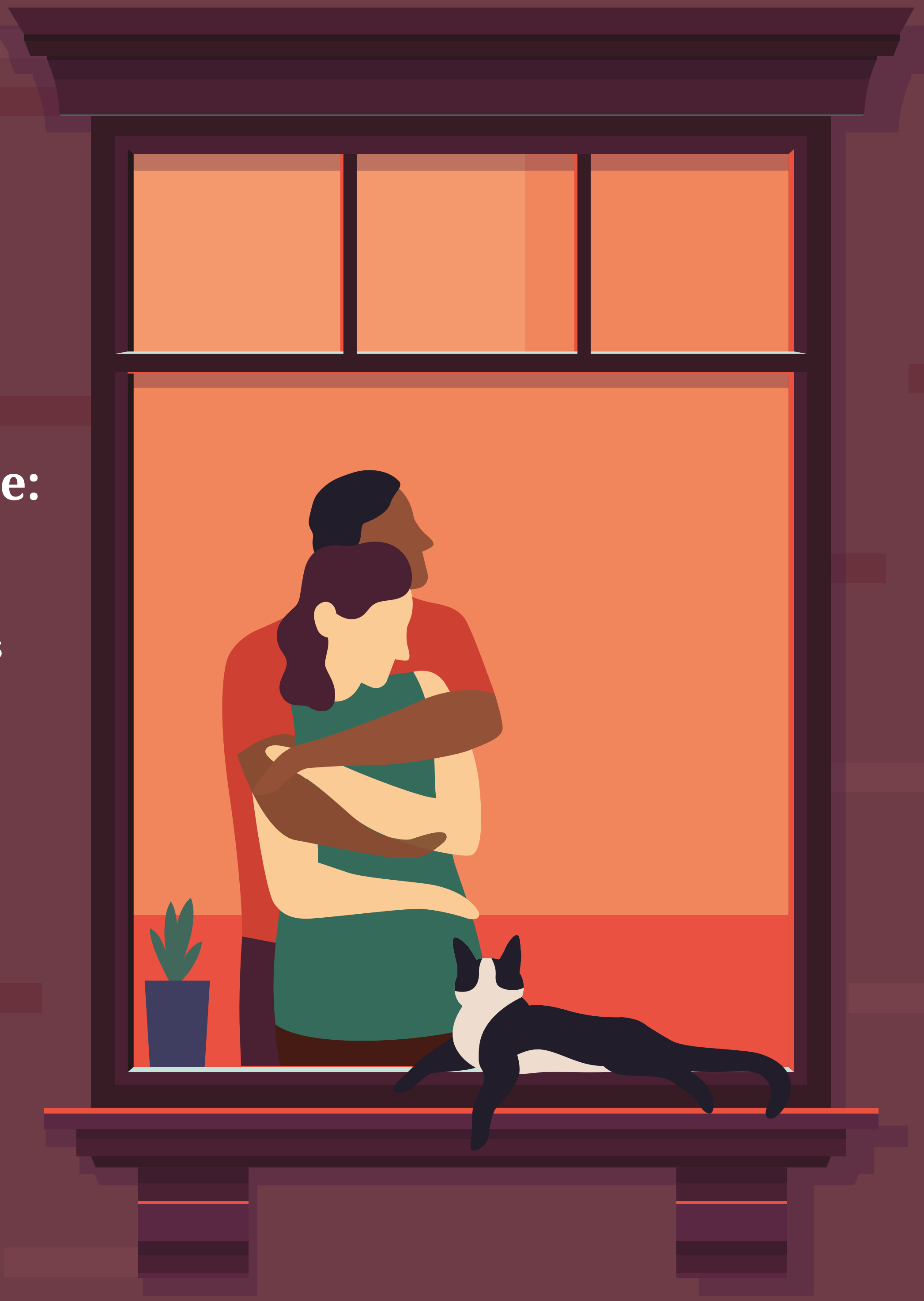
WISCONSIN REAL ESTATE MAGAZINE

WRA A PUBLICATION OF THE WISCONSIN REALTORS® ASSOCIATION

April 2020 Vol. 36, No. 7



Inside this Issue:

Fair Housing

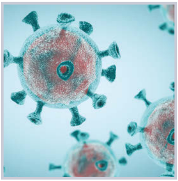
Coronavirus Resources

WRA Remote Learning

by **Debbi Conrad**

Sexual harassment is a form of sex discrimination prohibited by federal and state fair housing laws, and it most often occurs in rental housing. Read more on page 7.

To further celebrate National Fair Housing Month, this magazine also includes WRA Legal Hotline discussions about fair housing on page 12, a fair housing quiz on page 20, and a fair housing poster to post in your office!

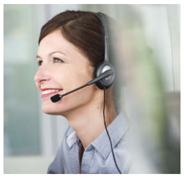


INSIDE *the WRA*

CORONAVIRUS UPDATES

The WRA is still working for you during this unprecedented time.

PAGE 5



TECH *Helpline*

TECH SUPPORT FOR WORKING FROM HOME

The WRA Tech Helpline can help with your remote work.

PAGE 27

GOVERNMENT *Affairs*

REMOVING LOCAL BARRIERS TO WORKFORCE HOUSING

Five solutions for Wisconsin's workforce housing shortage.

PAGE 29

Your Business During the Coronavirus Pandemic

The WRA is committed to keeping you informed about the coronavirus and how it affects real estate practice. Learn more about the pandemic in these magazine features:

- Coronavirus resource webpage: Page 5
- Course cancellations: Page 5
- Real estate an "essential service" under Gov. Evers' order: Page 5
- WRA-CV and WRA-CVSI forms: Page 24
- LegalTalks video regarding COVID-19 impacts: Page 24

For real-time and up-to-the minute news and developments, follow the WRA on social media using the social links to the right.

TABLE *of* CONTENTS

APRIL 2020 | VOL. 36, NO. 7

FOLLOW US ON SOCIAL MEDIA

- www.wra.org/**FACEBOOK**
- www.wra.org/**TWITTER**
- www.wra.org/**YOUTUBE**
- www.wra.org/**LINKEDIN**
- www.wra.org/**INSTAGRAM**

WRA Mobile App

Everything WRA at your fingertips! With the mobile app, you'll have a wealth of resources whenever and wherever.

Search "WRA Mobile" in the App Store or Google Play.

WRA COMMITTEE APPLICATIONS AVAILABLE

INTERESTED IN SERVING ON A COMMITTEE AT THE STATE OR NATIONAL LEVEL?

The WRA and the National Association of REALTORS® (NAR) are looking to fill positions for 2020-21. If you are interested in serving on a committee at a state or national level, apply online at www.wra.org/committees. Application deadline is May 1, 2020.

COMMITTEE	DESCRIPTION	STAFF LIAISON
Convention Committee	Plans the education and networking opportunities of the 2021 WRA annual convention.	Kristi Mikalsen
Cultural Diversity in Housing Committee	Provides resources and tools for members and local associations on fair housing laws. Monitors and evaluates legislative, legal and regulatory trends with respect to fair housing, cultural diversity and equal opportunity in housing. Administers the Partnership for Success program.	Debbi Conrad
Legal Action Fund Committee	Selects and funds legal expenses in administrative matters and cases that are of statewide interest and concern to the real estate industry.	Debbi Conrad
Professional Standards Committee	Resolves allegations of ethical violations and controversies between REALTORS® as described in the WRA bylaws.	Tracy Rucka
Political Strategy Group Committee	Provides recommendations to the WRA board of directors for coordinating political investments and endorsements in statewide elections.	Tom Larson
Public Policy Committee	Monitors, analyzes and takes positions on state legislation, regulations and public policies that impact the WRA and local REALTOR® associations, MLSs, real estate licensees, appraisers, homeowners, property owners and the real estate industry on behalf of the WRA.	Tom Larson
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.	Debbi Conrad
Real Estate School Committee	Recommends designation and education classes for real estate licensee professional development.	Kristi Mikalsen
RPAC Trustee Committee	Provides recommendations for raising and spending voluntary political contributions from members for candidates for public office who support real estate issues.	Tom Larson
Wisconsin REALTORS® Foundation Board	Provides financial support to statewide charities, scholarships to children of REALTORS®, and financial support for relief efforts in response to natural disasters in Wisconsin.	Michael Theo

WISCONSIN REAL ESTATE MAGAZINE

Editorial staff
Publisher: Michael Theo
Editor: Lauren B. Hubbard
Senior Designer: Mike Keegan
Managing Editor: Robert Uhrina

WRA executive committee
Steve Beers, Chairman of the Board
Mary Duff, Chairman of the Board-elect
Brad Lois, Treasurer
Jean Stefaniak, Immediate Past Chairman
Mary Jo Bowe, Vice President
Shawn Govern, Vice President

Contact information
4801 Forest Run Road, Ste. 201
Madison, WI 53704-7337
608-241-2047 • 800-279-1972
email: editor@wra.org
website: www.wra.org

Postmaster: Send address changes to:
Wisconsin REALTORS® Association
4801 Forest Run Road, Ste. 201
Madison, WI 53704-7337

Wisconsin Real Estate Magazine™ is published by the Wisconsin REALTORS® Association. Trademark issued pursuant to Wisconsin state statute.

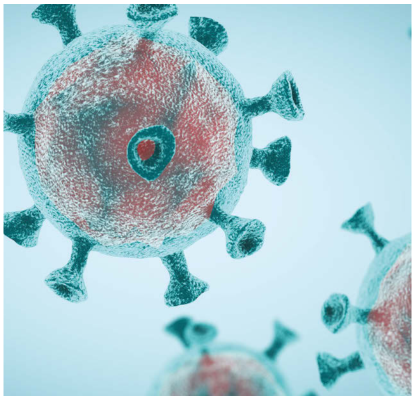
Wisconsin Real Estate Magazine™, USPS 597-850, ISSN 1548-0526, is published monthly by the Wisconsin REALTORS® Association, 4801 Forest Run Road, Ste. 201, Madison, WI, 53704. Periodical postage paid in Madison, WI, and additional mailing offices. An annual subscription rate of $14 is included in membership dues and a copy is mailed to every paid REALTOR® and affiliate member of the association. Nonmember subscription rate is $60.

INSIDE *the* WRA

Coronavirus Guidance and Resources

In response to the evolving circumstances surrounding the coronavirus pandemic, the WRA created a coronavirus resource webpage about how the pandemic affects real estate practice. Visit www.wra.org/coronavirus to stay alert of new developments.

Additionally, the WRA will email members and post on social media. Although email is usually thought of as instantaneous, this isn't always the case. For real-time and up-to-the minute news, follow the WRA on social media using the social



Coronavirus Course Cancellations

Due to the evolving circumstances regarding the coronavirus and Gov. Evers' "safer at home" executive order, the WRA canceled its live events, meetings and classes, as also closed its Madison headquarters building, until April 30.

The WRA education department, WRA Legal Hotline and WRA Tech Helpline are still serving members during normal business hours of Monday - Friday, 8:30 a.m. - 5:00 p.m. Please contact the WRA by phone or email with inquiries or questions.

Real Estate Deemed "Essential Business" Under Executive Order

In response to Gov. Tony Evers' "safer at home" executive order, the WRA drafted a letter to all WRA members identifying their status as "essential business" under the order.

While this letter is not a legal document, it is intended to serve as a resource for you to carry with you in case your status is questioned.

Download your copy of the letter at www.wra.org/coronavirus/resources.

