenant shall provide the landlord with a key for the changed lock.

6. What is the purpose of the WRA's Partnership for Success Program?

A. To promote diversity within the REALTOR® membership based on race, color and national origin.

B. To invite members to enter into multiple partnerships for brokerage practice.

C. To increase minority representation in real estate brokerages and REALTOR® organizations.

D. Both A and C.

7. A buyer with a disability wants to rent an apartment and is requesting a ramp on the outside of the building. Must the landlord allow this?

A. Yes, both federal law and Wis. Stat. § 106.50(2r) prohibit discrimination against persons with disabilities and enable a person with disabilities to make reasonable modifications to a property that the person occupies if the modifications are necessary for the person with disabilities to have full enjoyment of the housing.

B. Yes, the landlord should allow the reasonable modifications at the tenant's expense and also may require a restoration agreement with the tenant paying into an escrow account under Wis. Stat. § 106.50(2r)(b)3, but may not increase any customary security deposit.

C. No, the landlord need not allow changes to the exterior of buildings on the property.

D. Yes, both A and B.

8. Redlining is a discriminatory practice that puts services such as home mortgage loans out of reach for buyers in certain areas based on race or ethnicity. Which of the following is not true?

A. The Home Owners' Loan Corporation (HOLC) created color-coded maps: green areas were considered the safest with no Blacks or other foreigners; red areas were considered the riskiest with neighborhoods with Black residents. These redlining maps and accompanying racially restrictive covenants systematically prevented Black families from obtaining mortgage loans and buying homes in affordable suburbs and city neighborhoods.

B. If a Black service member or veteran wanted to buy a home in the mid-1900s, they could receive a no-down payment, low-interest VA loan or an FHA mortgage.

C. George Floyd was murdered in a redlined neighborhood.

D. The FHA would refuse to insure loans in redlined neighborhoods on the premise that if Blacks bought homes in or near white neighborhoods, the value of the property owned by white property owners would fall, jeopardizing the value of the asset securing the insured loan.

9. "No persons other than the white race shall own or occupy any building on said tract, but this covenant shall not prevent occupancy of persons of a race other than the white race who are domestic servants of the owner or occupant of said buildings." What is this statement?

A. An example of the type of covenant that the U.S. Supreme Court held in 1926 was legal because it was a private and voluntary deed restriction.

B. An example of the type of racially restrictive covenants the U.S. Supreme Court ruled were judicially unenforceable in 1948.

C. A discriminatory covenant recorded in Greendale, Wisconsin in 1958.

D. All of the above.

10. In the book *The Color of Law*, author Richard Rothstein presents the racially explicit federal, state and local government enactments and associated real estate policies that resulted in the de jure segregation in our country today; not de facto segregation resulting from private racial prejudices as many assume. What measures have contributed to de jure segregation?

A. After the Civil War, segregation was based on racial zoning until it was invalidated in 1917, but cities then tried to find ways around the racial zoning prohibition, such as with exclusionary zoning based on lot size and density.

B. In 1924, Article 34 of the Code of Ethics stated: “A REALTOR® should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individuals whose presence will clearly be detrimental to property values in that neighborhood.”

C. The Public Works Administration in 1930-50 developed housing projects segregated by race in neighborhoods that had previously been integrated.

D. All of the above.

FAIR HOUSING QUIZ ANSWERS

1. B. Implicit bias involves automatic associations that emerge instantly in the unconscious brain regarding groups and identities like race, sex, age or religion and may impact decisions made by real estate professionals in transactions. Read more at **www.wra.org/ImplicitBias**.
2. D. All are tools an agent may use when working with Latino homebuyers. The Spanish versions of the WRA explanation brochures of the REEB-approved contracts are the most specialized.
3. D. The decision nullified bans on same-sex marriage as well as bans on official recognition of such marriages performed outside a state because they violate the 14th Amendment’s guarantees of due process and equal protection.
4. A. The agent is violating fair housing law by steering the buyers away from neighborhoods they wanted to see. Agents must provide equal professional services based on the buyer’s criteria for a home.
5. C. The Safe Housing Act in Wis. Stat. § 704.16 provides that the tenant is responsible for the costs of changing the locks.
6. D. Since 1997, the WRA Partnership for Success Program has provided start-up assistance for new minority agents. Learn more at **www.wra.org/Partnership**.
7. D. See the Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Modifications under the Fair Housing Act at **www.hud.gov/sites/documents/DOC_7502.PDF** and Wis. Stat. § 106.50(2r)(b)3 at **docs.legis.wisconsin.gov/statutes/statutes/106/III/50**.
8. B. Government-imposed redlining systematically denied FHA and VA loans to all Blacks, including veterans, and determined who could accumulate government-subsidized wealth.
9. D. Each item describes the statement. See “Do You Have a Racist Deed?” in the March 2021 *Wisconsin Real Estate Magazine* at **www.wra.org/WREM/Mar21/RacistDeed.**
10. D. All are historical segregationist policies. See **www.wra.org/ColorOfLaw**.

