

WISCONSIN **REAL ESTATE**



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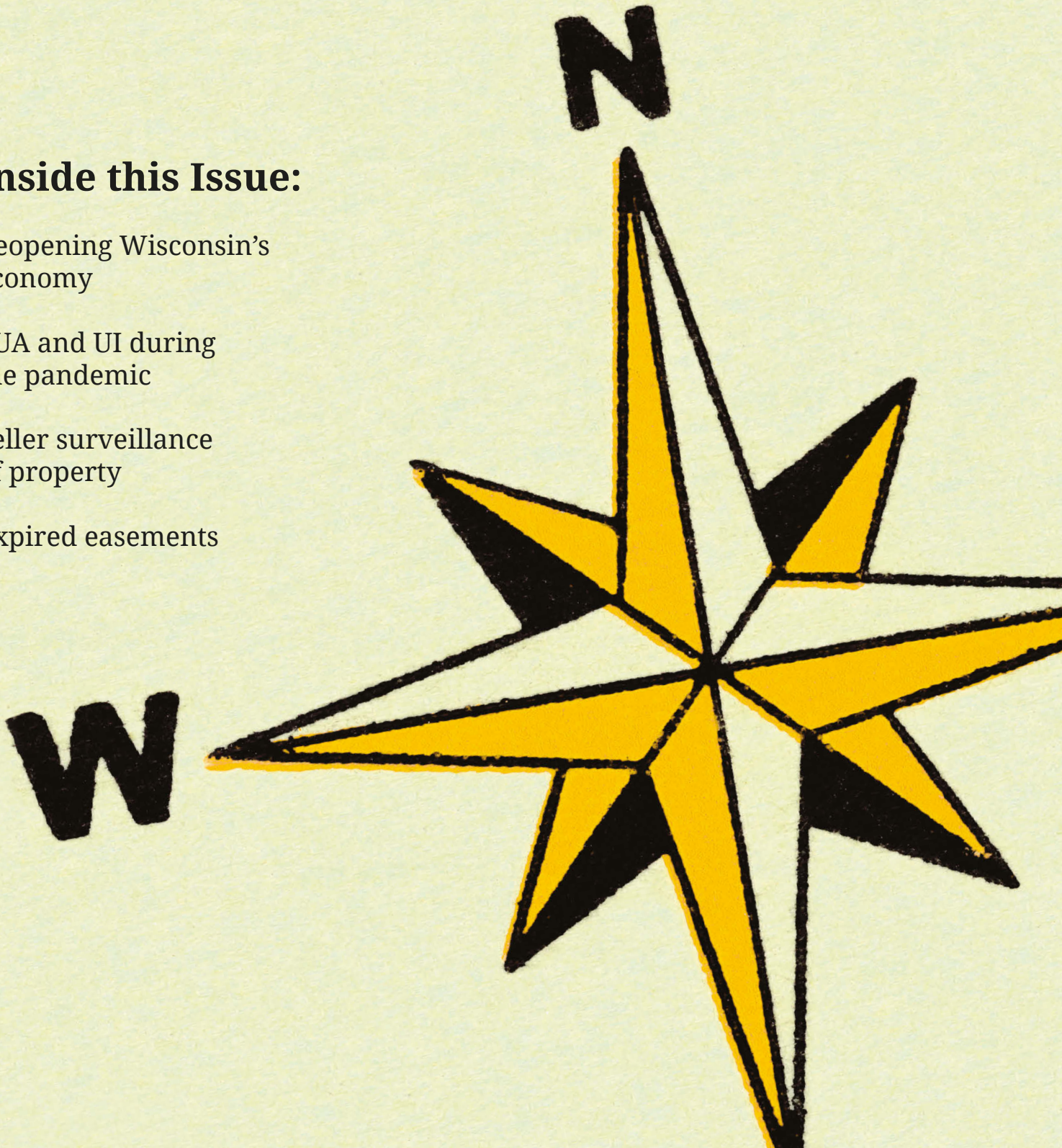
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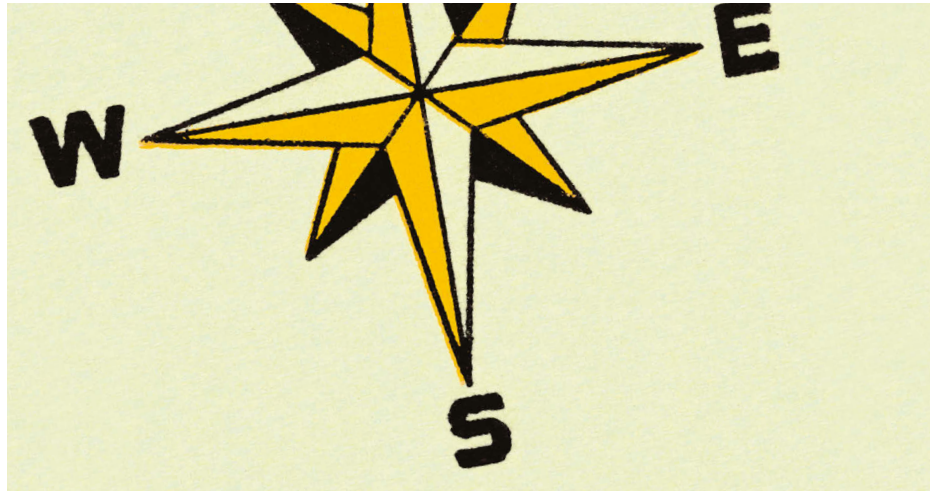
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WRA MOBILE APP