UPCOMING KEY DATES

September 15-16, 2020 | **Annual Convention in Wisconsin Dells**

The convention is still scheduled as a live event in September.
The WRA will keep you informed if this changes.

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

WISCONSIN SETS RECORD FOR HOME SALES

Wisconsin set a new winter home sales record with December through February sales topping 14,000 for the first time, according to an analysis of existing home sales.

Although February sales were relatively flat, falling 0.9% over the past 12 months, robust sales for the previous two months averaged 13.9%, propelling sales for the winter season to a new record. Continued limited inventories pushed prices up more than three times the rate of inflation this winter, including the month of February during which median prices increased 8.6% to $190,000 over February 2019. In contrast, the annual inflation rate stood at 2.3% in February, according to the most recent consumer price data released by the U.S. Bureau of Labor Statistics. Nonetheless, affordability remains strong due primarily to a fall in mortgage rates.

Read more: www.wra.org/HSRFeb2020

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.

FEBRUARY HOUSING

4,033 CLOSED SALES IN FEBRUARY 2020 — DOWN **0.9%** FROM FEBRUARY 2019

$190,000 MEDIAN PRICE FEB 2020 — **UP 8.6%** FROM FEB 2019

ACTIVE LISTINGS BY PRICE

PRICE RANGE	FEB 2020 # OF LISTINGS
$0-$124,999	4,806
$125,000-$199,999	5,372
$200,000-$349,999	**7,144**
$350,000-$499,999	3,358
$500,000 and higher	2,900

MEDIAN PRICES BY REGION

CENTRAL	$140,000
NORTH	$146,000
NORTHEAST	$162,000
SOUTH CENTRAL	**$231,500**
SOUTHEAST	$205,000
WEST	$179,950

23,580 TOTAL STATEWIDE LISTINGS FEB 2020 — **8.7%** FROM FEB 2019

MONTHS OF INVENTORY **3.4** FEB 2020 — **3.8** FEB 2019

AVERAGE DAYS ON MARKET **[111** DAYS FEB 2020**]** COMPARED WITH **[116** DAYS FEB 2019**]**

HOUSING STATISTICS MONTHLY ACTIVITY — FEBRUARY 2020						
Statewide	**February 2020**	**February 2019**	**% Change**	**YTD 2020**	**YTD 2019**	**% Change**
New Listings	6,584	5,704	+15.4%	N/A	N/A	N/A
Total Listings	23,580	25,823	-8.7%	N/A	N/A	N/A
Closed Sales*	4,033	4,071	-0.9%	8,251	7,876	+4.8%
Median Sales Price	$190,000	$175,000	+8.6%	$190,000	$175,000	+8.6%
Months of Inventory	3.4	3.8	-10.5%	N/A	N/A	N/A
Avg. Days on Market	111	116	-4.3%	N/A	N/A	N/A
Affordability Index	226	219	+3.2%	N/A	N/A	N/A
	Median Price			**Closed Sales**		
Region	**February 2020**	**February 2019**	**% Change**	**February 2020**	**February 2020**	**% Change**
Central	$140,000	$134,500	+4.1%	244	250	-2.4%
North	$146,000	$139,500	+4.7%	323	356	-9.3%
Northeast	$162,000	$159,925	+1.3%	706	718	-1.7%
South Central	$231,500	$225,000	+2.9%	847	856	-1.1%
Southeast	$205,000	$182,000	+12.6%	1,563	1,521	+2.8%
West	$179,950	$170,000	+5.9%	350	370	-5.4%

*Report criteria: Reflecting data through February 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.*

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

Harassment Is a Form of Discrimination

PROHIBITED SEX DISCRIMINATION

While many people are familiar with the problem of sexual harassment in the workplace, harassment also occurs in housing situations. Sexual harassment is a form of sex discrimination prohibited by both federal and state fair housing laws, and it most often occurs in rental housing where a tenant is vulnerable and dependent upon the landlord, property managers and maintenance workers for upkeep services and the roof over his or her head.

Under Wisconsin law, Wis. Stat. § 106.50(2)(f) provides it is unlawful for any person to discriminate "By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant." The Wisconsin courts have held sexual harassment, defined to include unwelcome sexual advances, unwelcome physical contact of a sexual nature, or unwelcome verbal or physical conduct of a sexual nature, injures the tenant's dignity and civil rights, and those injuries are compensable.

On the federal level, the U.S. Department of Housing and Urban Development (HUD) in 2016 amended its fair housing regulations to formalize standards for use in investigations and adjudications involving allegations of harassment on the basis of race, color, religion, national origin, sex, familial status or disability. The rule specifies how HUD will evaluate complaints of quid pro quo, known as "this for that" harassment and hostile environment harassment under the Fair Housing Act (FHA).

"One's home is a place of privacy, security, and refuge (or should be), and harassment that occurs in or around one's home can be far more intrusive, violative and threatening than harassment in the more public environment of one's work place." 81 Fed. Reg. at 63,055.

In addition, the U.S. Justice Department and HUD recently launched an initiative to combat sexual harassment in housing. Both agencies bring cases each year involving various illegal conduct, including allegations that defendants have exposed themselves sexually to current or prospective tenants, requested sexual favors in exchange for reduced rents or making necessary repairs, made unrelenting and unwanted sexual advances to tenants, and evicted tenants who resisted the defendants' sexual overtures. The investigations frequently uncover sexual harassment that has been ongoing for years or decades and identify numerous victims who never reported the conduct to federal authorities.

TYPES OF SEXUAL HARASSMENT

The FHA prohibits harassment, retaliation and other types of discrimination in housing because of race; color; religion; sex; disability; familial status, including households with children under age 18, persons seeking custody and persons who are pregnant; or national origin. Among other things, this forbids sexual harassment. Owners, property management employees and agents can all be liable for harassment, as can tenants who harass other tenants.

HUD, in its 2016 harassment amendments to the fair housing regulations in 24 CFR part 100, specified that is was illegal to condition the "terms, conditions, or privileges relating to the sale or rental of a dwelling, or denying or limiting the services or facilities in connection therewith, on a person's response to harassment because of race, color, religion, sex, handicap, familial status, or national origin." The amended rules also clearly indicate it is illegal to represent a dwelling is unavailable because of the person's response to a request for a sexual favor or other harassment based upon a protected class. Although one hopes to never see such a thing, the amended federal rules also point to discrimination in the provision of brokerage services and specify it is illegal to condition access to brokerage services on a person's response to harassment because of race, color,

religion, sex, handicap, familial status or national origin. The same holds true for appraisals and the provision of loans and financial assistance.

Example: harassment is a form of discrimination
Jane has a Housing Choice Voucher (Section 8), but one month she falls behind on her portion of the rent. When Jane asks her landlord if he will give her a few more days, her landlord says yes but only if she will go out with him. Feeling she has no choice, Jane says yes. Over the next few days, Jane's landlord sends her sexually explicit text messages even though Jane tells him to stop. Jane's landlord tells her that if she does not go out with him again, he is going to evict her, and she will lose her voucher. Jane files a complaint with HUD because sexual harassment is a form of sex discrimination.

Courts have consistently recognized sexual harassment as a form of discrimination that violates the FHA as discrimination because of sex. A single incident of harassment can violate the FHA. In order to sustain a claim of sexual harassment, the individual must show that the sexual conduct was unwelcome. However, harassment does not require physical contact and includes written, verbal and other conduct. HUD interprets the FHA prohibition on sex discrimination to include discrimination related to an individual's sexual orientation and discrimination based on gender identity. The FHA protects men and women from sex discrimination, including same-sex sexual harassment.

Courts, and now the federal fair housing regulations, recognize two types of sexual harassment: (1) quid pro quo sexual harassment, and (2) hostile environment sexual harassment.

QUID PRO QUO

Quid pro quo harassment occurs when a housing provider or his or her employee, agent or contractor conditions access to or retention of housing or housing-related services on a victim's submission to sexual conduct. For example:

- A landlord demands nude photos in return for approving a rental application.
- A property manager evicts a tenant after the person refuses to have sex.
- A maintenance man requests sexual favors in return for making needed repairs.

Example: quid pro quo harassment
"A Central Valley landlord threatened to evict a married couple unless the wife would have sex with him, claiming that they were powerless to do anything to him since he could report them to [Immigration and Customs Enforcement]."
AB 291, Senate Rules Committee Floor Analysis (2017)

Quid pro quo harassment can still occur even if a person agrees to comply with an unwelcome request or demand.

HOSTILE ENVIRONMENT

Hostile environment harassment occurs when a housing provider subjects a person to severe or pervasive unwelcome sexual conduct that is intimidating, hostile, offensive or otherwise significantly undesirable and interferes with the sale, rental, availability, terms, conditions or privileges of housing or

housing-related services, including financing. An owner, property management employee or agent create a hostile environment if they subject a resident or applicant to unwelcome sexual conduct that is sufficiently severe or pervasive that it interferes with the person's right to obtain, maintain, use or enjoy housing.
For example:

- A landlord subjects a tenant to severe or pervasive unwelcome touching, kissing or groping.
- A property manager makes severe or pervasive unwelcome, lewd comments about a tenant's body.
- A maintenance man sends a tenant severe or pervasive unwelcome, sexually suggestive texts or photos and enters her apartment without invitation or permission.

OTHER TYPES OF HARASSMENT

Illegal harassment includes harassment other than sexual harassment. Severe or pervasive offensive remarks or hostile behavior because of a person's race, color, religion, sex, disability, familial status or national origin are illegal under the FHA. For instance, elderly persons often have disabilities, which make them particularly vulnerable to harassment.
Other examples include:

- Repeatedly yelling anti-Muslim slurs at a Muslim homeowner or tenant.
- Taunting and threatening a person with a mental disability.
- Subjecting a person to pervasive racial epithets or defacing a person's home with racially derogatory or threatening words or images.

PROPERTY OWNER AND MANAGER LIABILITY

All property owners and managers are responsible for helping ensure their housing is free from discriminatory harassment of any type. Owners and management companies can be liable for sexual and other harassment if the harassment is committed by an employee or agent, even if supervisors don't know about it. For example, an owner is subject to liability if the owner's property manager sexually harassed a tenant; the property manager would be liable too. An owner or management company is also at risk for liability if the company fails to take action to stop harassment of a tenant or applicant by an employee, agent or another tenant, if the company knew or should have known about it.

For example, a property management company is liable if it learns one tenant has been repeatedly harassing another tenant because of that tenant's disability, and no one at the management company acts to stop the harassment.

A property owner or manager may be held directly or vicariously liable if any of his or her employees, agents or contractors sexually harass an applicant, resident or tenant. For example, if an apartment manager authorizes a maintenance worker to enter a tenant's home to make a repair, and the maintenance worker sexually harasses the tenant, the management company may be vicariously liable for the discriminatory actions of the maintenance worker. A property owner or manager who knows or should have known about sexual harassment perpetuated by such persons but fails to take action to stop it, can be directly liable for any resulting harm. In addition, some courts have held owners and managers, including condominium associations, liable in situations where they knew of tenant-on-tenant harassment and did not take remedial action.

HUD Settlement with Minneapolis Landlord Accused of Housing Discrimination
In May 2019, HUD approved an agreement between a Minneapolis landlord and a female tenant who alleged the landlord on numerous occasions requested sex from her in exchange for a reduction in her rent. Under the agreement, the landlord will pay $30,000 to the woman and $7,000 to her attorney. The landlord is also required to engage a third-party real estate management company to manage all of his residential properties for the next five years.