THE

BEST

OF THE LEGAL HOTLINE

BY TRACY RUCKA
WRA DIRECTOR OF PROFESSIONAL STANDARDS AND PRACTICES

FAIR HOUSING ENFORCEMENT

The content in this article provides information and options for individuals who have experienced discrimination in the housing market. In the WRA Legal Hotline article tradition, this article includes a question to the hotline, but then follows with enforcement options.

THE HOTLINE QUESTION

The buyers made an offer on a property, but the offer was rejected by the sellers. The listing agent said there was competition, and the sellers accepted another offer. Initially, the buyers were concerned whether the offer was presented by the listing agent. The buyers' underlying concern was discrimination — by the listing agent and the sellers — because the offer was from two women attempting to purchase the property together. What can the cooperating agent and the buyers do regarding the offers and the discrimination concerns?

PRESENTATION OF THE OFFER

The buyers or their agent can request that the listing agent tell them when the buyers' offer was presented to the sellers and when it was rejected. The listing agent is to immediately provide a written statement indicating when the offer was presented and when it was rejected when this is requested by the buyers or their agent, per the administrative code § REEB 24.13 and the REALTOR® Code of Ethics, Standard of Practice 1-7. If the buyers or the buyers' agent believes the offer was not presented, or the listing agent does not respond in compliance with Wis. Admin. Code § REEB 24.13(4), the buyers and/or their agent can file a complaint with the Wisconsin Department of Safety and Professional Services (DSPS) and/or the listing agent's local board.

SECONDARY OFFER

Practically, if the buyers remain interested in the property, the buyers may consider drafting an additional offer, in secondary position. Although the sellers accepted a different offer, the buyers could position themselves to potentially move into a primary position in the event that transaction fails. The buyers might submit the second offer via an entity if it is believed the original offer was rejected based on a discriminatory basis.

COMPLAINT OPTIONS

The buyers who have reason to believe the sellers' or listing agent's conduct was discrimination-based may consider consultation with private legal counsel regarding the allegations. The buyers may also be referred to the Milwaukee Fair Housing Council or other local provider for assistance and options. In anticipation, the buyers can document their experience, making a timeline of the transaction and reasons why they believe there was discrimination by the licensee or the seller. This will help with legal counsel or the fair housing council staff when they ask about the transaction and the buyers' experience. In addition, the buyers may think about their desired outcome because that will, in part, determine how to proceed.

DESIRED OUTCOMES

Violations of the fair or open housing laws may result in monetary damages and possibly attorney fees if they file a complaint with the U.S. Department of Housing and Urban Development (HUD) or sue in federal court. The target of discrimination may obtain access to the housing or services they were seeking in the real estate transaction. Alternately, the offender may be required to complete education or training relating to fair housing. Financially, there may also be forfeitures to the appropriate governmental agency. The buyers' motivation may be more selfless in the effort that they may want the conduct to be identified so other individuals do not encounter the same experience.

The complaint process is not only about the target of the discrimination, but it is also about the licensee providing services in the transaction. As REALTORS®, the Preamble to the REALTORS® Code of Ethics invites you to take steps when you have knowledge of discriminatory conduct:

> *"In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)"*

There are many options when it comes to potential enforcement mechanisms because fair housing laws are based at the federal, state and local levels. If the alleged discrimination was based on the conduct of a REALTOR® licensee, both license law and the Code of Ethics are applicable.

REALTOR® CODE OF ETHICS

Article 10 of the Code of Ethics provides:

> *"REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, disability, familial status, national origin, sexual*

orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/23).”

If a broker or consumer believes a REALTOR® has violated Article 10, they may file an ethics complaint with the local REALTOR® association. Such ethics complaints need to be filed within 180 days of the events or the closing of the transaction, whichever is later. In addition, the REALTOR® association offers mediation and ombudsman services as well as alternative dispute resolution (ADR) options. Although these ADR services regarding possible discrimination were previously limited, policy from the National Association of REALTORS® now allows mediation or ombudsman services to identify potentially discriminatory conduct, which may raise awareness and educate the member, allowing creative appropriate resolution.

LICENSE LAW

According to Wis. Stat. 452.14(3)(n), a real estate licensee may be disciplined by the DSPS if they “treated any person unequally solely because of sex, race, color, handicap, national origin, ancestry, marital status, lawful source of income, or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u).”

If a consumer or broker has information or knowledge about a real estate licensee’s conduct that could violate state law, a complaint may be filed with the DSPS at **dsps.wi.gov/Complaints-and-Inspections/Complaints**.

FEDERAL FAIR HOUSING ACT

It is illegal discrimination under the federal Fair Housing Act to refuse to rent or sell housing, refuse to negotiate for housing, or otherwise make housing unavailable because of race, color, religion, sex — including gender identity and sexual orientation, disability, familial status or national origin.

Given notice by HUD in 2021, HUD’s interpretation of sex for protected classes will be broadly interpreted. Policy now includes members of the lesbian, gay, bisexual, transgender, queer or questioning (LGBTQ) community. Learn more by visiting HUD’s “Housing Discrimination and Persons Identifying as LGBTQ” webpage at **www.wra.org/HUD/LGBTQdiscrimination**.