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.



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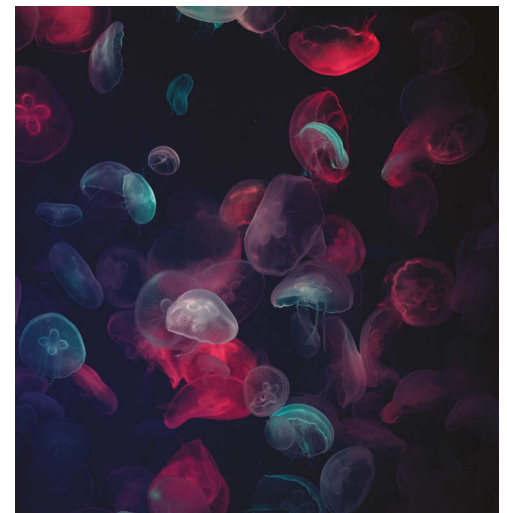
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BY DAVE CLARK

PROFESSOR OF ECONOMICS AT MARQUETTE UNIVERSITY

PRINCIPAL AT ECON ANALYTICS, LLC

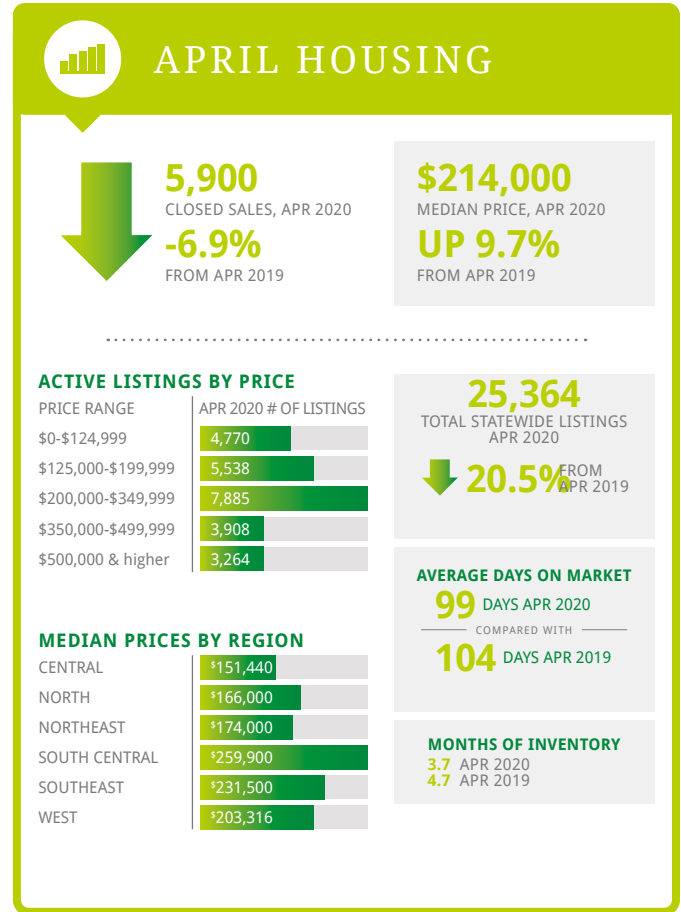
WISCONSIN MONTHLY HOUSING REPORT

APRIL HOME SALES FALL as Policymakers Lock Down Economy to Control Pandemic

The dramatic slowing of the economy to reduce the spread of the COVID-19 virus decreased home sales in April even as prices continued to rise, according to the most recent review of the existing home market by the WRA. Existing home sales fell 6.9% in April, compared to April 2019 whereas the significant tightening of inventories drove the median price up 9.7% over the past 12 months to \$214,000. Year-to-date home sales remained in positive territory after a good start to the year, rising 2.9% through the first four months of 2020 relative to that same period in 2019. Median prices continued to rise on a year-to-date basis, increasing 8.3% to \$200,000.

See the full press release at www.wra.org/HSRApr2020.

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



HOUSING STATISTICS MONTHLY ACTIVITY — APRIL 2020

Statewide	April 2020	April 2019	% Change	YTD 2020	YTD 2019	% Change
New Listings	6,852	11,095	+38.2%	N/A	N/A	N/A
Total Listings	25,364	31,904	-20.5%	N/A	N/A	N/A
Closed Sales*	5,900	6,337	-6.9%	20,039	19,481	+2.9%
Median Sales Price	\$214,000	\$195,000	+9.7%	\$200,000	\$184,600	+8.3%
Months of Inventory	3.7	4.7	-21.3%	N/A	N/A	N/A
Avg. Days on Market	99	104	-4.8%	N/A	N/A	N/A
Affordability Index	204	204	0.0%	N/A	N/A	N/A

Median Price				Closed Sales		
Region	April 2020	April 2019	% Change	April 2020	April 2020	% Change