HARASSMENT COMPLAINTS

Individuals who believe they may have been victims of sexual harassment or other types of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email the Justice Department at fairhousing@usdoj.gov, or contact HUD at 1-800-669-9777 or through its website at www.hud.gov/program_offices/fair_housing_equal_opp. A complaint may also be filed with the Wisconsin Department of Workforce Development at dwd.wisconsin.gov/er/civilrights/housing/complaintprocess.htm, or an individual may contact the Metropolitan Milwaukee Fair Housing Council at 414-278-1240.

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

> **"QUID PRO QUO HARASSMENT CAN STILL OCCUR EVEN IF A PERSON AGREES TO COMPLY WITH AN UNWELCOME REQUEST OR DEMAND."**

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

THE BEST *of the* LEGAL HOTLINE: FAIR HOUSING FOCUS

To bring awareness to fair housing during April as the official fair housing month, the legal hotline article this month highlights fair housing implications pertaining to real estate advertising. Specifically, this article reviews WRA Legal Hotline discussions surrounding advertising requirements, the practice of potential buyers sending "love letters" to sellers, and listing photos that include human subjects.

REAL ESTATE ADVERTISING AND FAIR HOUSING IMPLICATIONS

What are the federal or state law regulations regarding what REALTORS® must include in their print ads or their website? How about the fair housing logo?

All advertisements, regardless of where they appear, must clearly and conspicuously include the name of the broker/firm or a trade named filed with the Real Estate Examining Board (REEB). Wis. Admin. Code § REEB 24.04, and Wis. Stat. § 452.136 apply. Advertising by a licensee who is also a REALTOR® is subject to compliance with Article 12 of the REALTOR® Code of Ethics.

Whether a fair housing logo is required is a matter of company or, if applicable, franchise policy. The use of the Equal Housing Opportunity slogan or logo is not mandatory in all real estate advertising, but it alerts consumers to the concept of fair housing, shows the broker's commitment to fair housing and demonstrates intent to abide by the fair housing law. Read more in "Fair Housing Advertising Pointers" in the April 2014 *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Apr14/FairHousingAdvertising.

HUD rules, former 24 C.F.R. part 109 regulations, used to require the slogan or logo in many ads, but those rules are no longer in force. The requirements included size criteria for newspaper ads. There are no new requirements or rules regarding the slogan or logo. Read more about the former rules at www.wra.org/FairHousing/FormerRules.

While the federal Fair Housing Act (FHA) by its text does not require the use of the equal opportunity logo or slogan — "Equal Housing Opportunity" — in any ad, the fact is that using the logo and statement reflects a commitment to fair housing compliance, for example, for property managers and landlords. The equal housing opportunity logo is a picture of a small house with the words "equal housing opportunity" directly beneath it. Using the equal housing opportunity logo may help demonstrate a commitment to the law in cases where there is an allegation of discrimination and may be required by HUD settlement agreements or enforcement orders.

For more information about advertising, see the August 2015 *Legal Update*, "Real Estate Advertising Content," at www.wra.org/LU1508 and the October 2015 *Legal Update*, "Real Estate Advertising Methods," at www.wra.org/LU1510.

"LOVE LETTERS" AND FAIR HOUSING

Many agents in today's real estate market are seeing an uptick in the "love letter" trend. In this scenario, a potential buyer sends a letter to a seller, complimenting the seller on the property and essentially telling the seller to "pick me as your buyer." In some of these letters, the buyer makes comments about the buyer's familial status; in other letters, the buyer may show pictures of the buyer's family. Should agents have any concern with harboring acts against fair housing and therefore avoid the presentation of such letters?

Whether the content of the buyer's love letter could raise liability issues for the buyer, the seller or the broker, would be transaction-specific and depends on the content of the letter. For example, information contained in the letter could raise a misrepresentation issue if inaccurate and the seller relied on the information when accepting the offer. The content of the letter could raise fair housing issues if decisions regarding the sale are made based on the buyer's protected class status. The information contained in the letter could create contractual obligations between the buyer and seller for the closing of the transaction. Likewise, if there are any promises or conditions contained in the letter that were to be implemented after closing, that could be problematic.

Having identified potential issues, buyers may choose to provide love letters with offers on a case-by-case basis. Whether the letter is incorporated by reference as part of the offer or the letter accompanies the offer would be a decision for the buyer to make after reviewing the pros and cons. A letter not incorporated by reference may not be presented to the seller. Any document can be made part of an offer if it is incorporated by reference into the offer to purchase. If the cooperating broker thinks the listing broker will not present the buyer's letter, the broker may remind the listing agent of the offer presentation rules in Wis. Admin. Code § REEB 24.13, which provides for the submission of all written proposals, not just offers:

> Wis. Admin. Code § REEB 24.13(1): "Refusal prohibited. Licensees shall not refuse to draft or submit any written proposal unless the terms of the written proposal would be contrary to specific instructions of the other party."
>
> Wis. Admin. Code § REEB 24.13(3)(a): "Fair presentation of written proposals. (a) Licensees shall present all written proposals in an objective and unbiased manner to their clients and customers. Licensees shall inform their clients and customers of the advantages and disadvantages of all submitted written proposals."

"Written proposal" means any written document provided by one party to another during the course of a transaction, including but not limited to notices, offers, counteroffers, options, exchanges, rental agreements and amendments.

For more information, see the September 2017 *Legal Update*, "Fair Housing Advancements," at www.wra.org/LU1709.

LISTING PHOTOS AND FAIR HOUSING

The seller provided the broker photos of the property. Included in the photos are children as well as images of people in a hot tub. Can the broker use these photos when advertising this property, and what issues could the use of such photos pose?

There are many considerations when placing photographs in advertising materials or the MLS including copyright law, privacy laws, fair housing laws, and MLS rules and regulations to name a few.

WISCONSIN PRIVACY STATUTE

Wis. Stat. § 995.50 is the Wisconsin right to privacy statute. An invasion of privacy occurs if one uses, for advertising purposes, the name, portrait or picture of any living person without prior written consent. Similar to copyright law when using any image of an individual, the agent and/or broker should assure proper written consent is obtained.

See the excerpt from the NAR Handbook on Multiple Listing Policy at www.realtor.org/handbook-on-multiple-listing-policy.

COPYRIGHT LAW

Photographs are subject to copyright law. Therefore, before using a photograph taken by another individual, the agent must obtain consent to use the photo. Written consent is preferable, describing the authorized uses. See information about copyright from NAR.

FAIR HOUSING

The Federal Fair Housing Act and Wisconsin law make it unlawful to make, print or publish any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation or discrimination based upon membership in a protected class. The cardinal rule for avoiding fair housing liability in advertising is to describe the property and property features, not the buyer or tenant.

Fair housing laws impact what REALTORS® may or may not say when advertising property for sale or rent. Liability for a discriminatory ad in a publication or on a multiple listing service (MLS) may be especially far-reaching, potentially including the broker and his or her agents and office staff, the MLS or other publisher and its staff, and a website operator and its staff.

Photos as well as words in advertising can indicate a preference for a protected class. It may be preferable to show photos of the property features, not people using the property.

> **“THE CARDINAL RULE FOR AVOIDING FAIR HOUSING LIABILITY IN ADVERTISING IS TO DESCRIBE THE PROPERTY AND PROPERTY FEATURES, NOT THE BUYER OR TENANT.”**

HUMAN MODELS

Whether there is a violation of fair housing law, based on the use of human models, HUD takes into consideration the entirety of the broker's advertising. More detailed information is sourced from www.hud.gov/offices/fheo/library/part109.pdf.

b) Use of human models. Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one such group.

COPYRIGHT

When it comes to listing content, there are several aspects of the listing that may be protected by copyright law: photographs, drawings, property descriptions or remarks beyond the basic description, or video tours. Photographs are subject to copyright law. Copyright protection exists from the time a work, such as a photograph, is created. There is no requirement to register the photograph, and reproduction by anyone other than the creator, without the creator's permission, is a violation of U.S. copyright law. The copyright of the work immediately becomes the property of the author, here the photographer/agent, who created the work. Likewise, written property descriptions used for the advertising or marketing of property would vest in the author/agent.

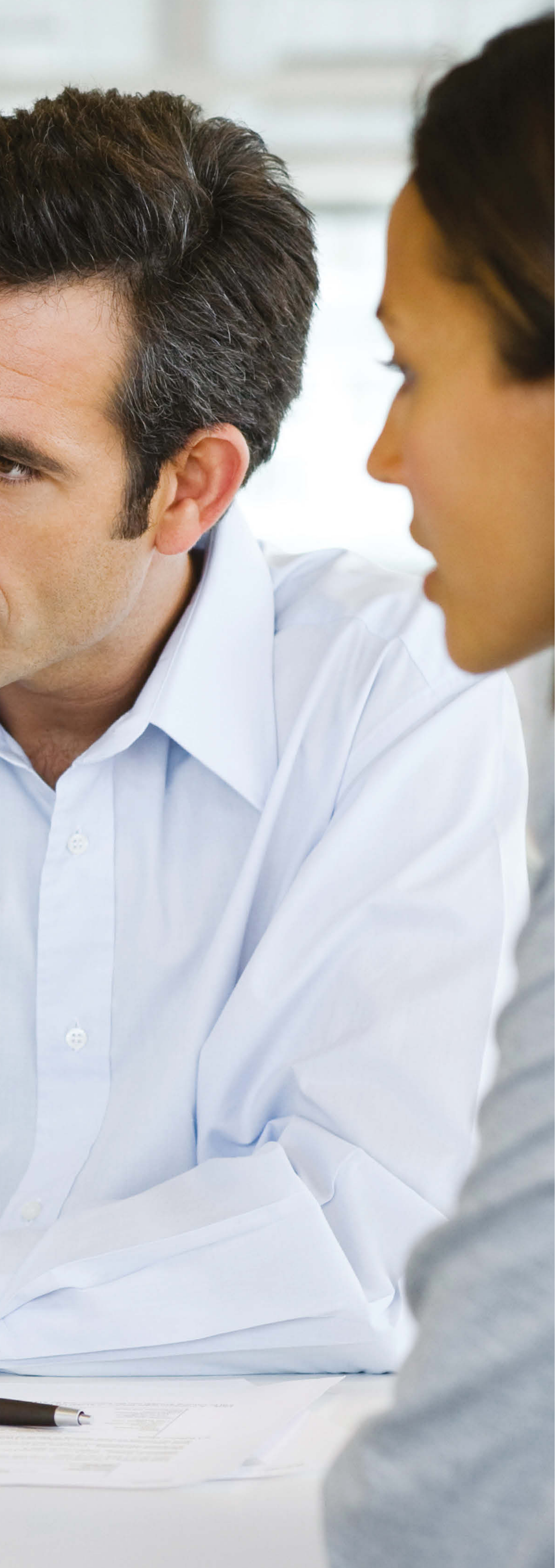
Tracy Rucka is Director of Professional Standards and Practices for the WRA.

By **Cori Lamont**
SENIOR DIRECTOR OF LEGAL AND PUBLIC AFFAIRS
LEGAL

CLEAR *Cooperation*

Understanding NAR policy statement 8.0

In November 2019, the National Association of REALTORS®' (NAR) board of directors approved MLS Policy Statement 8.0, Clear Cooperation, known as "Policy Statement 8.0."