The Fair Housing Act can apply to the conduct of real estate licensees, landlords or sellers. To file a complaint to HUD related to housing discrimination, visit **www.hud.gov/fairhousing/fileacomplaint**.

WISCONSIN OPEN HOUSING LAW

Likewise, Wisconsin law prohibits discrimination in Wis. Stat. § 106.50(2) based on protected classes. Discrimination includes the refusal to sell or negotiate the sale of housing.

Wis. Stat. § 106.50(1m)(h) defines “discriminate” as “to segregate, separate, exclude, or treat a person or class of persons unequally” because of “sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry.”

If a consumer or licensee believes the actions by a seller, a landlord or a licensee were discriminatory, they can contact the Wisconsin Department of Workforce Development (DWD) for complaint information at **dwd.wisconsin.gov/dwd/forms/erd/erd-10240.htm** and **dwd.wisconsin.gov/er/civilrights/housing/complaintprocess.htm**.

If the buyers or the buyers' agent believes the actions of the sellers were discriminatory, they can contact the DWD at the links listed above. The DWD also provides mediation services, with more information available at **dwd.wisconsin.gov/er/civilrights/mediation.htm**. The Wisconsin Department of Justice (DOJ) works collaboratively with the DWD in the investigation and prosecution of housing complaints. With the DOJ, individuals can seek temporary judicial relief to preserve their housing rights and/or halt eviction proceedings while a complaint is pending.

FEDERAL LAW

There are several administrative agencies providing opportunities for complaints, investigation and enforcement of fair housing law. HUD receives complaints related to housing discrimination at **www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint**. The DOJ also has complaint processes in place at **civilrights.justice.gov**.

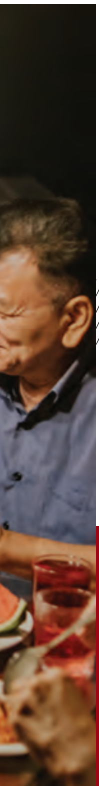
Depending on the location of the property, there may also be county or city ordinances regarding the listing broker's or sellers' alleged conduct. Local equal opportunities commissions might provide assistance. For example, see the Madison EOC at **www.cityofmadison.com/civil-rights/find-help/equal-opportunities-ordinance-rules-of-the-eoc**.

LITIGATION COURTS/PRIVATE CAUSE OF ACTION

In addition to regulatory agencies that enforce fair housing law, a victim of discrimination may file litigation regarding the conduct. According to the federal law, 42 U.S. Code Section 3613, private persons may commence civil action in federal or state court. The courts have the authority to award actual or punitive damages, attorney fees or grand appropriate injunctions. Again, depending on the desired outcome, there are different options available to individuals who have been the target of discrimination.

REACH OUT — YOU ARE NOT ALONE

Finally, the licensees can be a liaison between the party and third-party service providers. An individual who has experienced discrimination may find support in various ways. The process of seeking mediation, filing a complaint, or initiating litigation can be emotional or intimidating. Finding assistance with legal counsel or a local fair housing council can make the difference to find the appropriate paths to desired outcomes and to find partners to seek meaningful results.



ADDITIONAL RESOURCES

Wisconsin Bar Association Lawyer Referral and Information service: **www.wisbar.org/forPublic/INeedaLawyer/Pages/i-need-a-lawyer.aspx**

April 2007 *Legal Update*, "Avoiding Discrimination in Advertising and Racial Steering": **www.wra.org/LU0704**

The WRA's Fair Housing/Equal Opportunity in Housing resource webpage: **www.wra.org/equalopportunity**

Milwaukee Fair Housing Council: **www.fairhousingwisconsin.com**

NEW VACANT LAND LISTING SCAM

TIPS TO MAKE SURE THE "SELLER" IS REAL

BY JENNIFER LINDSLEY
WRA STAFF ATTORNEY AND DIRECTOR OF TRAINING

The WRA has been receiving calls from agents regarding a new listing scam, typically involving vacant land. In addition, a recent meeting with attorneys from other state REALTOR® associations revealed that this scam is nationwide and growing.

HOW DOES THE SCAM WORK?

A criminal locates a piece of property, which is usually unencumbered vacant land, and will be free of mortgages and other liens. The criminal poses as the property owner and contacts a real estate agent to list it. Contact to the real estate agent will be by phone or email, but typically not in person. Often, the person posing as the seller will request the property be listed for less than its value in order to generate immediate interest. The "seller" may claim to have experienced a family emergency or may have some other excuse as to why they are willing to sell for less because the need for the funds is urgent. The "seller" will tell the real estate agent that they would prefer a cash offer with a quick closing.

Once closing approaches, the criminal will request a remote closing using a remote notary. The criminal or criminals may also impersonate the notary and provide falsified documents to the title company or closing attorney. The title company or closing attorney then transfers the sale proceeds to the criminal, and it is a done deal. As with wire transfer fraud, once that money is transferred, it is almost impossible to retrieve it.