Central	\$151,440	\$147,750	+2.5%	376	414	-9.2%
North	\$166,000	\$154,450	+7.5%	445	514	-13.4%
Northeast	\$174,000	\$158,000	+10.1%	1,031	1,145	-10.0%
South Central	\$259,900	\$239,900	+8.3%	1,265	1,277	-0.9%
Southeast	\$231,500	\$210,000	+10.2%	2,193	2,466	-11.1%
West	\$203,316	\$207,907	-2.2%	590	521	+13.2%

Report criteria: Reflecting data through April 2020. *Total statewide closed sales may differ from the summed regional sales due to a small number of sales not being assigned to a county.



INSIDE THE WRA

Capitol Insights: New WRA Podcast Series

Last month, the WRA launched the Capitol Insights podcast to deliver the latest real estate legislative developments. This new podcast features WRA staffers and members from around Wisconsin who discuss timely, relevant topics of interest. Simply tune in, listen and learn about the latest real estate-related updates at the state capitol.

LISTEN NOW: WWW.WRA.ORG/CAPITOLINSIGHTS

Need Help with Remote Technology?

You're likely working at home and socially distancing due to the COVID-19 pandemic. The WRA Tech Helpline is still available to answer your questions. If you have questions about remote technology, teleconferencing, transferring files or more, contact the helpline today. The helpline is free for WRA members!

CONTACT THE HELPLINE: WWW.WRA.ORG/TECHHELPLINE

COVID-19 and Your Practice

The WRA created a coronavirus resource webpage to provide you the latest resources regarding the pandemic and its effects on real estate practice. These resources range from new developments with real estate law to best practices for hosting open houses during the pandemic. Be sure to visit the webpage often so you can stay alert of the newest developments and understand how to adjust your real estate business in response to the virus.