POLICY STATEMENT 8.0

This policy requires listing brokers who participate in the multiple listing service (MLS) to submit their listing to the MLS within one business day of marketing the listing to the public. The full Policy Statement 8.0 reads:

> Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 11/19)

WHAT IS THE INTENT OF POLICY STATEMENT 8.0?

"Clear cooperation" is just as the name implies: to have MLS participants cooperate with one another. Policy Statement 8.0 is intended to require a listing firm submit the listing into the MLS if the property is marketed to the public.

WHAT IS MEANT BY PUBLIC MARKETING UNDER POLICY STATEMENT 8.0?

Per Policy Statement 8.0, "public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public."

If you keep the listing information internal to your company, you have not triggered Policy Statement 8.0. However, once you market the listing to the public, which includes, for example, social media, email blasts to other agents, or a closed Facebook group with other agents from other firms, Policy Statement 8.0 kicks in, and the listing must be placed in the MLS within one business day.

WHEN IS THE NEW POLICY EFFECTIVE?

MLSs must adopt NAR Clear Cooperation Policy Statement 8.0 no later than May 1, 2020.

WHAT ARE THE PENALTIES IF THE POLICY IS VIOLATED?

While each MLS must adopt clear cooperation, the MLS sets its own penalties. Therefore, you must contact your MLS for that information.

HOW DOES POLICY STATEMENT 8.0 APPLY IN WISCONSIN?

Keep in mind, under Wis. Stat. § 452.136(3), in order to advertise a property, a licensee must have a listing contract or permission from the listing firm. So, while some states may allow firms to advertise a property without a listing, Wisconsin requires a listing contract in order to advertise.

CLEAR COOPERATION EXAMPLE

A firm takes a listing on Monday, March 9. The listing is effective on March 9. The MLS rule says participants have four days to get listings into the MLS.

On March 10, the listing firm advertises the property on Facebook. Under Policy Statement 8.0, the listing firm's Facebook advertisement triggered the one-business-day requirement. Therefore, the listing firm now has one business day to put the property into the MLS. In this situation, if the listing firm does not advertise to the public, then the listing firm per the MLS rule must place the property in the MLS within four days of the effective date of the listing.

WAIT! I HAVE MORE QUESTIONS

Since the MLS is responsible for implementing the rule and any associated penalties, we strongly encourage you to contact your MLS about Policy Statement 8.0.

Additionally, NAR has an outstanding set of frequently asked questions at www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy.

The following are some common questions the WRA legal staff has been fielding. Due to the substantial similarity of WRA member questions and NAR's questions, this article provides NAR's answers to the these questions. The information below is based on the questions and answers provided by NAR at the time of this publication.

DOES POLICY STATEMENT 8.0 PROHIBIT OFFICE EXCLUSIVES?

No. "Office-exclusive" listings are an important option for sellers concerned about privacy and wide exposure of their property being for sale. In an office-exclusive listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage, and one-to-one promotion between these licensees and their clients, is not considered public advertising.

Common examples include divorce situations and celebrity clients in which the listing broker markets a property among the brokers and licensees affiliated with the listing brokerage. If office-exclusive listings are displayed or advertised to the general public, however, those listings must also be submitted to the MLS for cooperation.

DOES POLICY STATEMENT 8.0 REQUIRE LISTINGS TO BE SUBMITTED TO THE MLS IF THEY ARE ADVERTISED TO A SELECT GROUP OF BROKERS OUTSIDE THE LISTING BROKER'S OFFICE?

Yes. "Private listing networks" that include more brokers or licensees than those affiliated with the listing brokerage constitute public advertising or display pursuant to Policy Statement 8.0. Listings shared in multi-brokerage networks by participants must be submitted to the MLS for cooperation.

DOES POLICY STATEMENT 8.0 APPLY TO NONACTIVE LISTINGS?

Yes. Policy Statement 8.0 applies to any listing that is or will be available for cooperation. Pursuant to Policy Statement 8.0, "coming soon" listings displayed or advertised to the public by a listing broker must be submitted to the MLS for cooperation with other participants. MLSs may enact "coming soon" rules providing for delays and restrictions on showings during a "coming soon" status period, ensuring flexibility in participants' listing and marketing abilities, while still meeting the participant's obligations for cooperation.

What if the listing isn't ready to be shown? Are "coming soon" or "delayed showing" listings allowed under Policy Statement 8.0?

The concept of "coming soon" and "delayed showing" can be achieved within the local MLS. Listings that are truly not yet ready to be shown can be shared with the MLS's brokers and agents to create exposure while the property is being prepared for showing.

MLSs can also add clarity to the coming soon and delayed showing process by defining specific statuses and showing requirements if these listings are to be included in the MLS. The most common implementations do not allow for showings of the listing until its status is changed to active, and any showings of the listing would immediately trigger that status change.

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

ADDITIONAL NAR RESOURCES

- NAR's "Window to the Law: Understanding the MLS Clear Cooperation Policy" within NAR's "Window to the Law" legal video series at www.nar.realtor/window-to-the-law/understanding-the-mls-clear-cooperation-policy
- "NAR Passes MLS Proposal to Strengthen Cooperation" in the November 2019 *REALTOR® Magazine*: magazine.realtor/daily-news/2019/11/11/nar-passes-mls-proposal-to-strengthen-cooperation
- "Backstory Behind the Clear Cooperation Policy Proposal" statement from NAR: www.nar.realtor/backstory-behind-the-clear-cooperation-policy-proposal

By **Debbi Conrad**
SENIOR ATTORNEY AND DIRECTOR OF LEGAL AFFAIRS

LEGAL

FAIR HOUSING *Quiz*

TEST YOUR FAIR HOUSING KNOWLEDGE

Choose the best answer to these questions.

01

There are exceptions in fair housing where discrimination may be legal. In what situation would discrimination be illegal?

A. A family with "too many" people may be turned away based on reasonable government regulations addressing health and safety, overcrowding, or capacity of utilities or infrastructure.

B. Housing primarily intended and operated for older persons may, under certain conditions, be restricted to persons over a certain age, such as "62 years and older" housing and "55 and over" housing.

C. Mortgage loans may be denied for properties in hazardous zones deemed to be credit risks based on racial and ethnic demographics.

D. Housing may be denied to a person who poses a direct threat to the safety of others or whose tenancy would result in substantial physical damage to property, provided the risk can't be sufficiently reduced by a reasonable accommodation.

02

In order for a housing facility or community to qualify as housing designed for persons who are 55 years of age or older, which of the following is not required?

A. All offers to purchase, leases, deeds, and written rules and regulations must restrict occupancy to persons who are ages 55 or older.

B. At least one person who is 55 years of age or older occupies at least 80 percent of the occupied units.

C. The project adheres to a policy that demonstrates an intent to operate as housing designed for persons who are ages 55 or older.

D. The owner must also be able to verify compliance with the 80-percent rule with proof such as reliable surveys and affidavits.

03

Which of the following is not a good tip to follow regarding the words and language used in advertising if one wants to avoid a charge of fair housing discrimination?

A. Do not use words describing the seller, buyer, landlord or tenant, such as a "Jewish owner," "Hmong home" or "perfect for a couple with children."

B. Do not use "no wheelchairs," "no service animals" or "no children."

C. Do not use "crippled," "mentally ill," "deaf," "retarded," "blind," "singles" or "mature persons."

D. Do not use "master bedroom," "mother-in-law suite" and "bachelor apartment."

04

A real estate professional suggests an African American couple focus their search in a neighborhood that is predominantly African American. The agent discourages them from looking at a nearby neighborhood that is predominantly white. Which of the following answers describes this scenario?

A. This is illegal racial steering and is an intentional violation of fair housing laws.

B. Steering is the practice of directing potential buyers toward or away from a neighborhood or community based upon perceived protected characteristics.

C. Steering involves using a prohibited basis to treat the same requests for services or housing information differently, often involving the substitution of a real estate licensee's judgment for that of the prospect.

D. All of the above.

05

The tenant applicant has a child who uses a wheelchair, but the bathroom door is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway. Which is not accurate?

A. It is unlawful for the landlord to refuse to permit the applicant to make the reasonable modification.

B. The landlord can require the tenant to restore the narrow door width at the end of the tenancy.

C. The landlord may require the modification be made at the tenant's expense.

D. The landlord may not increase the security deposit for persons with disabilities who make reasonable modifications.

06

HUD's 2020 Assistance Animal Notice provides guidance for housing providers faced with a person who requests an assistance animal in a property where the animal would otherwise not be allowed. Which of the following is stated in the notice?

A. A licensed medical professional should have personal knowledge of the patient/client and their disability if they are providing documentation to confirm the person's disability or the disability-related need for the animal.

B. A housing provider must grant a reasonable accommodation that has not been requested when the person's disability and the need for the animal are apparent.

C. If the disability and need for the animal have been established, the animal must be allowed even if it is a reptile, barnyard animal, monkey, kangaroo or other non-domesticated animal.

D. According to the guidance, the different categories of animals include assistance animals, service dogs, trained support animals and therapeutic emotional support animals.

07

The Fair Housing Act prohibits illegal harassment. Which of the following is not an example of prohibited conduct?

A. A landlord demands nude photos in return for approving a rental application.

B. A male landlord evicts a female tenant who was dealing drugs in the laundry room.

C. A landlord threatened to evict a Hispanic married couple unless the wife would have sex with him and threatened to report the couple to ICE if they reported him.

D. Subjecting a person to pervasive racial epithets or defacing a person's home with racially derogatory or threatening words or images.

08

After learning the buyers have children, a listing agent believes the home is too small and does not show the property. Which statement best describes this agent's decision?

A. This is a case of possibly well intentioned, yet illegal steering based on family status.

B. Family status is a protected class so the agent must protect them at all costs.

C. This is age discrimination against the children.

D. This is acceptable because the children need a bigger house as they grow.

09

The boyfriend's and the girlfriend's names are on the lease. She wants him removed from the lease and out of the property while he wants to reconcile. Each tenant has called the police and been arrested for a domestic dispute. Can the landlord remove one of the two tenants from the lease?

A. The landlord can give notice to evict the tenant posing an imminent threat of serious physical harm to the other tenant if the offending tenant remains on the premises.

B. An individual tenant or the landlord cannot unilaterally change the contract without the consent of the remaining parties, so the landlord can do nothing unless they all agree.

C. The Wisconsin Safe Housing Act has procedures for either a landlord to terminate the tenancy of an offending tenant, and for a tenant to terminate his or her tenancy if there is an imminent threat, both dependent upon proper documentation and notice.

D. The landlord can change the locks and re-rent the apartment.

10

When leasing commercial space, which of the following violates fair housing laws?

A. Refusing to rent space to a drug rehabilitation office.

B. Refusing to rent to a pastor looking for a location to hold church services.

C. Refusing to rent to a hair salon business because the business owner is gay.

D. None of the above.

How did you score? See page 33 for answer key.