By the way — wire transfer fraud remains a serious risk in real estate transactions. Always remind buyers to contact the lender to verify wire transfer instructions and not to rely on instructions emailed to the buyer. When contacting the lender, the buyer should use a phone number from a verified source, such as the lender's website, and not use a phone number or link that was emailed to the buyer.

At the aforementioned meeting with attorneys from other state REALTOR® associations, an attorney in Idaho mentioned this scam was occurring in the resort area of Sun Valley where owners are often absent from their properties for stretches of time. An attorney from South Carolina indicated the same was true in Hilton Head. An attorney from Texas indicated it was happening in mostly rural areas. An attorney from Florida relayed a story where the "seller" was willing to meet the real estate agent in person at an airplane hangar next to a private plane to give the appearance of legitimacy. This person had a falsified passport showing the name of the actual owner of the property. Another attorney indicated they had seen properties owned in a trust or corporate ownership targeted with falsified trust documents or falsified corporate documents, seeming to give that individual the authority to sell the property.

In Wisconsin, agents have not reported a "trend" in where this is happening as much in resort areas, but the common denominator in the Wisconsin cases has been vacant land. In the cases the WRA has been made aware of, often the true owner of the property was notified that their land was listed for sale by a neighbor or friend who saw the listing or yard sign and reached out to the true owner to inquire about the sale.

The true owner is often quite surprised by this contact and contacts the listing agent to remove the listing.

These are not low-level criminals but sophisticated criminals with the means to create real-looking passports and other identification and other documents that make it appear as though they are the actual owners of these properties.

HOW CAN REAL ESTATE AGENTS AVOID THIS SCAM?

It takes a little homework to avoid this scam, but the extra homework is worth the effort to avoid getting involved in a fraudulent transaction. The United States Secret Service Cybercrime Investigations has the following tips to avoid this scam:

1. Independently search for the identity and a recent picture of the seller.
2. Request an in-person or virtual meeting to see their government-issued identification.
3. Be on alert when a seller accepts an offer below market value in exchange for receiving the payment in cash and/or closing quickly.
4. Never allow the seller to arrange their own notary closing.
5. Use trusted title companies and attorneys for the exchange of closing documents and funds.

In addition to the tips offered by the Secret Service, discussions with a former listing agent can be insightful if signs of the potential scam come to light. If a "seller" contacts an agent, and the agent can see the property was recently listed for a short time, the agent can contact the former listing agent and see if that listing was a scam. Even after seeing a "seller's" identification, an agent can do a little social media sleuthing to see if the picture on the identification matches up with what the agent is seeing online. Remember, some agents have reported seeing photo identification that has been falsified to show the criminal's photo and the real property owner's information.

Another effective way for an agent to verify the agent is working with the real property owner is to send a confirmation or a thank you letter to the address on file for the tax bill. Certainly not all listings for vacant land where the seller wants a quick sale are going to be scams, but if an agent is taking a listing where there are any of these "red flags," the agent can mail an old-fashioned letter via USPS — not email — to the address on file for the tax bill, thanking the seller for their business. The letter could include language informing the recipient that if they are not actually trying to sell their property, they should immediately contact the agent by phone or email. If it turns out that it was a scam listing, the real owner of the property should be encouraged to contact law enforcement to report the attempted crime. The Wisconsin Department of Justice maintains a website with contact information for consumers to report consumer complaints on a variety of topics including fraud. Contact for various types of complaints is available at **www.doj.state.wi.us/dls/consumer-protection/how-file-consumer-complaint**.

WHAT CAN REAL ESTATE AGENTS DO IF THEY FIND THEMSELVES IN A SCAM?

If a listing agent discovers that they have entered into a listing contract that turns out to be a scam, the listing agent should consult with the agent's supervising broker as to what to do next. Ideally, the agent and the scam "seller" would enter into a WB-42 Amendment to the Listing Contract to expire it. If you just rolled your eyes at the preposterous suggestion of asking a criminal to contractually end a listing contract under which the criminal was trying to steal money, don't worry, the author of this article did too. Realistically, a good practice is to remove the listing from the MLS per the MLS process, cease communication with the criminal, and document in the file what has occurred. The firm may want to consult with its errors & omission insurance to see if the insurance provider has other suggestions for documenting what occurred.

Be careful out there, and beware of scammers!

LEGAL RESOURCES

PREP FOR FAIR HOUSING MONTH WITH THE WRA'S FAIR HOUSING RESOURCES

SPANISH CONSUMER BROCHURES

New for 2023

Help your Spanish-speaking consumers enjoy a smooth transaction with new Spanish consumer brochures that explain the listing contract, the offer to purchase, and the buyer agency/tenant representation agreement.

Download these new consumer brochures and more: **www.wra.org/ConsumerBrochures**

LEGAL HOTTIPS

WRA membership gives you access to the WRA Legal Hottips online library: a collection of discussions from the WRA Legal Hotline. Be sure you're prepared for Fair Housing Month by exploring past fair housing-related legal hottips. You'll find discussions about the Americans with Disabilities Act, service animals, advertising and much more.