VIEW COVID-19 RESOURCES: WWW.WRA.ORG/CORONAVIRUS



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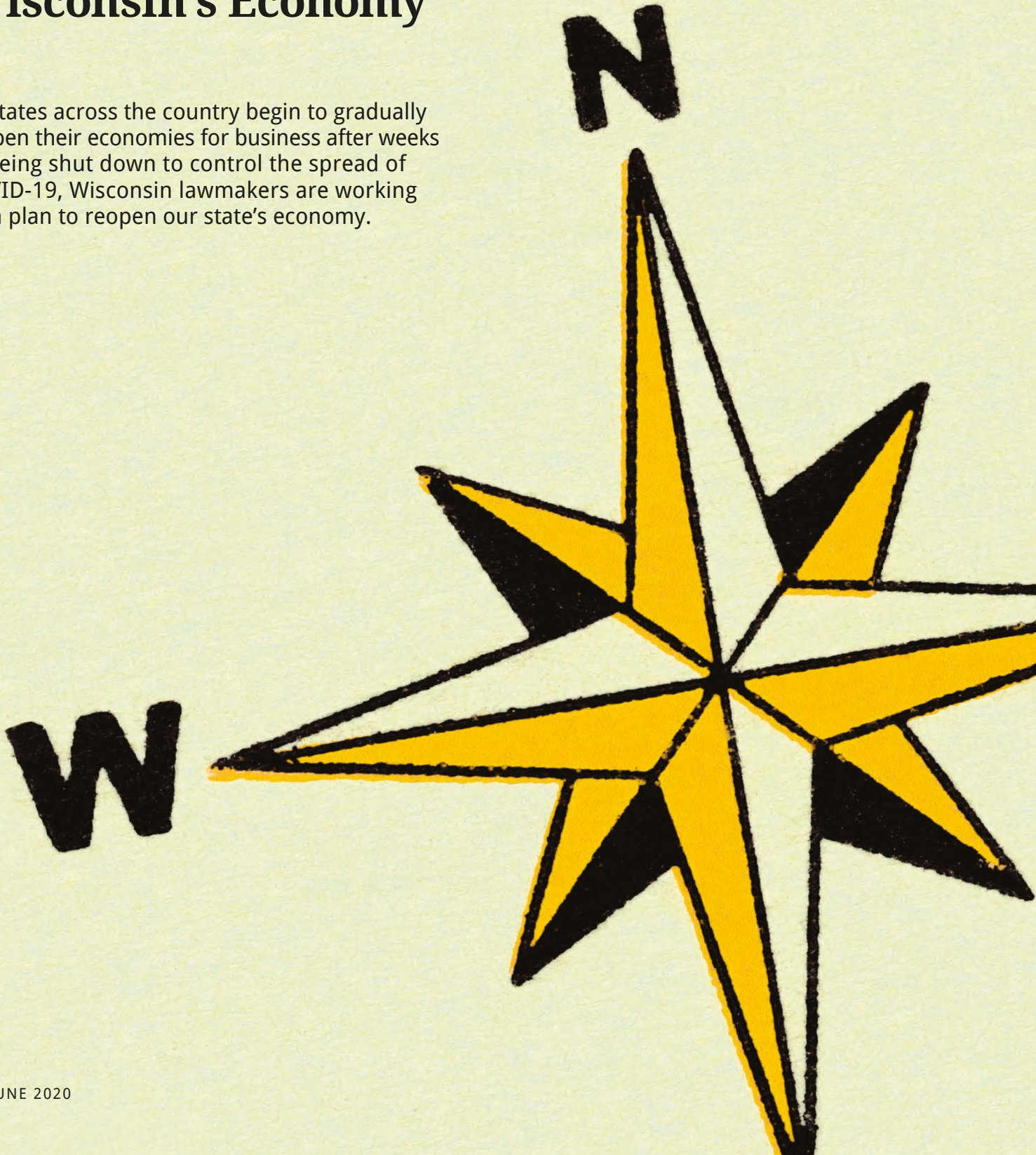
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ROADMAP *to* RECOVERY

Choosing a Plan for Reopening Wisconsin's Economy

As states across the country begin to gradually reopen their economies for business after weeks of being shut down to control the spread of COVID-19, Wisconsin lawmakers are working on a plan to reopen our state's economy.