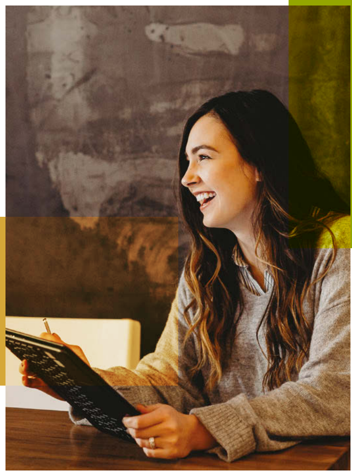
Opening Doors to REALTOR® Diversity

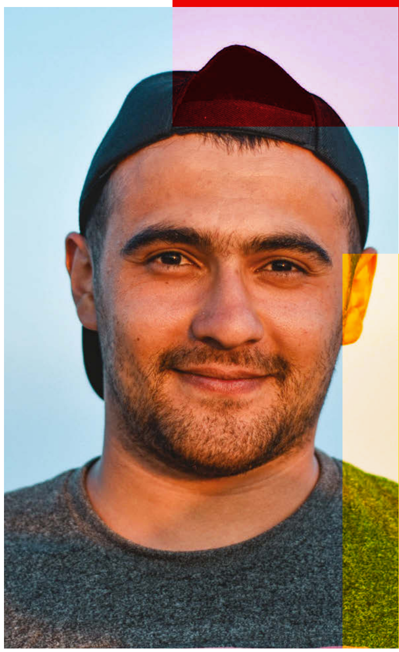
The Wisconsin REALTORS® Association's Partnership for Success Program provides start-up assistance for new minority licensees who are interested in building a real estate career.

For more information on this program and the opportunities available, please visit wra.org/**Partnership**

Wisconsin REALTORS® Association

diversity = success





Partnership for Success Program

Opening Doors to REALTOR® Diversity

LATEST LEGAL RESOURCES

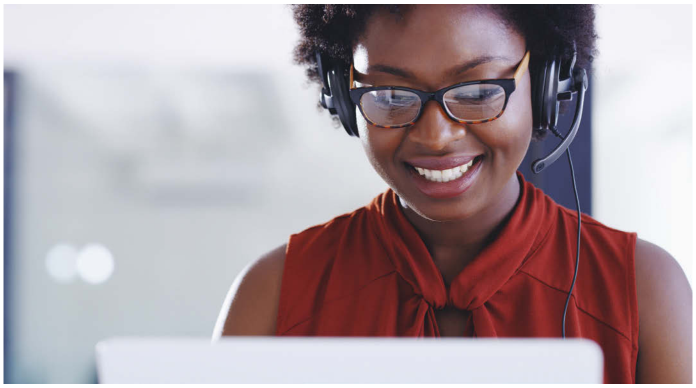
As a REALTOR®, your everyday business transactions are legal in nature. Your WRA membership includes access to various WRA legal resources, all designed to ensure that you practice real estate legally and correctly. Below are the latest resources from the WRA.

LEGAL HOTTIPS

Latest Discussions on the WRA Legal Hotline

- Licensee inspection of properties during the coronavirus pandemic.
- Counting inspection contingency timelines with a 30-day COVID-19 delay.
- Giving notice of termination amid coronavirus concerns.
- Tenant refuses showing due to the coronavirus.
- Tenant's request for emotional support animal in pet-free building.

Read: **WRA.ORG/LEGALHOTTIPS**



LEGAL NEWS EMAIL

New COVID-19 Real Estate Forms

In response to contractual concerns relating to the coronavirus and to assist in the implementation of the governor's "safer at home" order, the WRA created two new forms available for use in real estate transactions during the coronavirus pandemic.

WRA-CVSI — Coronavirus (COVID-19): Showings and Inspections Agreement
The WRA-CVSI form makes everyone aware about safety precautions and makes clear that real estate licensees are not liable for any damages relating to showings or inspections conducted during the pandemic. Download the form: **WRA.ORG/WRA-CVSI**

WRA-CV — Addendum CV Coronavirus (COVID-19) Provisions
The WRA-CV addendum helps to address challenges parties currently under contract may be experiencing in their transaction due to the pandemic. Download the form: **WRA.ORG/WRA-CV**

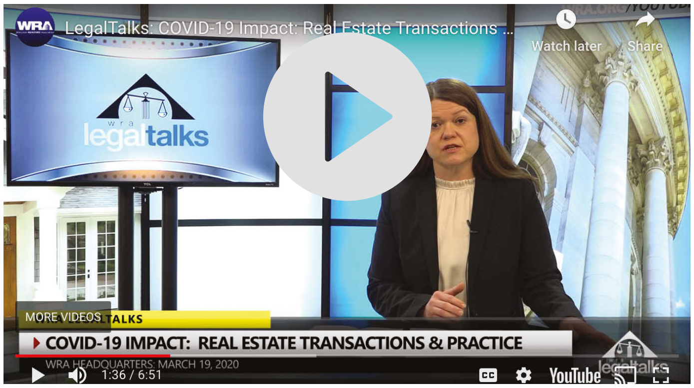
Learn more about both forms: **WRA.ORG/CORONAVIRUS/LEGAL**

LEGALTALKS VIDEO SERIES

COVID-19 Impact: Real Estate Transactions and Practices

The coronavirus is creating new and unprecedented issues in real estate transactions. The newest LegalTalks video addresses concerns with current listings, contract drafting, remote notaries and resources for additional information.

Watch: **WRA.ORG/CORONAVIRUS/LEGAL**



LEGAL UPDATE

A Guide to Filing an Ethics Complaint

This Legal Update explores the formal complaint processes and alternative dispute options available when there are communication issues, allegations of unprofessional content or illegal behavior by REALTORS®.

Read: **WRA.ORG/LEGALUPDATES**

WRA LEGAL HOTLINE

Find out applicable legal standards, alternatives and possible solutions for your real estate practice questions by contacting the WRA Legal Hotline. The hotline is a members-only service.

CONTACT:

Phone: 608-242-2296 or 800-799-4468

Fax: 608-242-2279

Online: www.wra.org/LegalHotline

Learn More: **WWW.WRA.ORG/LEGALHOTLINE**

Give Thanks ALL YEAR LONG

Junesgiving is back again

In November 2018, the Wisconsin REALTORS® Foundation (WRF) launched its inaugural "Team Up Against Hunger" week for REALTORS® throughout Wisconsin to volunteer at their local food pantry or food bank. This special week will return once again this summer on June 15-19, 2020.

This volunteer week takes place twice a year with "Don't be a Turkey" week in November and "Junesgiving" week in June. Giving thanks during the holiday season is easy for the majority of us because the holidays tend to encourage us to look inward and be grateful for what we have. But what if we could be appreciative of what we have every day and be charitable all year long?

This is where Junesgiving can help.

With more than 1,000 food pantries and six food banks serving the state of Wisconsin, there is an opportunity for Wisconsin REALTORS® to volunteer at a food pantry or food bank serving their community. And the best part about volunteering is it can happen in a variety of ways — every food pantry or food bank has different needs. As a volunteer, you may be asked to dedicate your time helping to sort food, clean, or host a fundraising effort to help provide the pantry with certain items for those in need. The easiest way to find out what your local food pantry or food bank needs is by connecting with that organization. To find a food pantry or bank in your community, visit www.wra.org/wrf.

In light of the coronavirus pandemic and social distancing in which traditional, in-person volunteering may be difficult, we encourage you to reach out to your local food bank or pantry and find out how you can best help the week of June 15-19, 2020.

Make this a team-building activity or use it to connect with clients, customers, friends, family, or partners in your network like local lenders, title agents and home inspectors. Challenge another firm in your community to have the most volunteer hours that week or another office anywhere in the state. And of course, share it all on social media!

No matter where or how you choose to volunteer during Junesgiving, your participation will connect you to your community and help those in need.

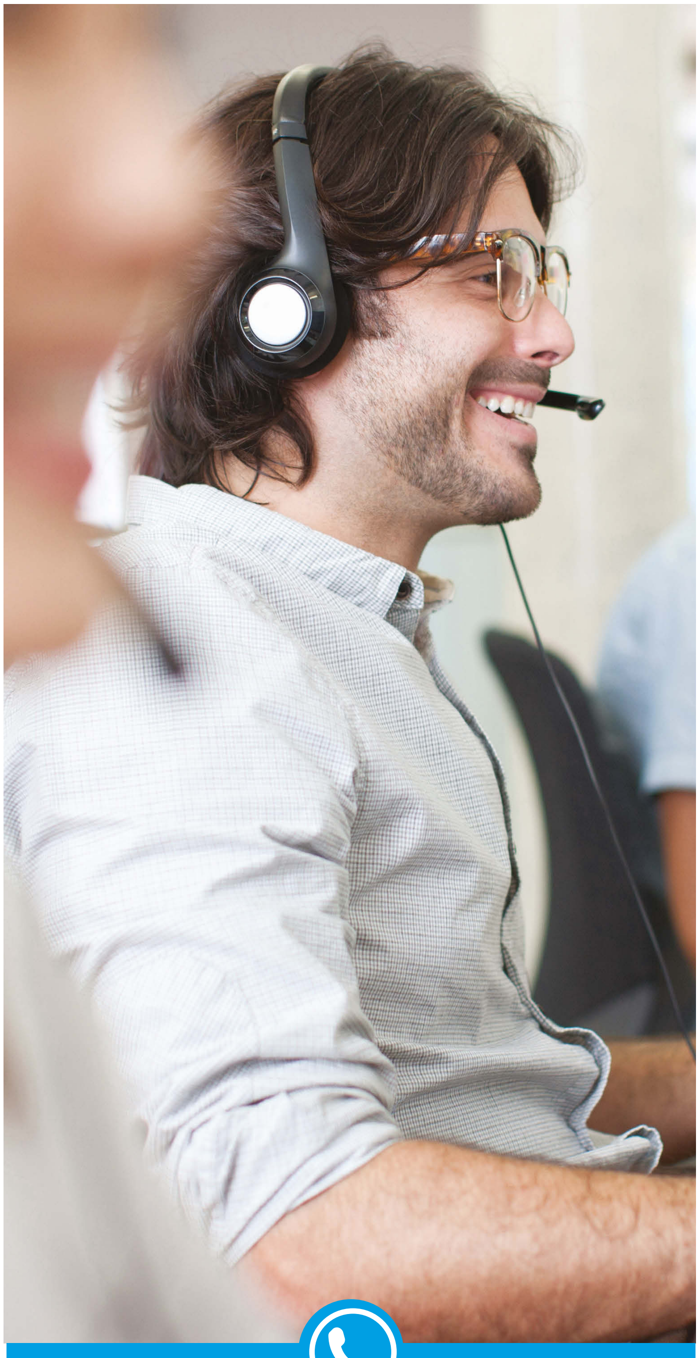
The WRF is a statewide organization dedicated to unifying REALTORS® to help Wisconsin children in the areas of education, hunger, homelessness/abuse and serious illnesses. Visit www.wra.org/wrf for more information.

TECH HELPLINE
REMOTE WORK

THE BEST OF THE TECH HELPLINE

Tech support for working from home

Agents are facing a new normal today as they find themselves either in imposed or self-selected isolation. Not working inside a real estate office means agents are confronting a flurry of new tech challenges.



Gone is the ability to turn to a tech-savvy colleague in your office to help solve a technical glitch. Setting up a new home office or adding more technology to an existing one is now commonplace.

If you are adding an extra monitor or setting up a new Bluetooth printer, you probably need help. Fortunately, you have the WRA Tech Helpline.

For many agents, home offices have been an outpost or satellite of their main office. All you needed was a desk, your laptop and your mobile phone. Now you may need to outfit your home with the technology you once could access at your main office.

First, that means you are going to have questions. What size monitor do I need? Will it connect to my current laptop, or do I need a special adapter? Does the brand of the monitor matter? What about Bluetooth printers? Will my computer connect with all printer brands? Are some printers easier to set up than others? Or will you discover that now is the time to buy that new laptop you have been putting off, as it will work better with the new monitor and printer you need.