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

FAIR HOUSING RESOURCE PAGES

The WRA offers a wide array of resource webpages related to fair housing law to help you stay on top of the latest fair housing news and developments. From resources about customers with disabilities, to Wisconsin graduates of the Fairhaven simulation, to Wisconsin translation resources, you'll find them all here.

See all the resources: **www.wra.org/FairHousingResources**

WRA LEGAL HOTLINE

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

SUBMIT YOUR QUESTION

By phone: 608-242-2296 or 800-799-4468

Online: Visit the hotline webpage

HOTLINE HOURS

Monday-Friday, 8:30 a.m. to 4:30 p.m. Central

www.wra.org/LegalHotline


RGD 23
REALTOR® & GOVERNMENT DAY
ONE DAY.
ONE VOICE.
Thawing isn't always good.
Thawing the current freeze on Wisconsin property taxes is bad news for property owners.
Join your fellow REALTORS® on April 26 to advocate to maintain the property tax freeze.
Monona Terrace
Madison, WI
04/26/23
REGISTER TODAY
www.wra.org/23RGDay

THE WRA ENDORSES DAN KELLY FOR STATE SUPREME COURT

BY NATHAN CONRAD AND JOE MURRAY
WRA DIRECTOR OF POLITICAL ADVOCACY
AND WRA DIRECTOR OF POLITICAL & GOVERNMENTAL AFFAIRS

The WRA has endorsed Daniel Kelly for a full 10-year term on the Wisconsin Supreme Court. The general election will be held on April 4.

Dan Kelly was appointed to the court in 2016 by former Gov. Scott Walker and served until 2020. Prior to his appointment to the state's highest court, Kelly was vice president and general counsel for the Kern Family Foundation. Kelly also has private sector experience as a former business litigator with the law firms Rogahn Kelly LLC as well as Reinhart Boerner Van Deuren S.C.

The WRA's Strategic Advocacy Group, the REALTORS® Political Action Committee (RPAC) trustees and the WRA board of directors all voted to support Kelly.

WHY KELLY?

The WRA's endorsement decision was based on a thorough review of all candidates running for Wisconsin Supreme Court. The WRA leadership and relevant committees studied the candidates' records, reviewed their responses to a written questionnaire, and conducted direct interviews with all four candidates in this election. In the end, Kelly was selected as the best choice for the real estate industry.

The endorsement of Kelly is based primarily on the following:

Record on cases impacting the real estate industry

During his four years on the Wisconsin Supreme Court, Kelly ruled on 25 cases important to the real estate industry and the WRA. Of those 25 cases, Kelly ruled in a manner that was beneficial to the real estate industry or property owners in 14 of those cases, six rulings were a draw depending on various perspectives, and five rulings were unfavorable. Kelly's record illustrates a strong commitment to private property rights and upholding contracts where possible.

Favors private property rights

Kelly's application for Wisconsin Supreme Court Justice included the following question: "In 500 words or less, name one of the worst United States or Wisconsin Supreme Court opinions in the last thirty years and explain why you feel that way." Kelly named the seminal "takings" case of U.S. Supreme Court case *Kelo v. City of New London*, 545 U.S. 469 (2005), citing the case as "the worst opinion in the last 30 years." He further expressed his concern by stating, "In concluding that a private 'taking' is justifiable upon the government's belief that the transferee will put the property to a more economically productive use, it exercised legislative — not judicial — authority. And in doing so, it simultaneously offended both the implicit and explicit

VOTE KELLY ON APRIL 4

The general election is April 4. Please mark your calendar and vote on Election Day. We urge your support of Justice Dan Kelly in this important election.

limitations on governmental authority.” The WRA strongly agrees with Kelly’s position on this high-profile case.

Judicial philosophy

When asked to describe his judicial philosophy, Kelly said, “Our constitutional republic, and the rule of law, can thrive only when the judiciary operates within its proper boundaries. Chief Justice Roberts, in his confirmation hearing memorably analogized the judicial role to baseball. He observed that ‘judges are like umpires. Umpires don’t make the rules; they apply them.’ He then promised he would ‘remember that it’s my job to call balls and strikes, and not to pitch or bat.’ While this is a good and pithy summary of judicial conservatism, its power comes from the truth that lies at its foundation.”

A NEW BIENNIUM MEANS NEW CE

Every two years, Wisconsin real estate licensees must complete 18 hours of continuing education (CE) to maintain their real estate license in the state of Wisconsin, as required by the Department of Safety and Professional Services (DSPS).

Those requirements haven't changed. But what has changed is the curriculum that gets you there!

Launching for the 2023-24 real estate biennium is new curriculum with the same 18-hour credit requirement, but with a twist. Instead of three-hour CE courses, the new curriculum allows licensees to choose one-hour courses to meet the total 18-hour credit requirement.