A majority of agents work for an independent brokerage — 53 percent, according to the National Association of REALTORS®. That means for many agents, their first line of assistance is going to be the tech helpline.

Once you figure out what new technology you will need in your home office, you will have more questions. It is likely you would benefit from step-by-step guidance that an experienced and friendly tech helpline analyst can provide you. Call the helpline today to get assistance with your telework-related needs!

This contributing article is from the Tech Helpline, a service of the WRA.

WRA TECH HELPLINE

Your WRA membership includes free access to a toll-free technical support team to assist you with technical issues.

CONTACT:

Phone: 866-610-7997

Email: support@techhelpline.com

Chat: chat.techhelpline.com

Learn more: **WWW.WRA.ORG/TECHHELPLINE**

WRA LEGISLATIVE AGENDA *Postponed*

Along with the rest of the world, the Wisconsin legislature is facing an unprecedented situation with curtailing the spread of the coronavirus. While the WRA's legislative agenda was ready to come to a close in conjunction with the end of the Wisconsin legislative session scheduled for April, both have now been postponed amid the coronavirus pandemic.

Background

The WRA created a list of five legislative priorities to tackle during the 2019-20 legislative session. These priorities affect property rights, transaction documents and housing regulations and, if passed, will ultimately create a healthier real estate climate across Wisconsin.

What's in play

- AB 551/SB 501: Restore the right to place a pier on flowages.
- AB 596/SB 549: Update disclosure reports.
- AB 655/SB 599: Improve home inspection reports.
- AB 691/SB 624: Prohibit chasing sales.
- AB 544/SB 484 and additional legislative initiatives: Increase workforce housing supply.

Legislation status

These proposals were working their way through the legislative process prior to the legislature's announcement that it suspended its floor period due to the coronavirus. At press time, the most recent news projects a potential return of the legislative session later in spring.

See additional details about these five priorities in "REALTOR® & Government Day Roundup" in the March 2020 issue of *Wisconsin Real Estate Magazine* at www.wra.org/WREM/Mar20/RGDay.

The WRA engages in advocacy on behalf of REALTORS® and property owners through a variety of programs including:

RPAC
REALTORS® POLITICAL ACTION COMMITTEE

wisconsin homeowners alliance

BY **TOM LARSON**
SENIOR VICE PRESIDENT OF LEGAL AND PUBLIC AFFAIRS
GOVERNMENT AFFAIRS

REMOVING LOCAL BARRIERS TO WORKFORCE HOUSING

Under the basic laws of supply and demand, when housing demand exceeds housing supply, housing prices increase. In a perfect market, housing supply would increase in response to the housing demand and housing prices would stabilize.

Unfortunately, the Wisconsin housing market has not reacted in this manner. Statewide housing inventories and vacancy rates are at historic lows; median home prices and rents continue to rise; and the supply of housing, both owner-occupied and rental, has not increased accordingly. In short, Wisconsin has a significant housing shortage, especially moderate-priced housing that working families can afford.

Wisconsin's housing shortage is also taking a toll on employers as well as our economy. Wisconsin employers are finding it increasingly difficult to recruit workers unless the nearby area has attractive and affordable housing options. Unless this workforce housing problem is fixed, Wisconsin will be unable to keep and attract the skilled workers necessary for our state and local economies to thrive.

CAUSES OF WISCONSIN'S WORKFORCE HOUSING SHORTAGE

While numerous factors play a role in Wisconsin's workforce housing shortage, a recent study conducted by Professor Kurt Paulsen of the UW-Madison Department of Urban and Regional Planning identifies three primary contributors to the workforce housing shortage.

1. WISCONSIN HAS NOT BUILT ENOUGH HOMES TO KEEP UP WITH POPULATION AND INCOME GROWTH

Compared to pre-2009 recession levels, Wisconsin has created 75% fewer lots and 55% fewer new housing units since 2012. See Figure 1. When adjusted for population, building permits per capita and new lots per capita are less than 50% of what they were in the 1990s and early 2000s.

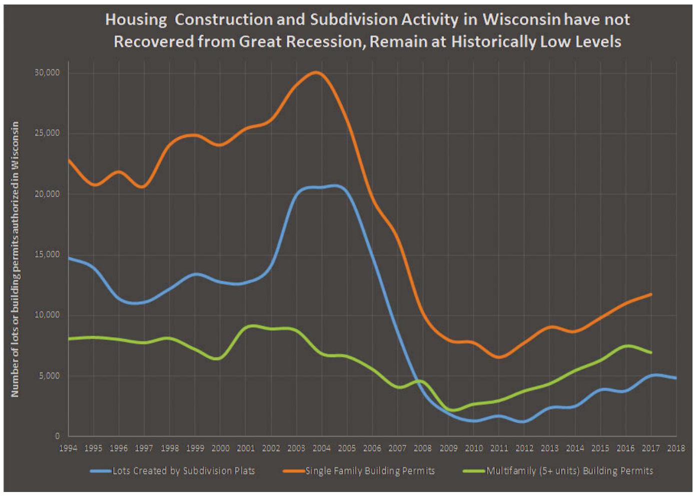
2. CONSTRUCTION COSTS ARE RISING FASTER THAN INFLATION AND INCOMES

Since the Great Recession, construction costs have increased by 14.7% in Madison, 14.9% in Milwaukee and 16.2% in Green Bay. Most builders believe these estimates are extremely conservative and the actual construction costs are two to three times higher. The increased construction costs are due to higher material prices but also due to a "severe labor shortage." Dr. Paulsen's report cites an Association of General Contractors survey, indicating that 73% of Wisconsin construction firms reported labor shortages.

3. OUTDATED LAND USE REGULATIONS DRIVE UP THE COST OF HOUSING

Local land-use regulations such as large minimum lot sizes, prohibitions on non-single-family housing, excessive parking requirements, requirements for high-end building materials, and long approval processes raise the cost of housing.

Figure 1



HOW MUNICIPALITIES CAN INCREASE THE WORKFORCE HOUSING SUPPLY

The solutions to Wisconsin's workforce housing shortage are both simple and complex. Increasing the supply of housing is the easy answer, but achieving this goal is more challenging and would require, among other things, an increase in construction labor, lower building material costs, and better ways to finance infrastructure costs.

While most of these solutions must be addressed at the state or national level, local communities can play a significant role in increasing the supply of workforce housing in the following ways:

1. EXPEDITE APPROVAL PROCESSES

The approval process for new residential development often takes an excessive amount of time. Whether a new development requires rezoning, a conditional use permit or planned unit development approval, the process takes time and often requires considerable patience and a big checkbook to navigate through it.

In most cases, only large developers can afford to fight through this process. But, even in such cases, they generally will need to increase the size and scope of their project to recoup their costs. This will often prevent more modest-priced houses from being included in the development project.

Delays resulting from the permitting process add to the cost of housing, either directly through higher prices, or indirectly through the loss of new construction projects, which reduces supply. A housing project will not be built if the developer will lose money.

Streamlining permitting processes can be achieved with relatively little if any cost to municipalities. In fact, a municipality may save money by reducing administrative costs.

2. INCREASE DENSITIES AND SMALLER LOT SIZES

Land costs are one of the biggest contributors to overall housing costs. Houses built on larger lots generally will be more expensive than houses built on smaller lots. While this seems obvious, many local zoning regulations and platting requirements ignore this fact.

Similarly, zoning regulations that require only single-family homes to be built on each lot will increase housing costs. More housing units built on individual lots will spread the lot costs over multiple units, thus lowering the per-unit housing costs.

Increasing densities by integrating smaller-scale, multifamily dwellings with single-family houses has been a popular trend. Minneapolis, for example, has banned single-family zoning to encourage more accessory-dwelling units, duplexes and other multi-unit buildings. Seattle relaxed zoning regulations in 27 transit-oriented neighborhoods. The state of Oregon enacted a law to eliminate single-family zoning across the state.

While the approach taken by each of these jurisdictions is slightly different, they all share in common the recognition that increasing housing densities is the correct path for lowering the costs and increasing the supply of housing.

3. REDUCE DEVELOPMENT-RELATED FEES

Despite claims to the contrary, impact fees increase the cost of housing. It's a common misperception that impact fees are paid by the developer, not the homebuyer, and increasing fees will simply result in less profit for developers, rather than make housing less affordable. This false belief is further reinforced by the notion that housing prices are set by the free market and increasing development costs cannot increase the price of housing beyond what the free market is willing to pay.

Impact fees are passed on to the homebuyer in the form of higher home prices. When fees are so high that home prices are no longer affordable and cannot be built for a reasonable profit, the homes are not built. New housing that most workers and young families can afford is currently not being built because it is too expensive to build, and impact fees are partly to blame.

Every year, the National Association of Homebuilders (NAHB) calculates the impacts of increased housing costs on housing affordability. Specifically, the NAHB calculates how many households are priced out of the homebuying market for every $1,000 increase in home prices based on statewide median home prices and the income needed to qualify for a typical 30-year mortgage. According to the NAHB's 2020 study, 3,561 households statewide are priced out of the homebuying market for every $1,000 increase in home prices. See more of those statistics at www.wra.org/NAHBstudy.

With impact fees being charged for such things as parks, fire protection, law enforcement, libraries, transportation services and water management, it is easy for impact fees to add thousands of dollars to the price of a new home. While the amount of impact fees varies by municipality, the point is clear: as home prices increase, fewer people can afford them, resulting in fewer homes being built.

4. QUIET NIMBYS

One of the biggest barriers to new homebuilding in communities is the "not in my backyard" (NIMBY) opposition from existing residents. Regardless of what new development is being proposed, someone is bound to object.

Communities often spend years and thousands of dollars on outside consultants, public hearings and staff time to help develop a comprehensive plan to guide future development in the community, only to ignore the plan due to public opposition when a developer actually tries to build the type of housing specified in the plan.

The list of reasons for NIMBY opposition is long and may include the loss of open space, increased density, traffic, overcrowding in schools, neighborhood character, property tax increases or just change in general.

While developers are often the targets of NIMBYs, the victims of NIMBYism generally are those who would occupy these new homes. Generally, they include fellow members of the community who are on fixed incomes, young families, teachers, police officers, and workers in the service industry who are looking to improve their lives by finding a better place to live.

By opposing the development of new housing, NIMBYs limit

"3,561 HOUSEHOLDS STATEWIDE ARE PRICED OUT OF THE HOMEBUYING MARKET FOR EVERY $1,000 INCREASE IN HOME PRICES."

the supply of housing necessary to meet demand, causing prices to increase further. In addition, when people cannot afford to live in the communities in which they work, they are forced to move farther away to find homes they can afford, putting more cars on the road for longer commutes and creating more wear and tear on our roads.

5. PLAN STRATEGICALLY FOR WORKFORCE HOUSING

Numerous communities identify the shortage of housing as a major concern, but very few fully utilize the strategic planning tools necessary to help attract and create new housing. In fact, they often ignore or make halfhearted efforts to comply with state laws that direct them to provide workforce housing.

For example, under Wisconsin's comprehensive planning law, all municipalities are required to proactively plan for housing by providing, among other things, "an adequate supply of housing to meet existing and forecasted housing demand" and "a range of housing choices that meet the needs of persons of all income levels." See Wis. Stat. § 61.1001(2)(b). While many municipalities have created well-crafted housing elements that identify areas within the community for workforce housing, very few communities are willing to implement the plan and approve workforce housing proposals when faced with local opposition.

Moreover, cities and villages with a population of 10,0000 and above are required to complete a housing affordability report by January 1, 2020. See 2017 Wis. Act 243. The housing affordability report is essentially a self-audit of the municipality's own development-approval process, building codes and development-related fees to assess their impact on the cost of housing. As part of this report, municipalities must identify ways to reduce housing costs by 20% within their community.

To date, many of the completed housing affordability reports lack sufficient detail to serve as an effective tool to promote more workforce housing.

CONCLUSION

Wisconsin's workforce housing shortage is not going away anytime soon. Too few residential lots are being created, and too few housing units are being built. Unless changes are made to local regulations, fees and approval processes to reduce the cost of new housing, Wisconsin will continue to fall further behind in meeting the housing needs of our families, workers and economy.

Tom Larson is Senior Vice President of Legal and Public Affairs for the WRA.

FALLING BEHIND SPECIAL REPORT

Last fall, the WRA released a groundbreaking study, "Falling Behind," that examined the severe workforce housing shortage and highlighted the need for bold bipartisan action to address this growing concern.

The report, authored by University of Wisconsin-Madison professor of urban and regional planning Dr. Kurt Paulsen, Ph.D., AICP, highlights three main causes of the workforce housing shortage.

See the full report: **WWW.WRA.ORG/FALLINGBEHIND**
Read the press release: **WWW.WRA.ORG/PRESSRELEASE/FALLINGBEHIND**

FAIR HOUSING *Quiz*

ANSWER KEY

01	**ANSWER C.** Answer C is an example of illegal redlining such as in the 1930s when neighborhoods were marked "hazardous" in red ink on maps drawn by the federal Home Owners' Loan Corp. and loans in those areas were denied or extremely expensive.
02	**ANSWER A.** Under both federal and Wisconsin law, housing for persons who are 55 years of age or older means at least one person who is 55 years of age or older occupies at least 80 percent of the occupied units, and the project adheres to a policy that demonstrates an intent to operate as housing designed for persons who are ages 55 or older. Absolute age restrictions are not required nor necessary.
03	**ANSWER D.** It is permissible to use the terms "master bedroom," "mother-in-law suite" and "bachelor apartment," because they are commonly used architectural terms used to describe housing features.
04	**ANSWER D.** Licensees must provide equal professional services to everyone based on the buyer's objective criteria for a home.
05	**ANSWER B.** The landlord may not, in usual circumstances, condition the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises. Restoration in this situation is not reasonable.
06	**ANSWER A.** In HUD's experience, there is no personal knowledge when the documentation comes from the internet to establish an individual has a non-observable disability or disability-related need for an assistance animal.
07	**ANSWER B.** Severe or pervasive offensive remarks or hostile behavior because of a person's race, color, religion, sex, disability, familial status or national origin are illegal under the Fair Housing Act. A landlord may terminate the tenancy of a tenant who engages in any drug-related criminal activity on or near the premises.
08	**ANSWER C.** When there is imminent threat of serious physical harm to the tenant or a tenant's child, and the tenant provides the landlord with proper notice and documentation, the tenant may terminate the tenancy. The landlord may terminate the tenancy of an offending tenant who commits one or more acts, including verbal threats, that cause another tenant or a tenant's child to face an imminent threat of serious physical harm and who is the named offender in any injunction or other court documentation.
09	**ANSWER C.** Under fair housing laws, age discrimination applies only with respect to persons at least 18 years of age. Agents should never substitute their judgment for that of the prospective buyers and risk a complaint for illegal steering.
10	**ANSWER D.** Fair housing law does not apply to commercial property.

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

REPUBLICANS AIM FOR *Super Majority* IN STATE ASSEMBLY

For nearly three decades, Democrats in the Wisconsin Assembly have languished in the political minority. Over the last 29 years, Republicans have controlled the Assembly for 24 years; Democrats only five. It's been a long and powerless dry spell for Democrats in the legislature's Assembly chamber.

In 2020, Assembly Democrats could face a new challenge. Republicans currently hold a 63-36 majority in the lower House, only three seats shy of a historic veto-proof majority that could be used to override vetoes made by Gov. Tony Evers. If the political environment remains competitive at the top of the ticket and the GOP finds a path to 66 seats, this will enhance the power of the legislature at the expense of Evers. A GOP super majority could have enormous consequences on major issues in the next legislative session.

The possibility of a veto-proof Assembly GOP majority has not been lost on Democrats. Their 2020 goal is to identify competitive districts where they can pick up seats and stop the GOP from reaching a super majority. This article takes a closer look at the Assembly districts most likely to be "in play" as the election season moves into high gear.

13 seats: In June, all candidates must file their nomination papers, and the list of competitive districts could expand or shrink. As it stands today, 13 Assembly districts are currently on the potentially competitive list: eight districts are located in rural Wisconsin, five in urban territory; eight districts are located in western Wisconsin; five on the eastern side of the state; nine districts are represented by Republicans, four by Democrats. These unique characteristics signal more geographic balance and political balance this cycle with the competitive districts than the previous two election cycles.

Political geography: The 13 seats on this list are fairly well distributed between western Wisconsin with eight seats and eastern Wisconsin with five seats, and there are three primary factors that place these districts on the early list:

1. The "competitive" election history of each Assembly district.
2. The growing partisan divide between urban and rural voters.
3. The top-of-the-ticket competitiveness in the presidential election in November.

If the presidential election is close in Wisconsin, the eight rural districts on this list will likely perform well for Republicans and the five urban districts slightly better for Democrats. The political choices of urban and rural voters have moved farther apart over the last 10 years in the Badger State.

President Trump carried rural Wisconsin comfortably in 2016 but underperformed in traditionally conservative suburban districts. If this dynamic holds again in 2020, Democrats will zero-in on eastern Wisconsin suburban districts where Republicans hold four of the five seats. The GOP, on the other hand, will target rural, western Wisconsin districts held by Democrats in northern Wisconsin. Both sides can be expected to target political geography that favors their party.

Open seats: Only one seat on this list is open, with no incumbent, heading into the November elections, the 29th Assembly District currently held by state Rep. Rob Stafsholt (R-New Richmond). Stafsholt is running for the 10th Senate District held by Sen. Patty Schachtner (D-Somerset). Open seats are generally more susceptible to flipping from one party to the other in competitive districts. If other competitive districts open up due to retirement, both Democrats and Republicans will target more financial resources into those districts.

It's still early in the 2020 election cycle, so it's very possible for other competitive districts to be included on this list. Watch for more information on these districts and others in future editions of *Wisconsin Real Estate Magazine*.

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

COMPETITIVE STATE *Assembly Districts*

The percentages illustrate how these Assembly districts voted in recent elections.

Joel Kitchens (R) | Assembly District 1
Walker 2014: 58%
Trump 2016: 55%
Walker 2018: 55%

Rob Hutton (R) | Assembly District 13
Walker 2014: 62%
Trump 2016: 48%
Walker 2018: 52%

Robyn Vining (D) | Assembly District 14
Walker 2014: 61%
Trump 2016: 45%
Walker 2018: 51%

Jim Ott (R) | Assembly District 23
Walker 2014: 60%
Trump 2016: 45%
Walker 2018: 52%

Rob Stafsholt (R) | Assembly District 29
Walker 2014: 56%
Trump 2016: 54%
Walker 2018: 52%

Scott Krug (R) | Assembly District 72
Walker 2014: 56%
Trump 2016: 59%
Walker 2018: 57%

Todd Novak (R) | Assembly District 51
Walker 2014: 48%
Trump 2016: 47%
Walker 2018: 44%

Beth Meyers (D) | Assembly District 74
Walker 2014: 46%
Trump 2016: 49%
Walker 2018: 46%

John Macco (R) | Assembly District 88
Walker 2014: 57%
Trump 2016: 51%
Walker 2018: 52%

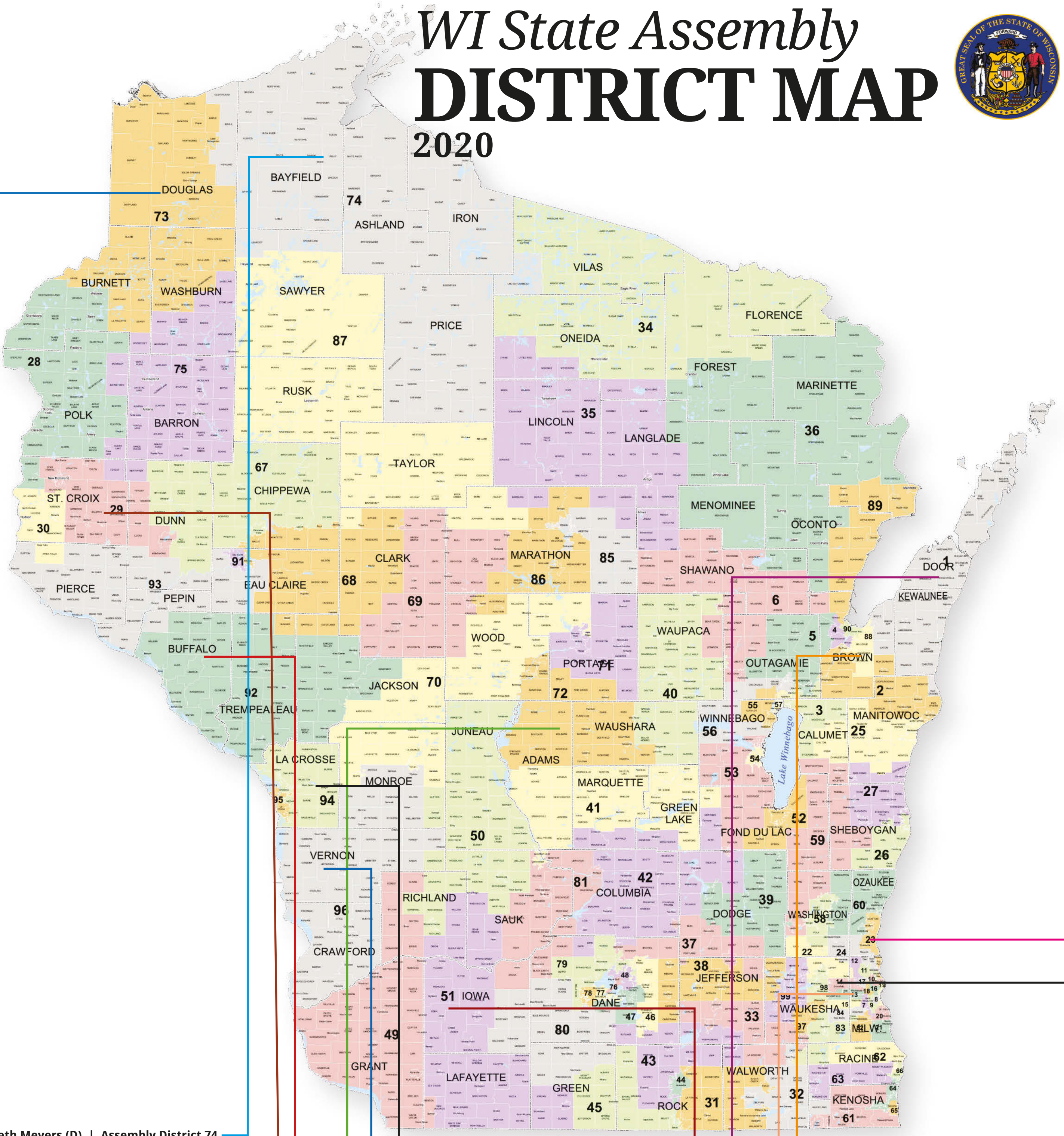
Nick Milroy (D) | Assembly District 73
Walker 2014: 43%
Trump 2016: 47%
Walker 2018: 44%

Treig Pronschinske (R) | Assembly District 92
Walker 2014: 53%
Trump 2016: 54%
Walker 2018: 54%

Steve Doyle (D) | Assembly District 94
Walker 2014: 52%
Trump 2016: 49%
Walker 2018: 49%

Loren Oldenburg (R) | Assembly District 96
Walker 2014: 50%
Trump 2016: 52%
Walker 2018: 50%

WI State Assembly
DISTRICT MAP
2020



Beth Meyers (D) | Assembly District 74

Nick Milroy (D) | Assembly District 73

Rob Stafsholt (R) | Assembly District 29
(Open seat)

Treig Pronschinske (R) | Assembly District 92

Scott Krug (R) | Assembly District 72

Steve Doyle (D) | Assembly District 94

Loren Oldenburg (R) | Assembly District 96

Todd Novak (R) | Assembly District 51

Joel Kitchens (R) | Assembly District 1

John Macco (R) | Assembly District 88

Jim Ott (R) | Assembly District 23

Robyn Vining (D) | Assembly District 14

Rob Hutton (R) | Assembly District 13

AMP UP YOUR MARKETING

The Paperless Agent provides real estate marketing resources and training for you

So many real estate professionals get caught up in the details of getting their marketing "right" and keeping up with the latest updates, technology and best practices. But with the Paperless Agent Marketing Club (the Club), you now you have a powerful resource that makes it easy and less time-consuming to stay current and succeed like never before.