NEW 2023-24 CE COURSES

Mandatory courses (licensees must take 12 hours)

- Wisconsin Agency Law
- Wisconsin Department of Safety and Professional Services Disciplinary Actions*
- Commissions in Wisconsin Agency Agreements, Offers of Compensation and Antitrust*
- The Inspection Contingency in the Wisconsin Offers to Purchase
- Wisconsin Legislative Updates Related to Real Estate
- Wisconsin Real Estate Case Law Update
- Advertising for Wisconsin Real Estate Licensees*
- Default, Earnest Money, and WB-45 Cancellation Agreement and Mutual Release
- Financing Commitment and Appraisal Contingencies in the Wisconsin Offers to Purchase
- Fair Housing in Wisconsin Transactions*
- Agent-to-Agent Relationships*
- Seller and Licensee Disclosure in Wisconsin Transactions

New elective courses (licensees must take six hours)*

- Short Sales and Foreclosures in Wisconsin
- Changing a Property's Use in Wisconsin
- Other Wisconsin Approved Forms
- Closing of Buyer's Property Contingency, Secondary Offer and Bump Clause in the Wisconsin Offers to Purchase
- Drafting Contracts in Wisconsin Real Estate Transactions
- Risk Reduction for Wisconsin Licensees

In addition to this list of official CE courses, other electives that meet specific DSPS criteria may be offered as well as real estate designation courses.

WATCH FOR WRA CE IN SPRING 2023

Ready to get started early on your new 2023-24 requirements? Watch for CE from the WRA in spring 2023!

** Includes National Association of REALTORS® Code of Ethics training.*

INSURANCE OPTIONS DESIGNED FOR YOU

Your WRA membership has its perks. On top of legal services, conference discounts and more, the WRA partners with outside companies to add even more value to your membership. And when it comes to healthcare, your WRA membership gives you access to health insurance with Spectrum Insurance Group.

With the WRA's partnership with Spectrum Insurance, you can save on health insurance premiums without compromising your coverage. Spectrum can help provide access to customizable insurance plans to meet your needs.

WHY SPECTRUM?

Your personal health care consultant: Spectrum's staff can help you find an insurance plan that meets your needs and your budget.

Protect your assets: The hidden costs of treating a serious illness — like loss of income or travel expenses for medical care — can add up. Spectrum's critical illness and cancer plans can provide cash payments for you to use in any way you choose.

An insurance partner designed for you: Spectrum Insurance offers individual as well as group employee benefit options that are tailored to real estate brokerage firms as well as individual REALTORS®.

Whether you need an insurance quote or are interested in learning more, contact Spectrum Insurance at 800-537-9786 or **info@spectrumgroupinc.com**.

WRA EXCLUSIVE PARTNERS

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

PAPERLESS AGENT MARKETING CLUB
Resources for your real estate marketing.

PEARL INSURANCE
Insurance designed for the real estate industry.

REALTYZAM CRM
Simple CRM for your business.

SPECTRUM INSURANCE
Save on health insurance premiums.

Learn more about these exclusive partners:
WWW.WRA.ORG/EXCLUSIVEPARTNERS

WRA MEMBERSHIP BENEFITS

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

ADVOCACY
The WRA advocates for a healthy real estate market by working with state lawmakers and pro-real estate candidates.

LINE BY LINE FORMS TRAINING
Enhance your contract knowledge with Wisconsin's most in-depth real estate forms training video series.

TRANSACTIONS (ZIPFORM EDITION)
Make your transactions paperless with Transactions (zipForm Edition).

WRA LEGAL HOTLINE
Discuss your real estate practice questions with a real estate attorney.

INMAN SELECT SUBSCRIPTION
Get the latest news, award-winning commentary, special reports and more.

Learn more about all WRA member benefits:
WWW.WRA.ORG/MEMBERBENEFITS

FALL INTO "VACATION" MODE

RSPS virtual course: March 14–15

The resort and second-home market is filled with opportunities for REALTORS®, and the Resort & Second Home Property Specialist (RSPS) certification prepares you to service the growing resort and second-home market. The RSPS training course with instructor Brett Brown is your first step to becoming RSPS-certified.

- Course: "RSPS Certification Course"
- Date/time: March 14-15, 9:00 a.m. - 12:00 p.m. each day
- Course fee: $145 per student in advance (course fees increase day of course)

Register: www.wra.org/RSPS

BIAS OVERRIDE CERTIFICATE

NAR certificate virtual course: April 11

Instructor Amy Peterson highlights how you can avoid pitfalls in your transaction and provide equal, professional service to your customers and clients. At the end of this three-hour training course, you'll earn the official "Bias Override: Overcoming Barriers to Fair Housing" certificate.

- Course: "Bias Override: Overcoming Barriers to Fair Housing"
- Date/time: April 11, 9:00 a.m. – 12:00 p.m.
- Fee: $45

Register: www.wra.org/BiasOverride

POWER UP YOUR PRICING

PSA virtual course: April 13–14

Take the guesswork out of pricing by taking a deep dive into pricing strategy with Pricing Strategy Advisor (PSA) training with instructor John LeTourneau. You'll finish the course with an improved understanding of pricing and comparative market analyses (CMAs) to ultimately list and sell properties at the appropriate price.