The Club delivers easy, convenient and consistent marketing training and done-for-you resources to get the maximum results out of your time and budget. As a WRA member, you have access to the Club's premium features for a standard monthly fee.

MARKETING SITES: These sleek, professional websites are the perfect solution if you don't have a website yet or don't have much control over your existing site. The Club publishes blog content automatically once a month and helps you create landing pages to generate leads and promote your listings.

TWO TRAINING SESSIONS EACH MONTH: The Club offers two live group marketing sessions each month that cover a variety of tech-related topics, such as iPads for sellers, website strategy, lead generation, Facebook marketing for real estate, and much more.

EXCLUSIVE FACEBOOK COMMUNITY: With over 4,000 agents in the Club, you'll also have access to an engaged, encouraging and supportive community of like-minded individuals. Ask questions, share what's working, refer clients and much more.

MARKETING SUITE: You can now upload your database and email newsletters using the marketing suite included with your Club membership!

MONTHLY DIGITAL MARKETING CAMPAIGNS: Not sure what to share with your contacts? As a Club member, you get access to a brand-new campaign every month so you can stay connected with your contacts with all the latest real estate news.

DONE-FOR-YOU RESOURCES: The Club's marketing sessions come with done-for-you resources that complement the session. Training on generating seller leads? The Club gives you resources to host on your website to capture leads. With email sequences, customizable marketing pieces, scripts, checklists and more, the Club has you covered.

For more information about the Club, visit www.wra.org/PaperlessAgent.

This contributing article is from the Paperless Agent Marketing Club, a WRA partner.

WRA Exclusive Partners

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

Lands' End Business
Energize your wardrobe with custom apparel.
www.wra.org/LandsEndBusiness

Paperless Agent Marketing Club
Resources for your real estate marketing.
www.wra.org/PaperlessAgent

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

Realtyzam CRM
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/ExclusiveGroupPartners

WRA Membership Benefits

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.
www.wra.org/InmanSelect

WRA Tech Helpline
Get answers to all your technology questions with live technical support assistance.
www.wra.org/TechHelpline

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:
www.wra.org/MemberBenefits

TAKE A BREAK FOR QUICK INSIGHT

The WRA's Thursday Takeaway video series is your weekly guide to learn what's relevant in the industry and cutting-edge for your business. Plus, the video series is free with your WRA membership!

EPISODE GUIDE

These Thursday Takeaway videos are already available online. While you're waiting for the next Thursday video to post online, catch up on some real estate law, listing tips and new MLS policies with these episodes:

WB-11 CHANGES

TECH HELPLINE

MLS POLICIES

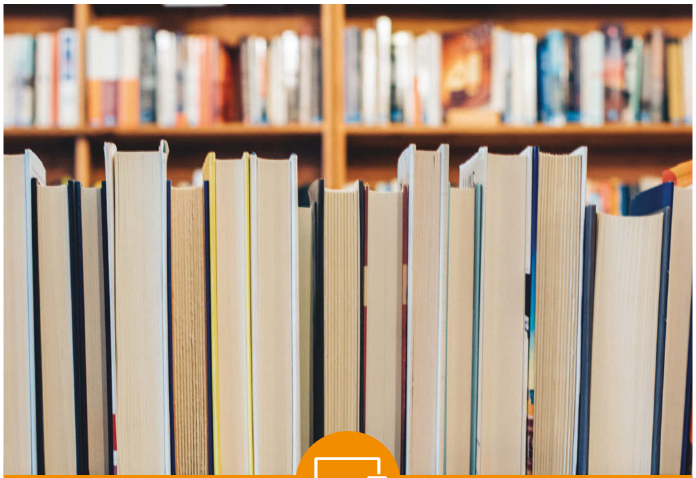
CYBERSECURITY

PROTECTED BUYERS

AND MANY MORE

START WATCHING TODAY

With hosts like Jennifer Lindsley, Rob Uhrina and Chris Carillo offering the latest insight on some of the emerging trends to affect real estate, you won't find any other weekly real estate training like this. Start watching today at www.wra.org/ThursdayTakeaways.



BUSINESS-BUILDING BOOKS

The WRA's publication library offers several great real estate reads to give you a competitive edge.

You Don't Have to be Ruthless to Win
In this brave and raw book, author Jonathan Keyser will help you discover how you can activate selflessness in your life, and see how and why this counter-intuitive strategy can create extraordinary, long-term success in your own business.

Learn more: **WWW.WRA.ORG/PUB353**

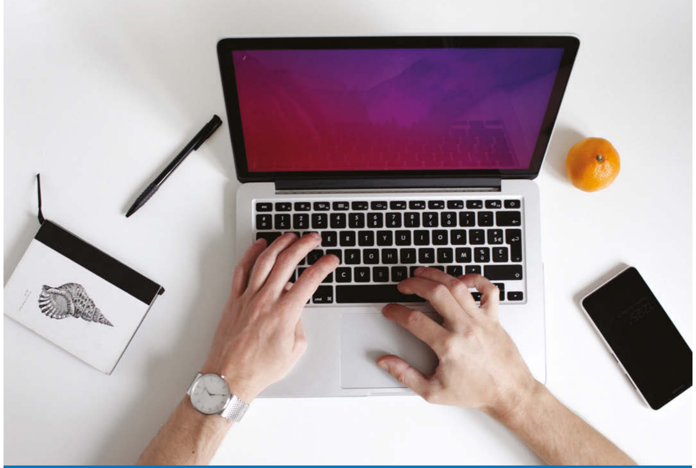
Mindset, Model and Marketing!
No. 1 *New York Times* best-selling author Tom Ferry explores the systems and strategies that can transform you and your team into real estate rockstars. With Tom's techniques, you can become a force to be reckoned with and secure the future you've always wanted.

Learn more: **WWW.WRA.ORG/PUB2110**

3 Clients in 30 Days
Krista Mashore asked 23 top-producing agents what they would do if they moved to a new city and had to start from scratch. In this book, Mashore shows you what national top producers would do from Day 1 through Day 30 to get three clients in 30 days if they had no clients, no listings, no deals and no reputation to rely on.

Learn more: **WWW.WRA.ORG/PUB2002**

Quick Start On Demand



QUICK START ON DEMAND

Get your business on the right track

Quick Start On Demand takes you a step beyond the books and dives into the fundamentals. For new agents, Quick Start serves as a prime career-launching resource. For veteran agents, Quick Start serves as a fantastic refresher of the fundamentals.

Quick Start On Demand provides you cutting-edge real estate training with topics like budgeting, client communications, disclosure requirements, and much more.

WRA REALTOR® members can obtain the Quick Start 101 online course for free during spring 2020! Discount ends May 15.

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

CE ON DEMAND

It's your CE ... make it relevant for you!

Every licensee is different, and every transaction is different. Because no two licensees are the same, it only makes sense to customize your course topics so your coursework is relevant for you!

With CE On Demand, you get to choose your topics unlike other WRA CE options. Each course includes a variety of topics — some are mandatory, but most are your choice.

Start your CE today: **WRA.ORG/CE**

GRI ON DEMAND

Don't miss a deep discount with GRI On Demand

Boost your expertise with Graduate, REALTOR® Institute (GRI) designation training. Half of your GRI credits can be completed with GRI On Demand, and you can earn those On Demand credits for just $50 this spring, a savings of $250!

Succeeding in today's competitive environment takes more than just motivation. The GRI designation helps you stand out in the crowd as a REALTOR® who is well-versed in all fundamentals of real estate.

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

LINE BY LINE TRAINING

Say goodbye to contract confusion

The Line by Line online video series offers forms insight so you can draft your real estate forms with confidence and correctness.

The most recent Line by Line episode, Episode 17, reviews the WB-16 Offer to Purchase – Business with Real Estate Interest. Video host and WRA attorney/director of training Jennifer Lindsley will cover how to draft an offer on a business that includes real estate, determine when a buyer needs to consult with tax advisers, and more.

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

WRA ONLINE TRAINING CALENDAR

EVENT/COURSE	LOCATION	DETAILS AND REGISTRATION
ONLINE PRE-LICENSE EDUCATION		
Broker Pre-license Online course	Online	www.wra.org/BPL
Sales Pre-license Online Course	Online	www.wra.org/SPL
Sales Pre-exam Review Webinar: May 1	Online	www.wra.org/SPLwebinar
Sales Pre-exam Review Webinar: June 5	Online	www.wra.org/SPLwebinar
ONLINE PROFESSIONAL DEVELOPMENT		
GRI On Demand	Online	www.wra.org/GRI
Home Essentials 101-105	Online	www.wra.org/HomeEssentials
Line by Line Episodes 1-17	Online	www.wra.org/LinebyLine
QS 101-104	Online	www.wra.org/QuickStart
ONLINE PROFESSIONAL DEVELOPMENT		
Real Estate CE Courses 1-6	Online	www.wra.org/19-20CE
Real Estate CE Courses 1-6	Coursebook/online	www.wra.org/19-20CE
Real Estate CE (Commercial) Courses 1-6	Online	www.wra.org/19-20CommCE
Wisconsin and Minnesota CE Credits	Online	www.wra.org/WisMinnCE

The New Podcast from RE/MAX

RE/MAX

Now We're Talking!

REAL ESTATE

Explore the DNA of the RE/MAX network's top producers. Tune in for exclusive Q&As and lively discussions that give you VIP access into the mindset, techniques, experience and passion of some of our most successful REALTORS®.

Featured this month is special guest Ryan O'Neill.

What does it take to build and nurture one of the top RE/MAX teams in the entire network? Ryan O'Neill, team leader of The Minnesota Real Estate Team, shares his experience on developing a successful team and the philosophy behind empowering his agents to build their business.

Listen in at **nowweretalkingrealestate.com**

Listen on Apple Podcasts

Listen on Google Podcasts

Listen on Spotify

remax.com

RE/MAX