- Course: "Pricing Strategies: Mastering the CMA"
- Date/time: April 13-14, 9:00 a.m. - 12:00 p.m. each day
- Course fee: $135 early bird pricing good through March 29

Register: www.wra.org/PSA

UP YOUR INVESTMENT GAME

ABR elective virtual course: May 17-18

Explore the fundamentals of real estate investment with instructor John LeTourneau. You'll learn how to expand your business services and meet the unique needs of real estate investors. Thinking about becoming a real estate investor yourself? You'll learn it all here!

- Course: "Real Estate Investing: Build Wealth Representing Investors and Becoming One Yourself"
- Date/time: May 17-18, 9:00 a.m. - 12:00 p.m. each day
- Course fee: $135 early bird pricing good through May 2

Register: www.wra.org/ABR

MOVE OVER, MEDIOCRE MARKETING

ABR elective virtual course: May 24-25

Dive into traditional and cutting-edge strategies to strengthen your marketing efforts and take them to the next level. Instructor Robbie English examines various tools that can help you maximize lead gaeneration and market impact.

- Course: "Marketing Strategy & Lead Generation"
- Date/time: May 24-25, 9:00 a.m. - 12:00 p.m. each day
- Course fee: $135 early bird pricing good through May 9

Register: www.wra.org/ABR

EMBRACE DIVERSITY IN YOUR PRACTICE

AHWD virtual course: July 26-27

Help buyers of all cultural backgrounds achieve homeownership with At Home With Diversity (AHWD) training. Instructor Amy Peterson analyzes strategies for working effectively with diverse populations so you can build business success in today's multicultural real estate market.

- Course: "At Home With Diversity Course"
- Date/time: July 26-27, 9:00 a.m. - 12:00 p.m. each day
- Course fee: $95 early bird pricing good through July 11

Register: www.wra.org/AHWD

OFFERING	FORMAT	DETAILS & REGISTRATION
WRA EVENTS		
REALTOR® & Government Day: April 26, 2023	Live in Madison	www.wra.org/RGD2023
WRA PRE-LICENSE TRAINING		
SCHEDULED TRAINING		
Sales Pre-license Course: July 10-14, 17-19, 2023	Madison	www.wra.org/SPL
ONGOING TRAINING		
Broker Pre-license Course	On Demand	www.wra.org/BPL
Sales Pre-license Course	On Demand	www.wra.org/SPL
WRA PROFESSIONAL DEVELOPMENT TRAINING		
SCHEDULED TRAINING		
RSPS Certification Course: March 14-15, 2023	Virtual	www.wra.org/RSPS
Bias Override Certificate Course: April 11, 2023	Virtual	www.wra.org/BiasOverride
PSA Certification Course: April 13-14, 2023	Virtual	www.wra.org/PSA
ABR Real Estate Investing Course: May 17-18, 2023	Virtual	www.wra.org/ABR
ABR Marketing Strategy Course: May 24-25, 2023	Virtual	www.wra.org/ABR
AHWD Certification Course: July 26-27, 2023	Virtual	www.wra.org/AHWD
ONGOING TRAINING		
GRI On Demand	On Demand	www.wra.org/GRI
Line by Line Forms Training	On Demand	www.wra.org/LinebyLine
Quick Start	On Demand	www.wra.org/QuickStart
WRA BUSINESS FORUMS		
SCHEDULED TRAINING		
April 6, 2023	Virtual	www.wra.org/BLF
May 4, 2023	Virtual	www.wra.org/BLF
PARTNER WEBINARS		
THE PAPERLESS AGENT WEBINARS		
March 9, 2023	Virtual	www.wra.org/PaperlessAgent
March 21, 2023	Virtual	www.wra.org/PaperlessAgent
April 13, 2023	Virtual	www.wra.org/PaperlessAgent
April 25, 2023	Virtual	www.wra.org/PaperlessAgent
REALTORS® PROPERTY RESOURCE WEBINARS		
March 7, 2023	Virtual	www.wra.org/RPR
March 8, 2023	Virtual	www.wra.org/RPR
March 15, 2023	Virtual	www.wra.org/RPR

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

FOUR THINGS REAL ESTATE AGENTS NEED TO KNOW ABOUT FACIAL RECOGNITION

Facial recognition technology (FRT) is a type of biometric security based on a person's physical characteristics that acts like a fingerprint or password alternative.

Today, the most known use of FRT is on smartphones to unlock screens or sign in to our favorite apps.

However, FRT is becoming commonplace — from the U.S. government using it to expedite travelers through customs, to law enforcement agencies using it to identify nefarious criminals.

And real estate agents can expect to encounter more uses of FRT that will impact their business or clients.

Among the uses of FRT already in place and expected to increase within the next few years is providing access into buildings, ATM transactions and airport security clearance.

Newer uses include targeted advertising: if you don't buy those Jimmy Choo shoes you were looking at in a store, ads will follow you online. Can you imagine if open house attendees had the same experience: visiting your listing and seeing ads for that listing when the attendees go online?

Retailers could use FRT for purchases, directly charging your account without you ever opening your wallet or purse. Pepper, a Softbank humanoid robot, already uses FRT to help assess a person's emotional state to provide an empathetic engagement.

If you think the growing use of FRT is a little creepy or too "Big Brother," you are not alone. Many technology experts warn that facial recognition is one of the biggest threats to personal privacy.

The pros: FRT can be an effective tool for catching criminals and making sure we are who we say we are. The cons: FRT invades our privacy, can be unreliable and biased — and at worst, result in wrongful arrests.

Many U.S. cities are banning the widespread use of facial recognition. For example, in 2019, California banned police from using facial recognition on bodycams. However, that ban is set to expire. And with the crime rate rising, civil liberty groups are having a more challenging time lobbying for outright bans.

As it becomes more commonplace, here are four things real estate agents need to know about FRT.

1. FRT DOESN'T ALWAYS WORK

New research from MIT suggests that while the new software is getting more accurate, it doesn't always correctly recognize women and people of color. The study, by Joy Buolamwini of the MIT Media Lab, found that FRT is correct 99% of the time when detecting white males. However, less than half are as accurate when identifying darker-skinned females.

What people don't realize, Buolamwini points out, is that when FRT first reported an accuracy rate of over 97% in 2014, the dataset was 77% male and 83% white. As a result, FRT still needs more accuracy improvements.

Police agencies report that facial recognition software is often ineffective, with lower-quality images captured by most video-recording systems.
For example, a detective from Aberdeen, North Carolina, told BanFacialRecognition.com that FRT software "worked with

good quality images taken directly from Facebook," but found "that unless the image quality was great (unlike 90% of video surveillance we obtain), results came back inconclusive."

Yet about one in six police agencies — more than 3,000 — use Clearview AI and its facial recognition software, according to *The Washington Post*.

2. FRT CAN PREVENT FRAUD

Facial recognition helps prevent fraud by verifying that a given person is who they claim to be — particularly when trying to access a system, transfer funds or make a purchase.

Verification company ID.me provides FRT to federal agencies and 30 states. A growing use of ID.me's FRT is verifying people filing unemployment insurance claims.

For real estate agents, safety software Real Safe offers a feature that uses a driver's license and a selfie to verify a person's identity before the agent schedules a home showing. As a result, agents can know with greater certainty that someone is who they say they are.

3. FRT CAN HELP PREVENT IDENTITY THEFT

FRT can stop cybercriminals in their tracks. Identity theft was the top type of fraud reported to the Federal Trade Commission last year, with more than 1.4 million complaints. Almost one in four fraud complaints is for identity theft.

Cybercriminals must accumulate personal information to impersonate their victim. Online, it can be easy for these criminals to access a person's private information, and a growing trend to protect consumer accounts from identity theft is using FRT.

Like a safe, passwords can be cracked, but copying another person's facial patterns is a different story. It is why biometrics is gaining traction in almost every industry. For example, someone with your ATM card and PIN can drain money from your bank account. But if an ATM uses facial recognition, the card and the PIN are worthless.

Can you imagine what would happen if everyone accessing a financial account had to take a live selfie for online access? Then, we would be able to reduce cybercriminal activity significantly.

4. FRT FACES PRIVACY ISSUES

The flipside of FRT's rapid growth and innovative use is personal privacy. While FRT can help law enforcement catch criminals and lock them up faster, the trade-off is the potential infringement of individual rights.

Often people don't know where, when and how FRT is being used until it is abused. The movement of marrying artificial intelligence (AI) with facial recognition software has become so controversial that Microsoft announced it is ending FRT AI tools because of the potential for abuse, including racial profiling.

FRT can violate your personal privacy because it does not have your consent. For example, using FRT for surveillance can track people as they move around a neighborhood or city. But who has access to that information? And what is its use?

The U.S. is not alone in the privacy challenges that FRT is raising. The UK's ITPro technology publication reports that there is greater scrutiny of law enforcement's use of facial recognition. Providers like Amazon, Microsoft and IBM are halting the development and sale of FRT for law enforcement. And the UK courts have ruled it unlawful.

FRIEND OR FOE?

As you can see, the pros and cons of FRT are striking, with both sides offering compelling arguments for and against using FRT. One area emerging, as a result, is regulation.

Like many new tech innovations, they are often introduced well before regulations are in place to address their potential negative impacts. The same is true with FRT.

Now, U.S. Reps. Ted Lieu (D-Calif.), Jimmy Gomez (D-Calif.), Sheila Jackson Lee (D-Texas) and Yvette Clarke (D-Mass.) have introduced The Facial Recognition Act.

As reported by Lawfare, the new bill would put new limits on law enforcement FRT for surveillance. In addition, the legislation addresses the risks of FRT when it doesn't work well, including wrongful arrests and algorithmic bias.

The best thing real estate agents can do — as new technology emerges — is to stay informed.

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