BY TOM LARSON
SENIOR VICE PRESIDENT OF LEGAL AND PUBLIC AFFAIRS
FEATURE

Developing a plan to reopen businesses in Wisconsin has a greater sense of urgency since the Wisconsin Supreme Court struck down Wisconsin's "Safer at Home" order on May 12, 2020.

Reopening Wisconsin's economy will require a careful balancing of important health and economic considerations. While the coronavirus has not hit the Badger State as hard as some other states, Wisconsin had 19,892 confirmed COVID-19 cases and 626 deaths reported as of June 4. The economic impacts of the virus also have been significant, with 730,000 unemployment claims filed since early March, approximately five times higher compared to the same period a year ago. According to a preliminary analysis by the Wisconsin Department of Workforce Development (DWD), Wisconsin's unemployment rate could reach nearly 27%.

As of May 12, Wisconsin lawmakers were considering a variety of federal guidelines and state economic plans to determine which would be the best for us to utilize. This article provides a summary of the principal plans and ideas being considered.



FEDERAL GUIDELINES FOR REOPENING THE U.S. ECONOMY

On April 16, 2020, President Trump issued broad federal guidelines establishing conditions for areas of the U.S. to begin relaxing the strict safety measures imposed to limit the spread of the coronavirus. The 18-page plan, referred to as "Opening Up America Again," identifies various circumstances necessary for parts of the country to enable businesses to reopen, but the decision to loosen the restrictions will be left up to each individual state.

The plan establishes three phases designed to help guide areas of the country toward an incremental loosening of restrictions on businesses and individuals. The first phase of the plan is triggered by a downward trend for a 14-day period in the number of cases, positive tests and reports of flu- or COVID-19-like symptoms in a state. Hospital preparedness is also a key factor. The second phase of the plan begins when there is "no evidence

of a rebound" in cases after the first phase is implemented. The third phase would kick in with "no evidence of a rebound" after the second phase is implemented, but still suggests that low-risk individuals "consider minimizing time spent in crowded environments." This suggests that a return to life as it existed prior to the coronavirus may not return for a long time, if at all.

The guidelines lay out three phases:

- **Phase 1:** Large venues like restaurants, movie theaters, sporting venues and places of worship would be allowed to reopen if they adhere to "strict physical distancing protocols." All vulnerable individuals continue to stay at home. Physical distancing must be practiced in public places and nonessential travel must be minimized. If schools are closed, they should stay closed. Visiting senior living centers is still not allowed. Employers are encouraged to allow employees to telework.
- **Phase 2:** Large venues allowed to open in phase 1 would be allowed to ease their physical distancing requirements to a "moderate" level. Nonessential travel may resume. People should avoid public gatherings of 50 or more, unless physical distancing is possible. Visits to senior centers would still be prohibited, but schools and day care centers could reopen. Bars could be allowed to reopen with "diminished standing-room occupancy." Gyms could begin operating with "strict" physical distancing and sanitation protocols.
- **Phase 3:** This would be the country's "new normal." Physical distancing in public places is still recommended, but vulnerable individuals can resume public activities. Visits to senior centers can resume. Large venues could operate with "limited" distancing protocols, and gyms could stay open with "increased standing room occupancy."

According to the plan, there is no set timeline for moving through each of the three phases. Governors would make that decision, but a state or region should experience another 14-day decline in cases before moving to the next phase.

More information on the "Opening Up America Again" plan can be found at www.whitehouse.gov/openingamerica.

BADGER BOUNCE BACK PLAN

On April 20, 2020, Gov. Evers introduced a plan to reopen the state economy, called the "Badger Bounce Back" plan. The plan is based upon guidelines established by the "Opening Up America Again" plan for safely relaxing social distancing requirements, and would allow businesses to reopen in several phases based upon a reduction in COVID-19 cases and deaths and an increased capacity in our health care system.



Specifically, the Bounce Back plan would open the state's economy in three phases:

- **Phase 1** would allow gatherings of up to 10 people, enable restaurants to open with social distancing requirements, and lift some restrictions on retailers. K-12 schools and child care centers would remain closed.
- **Phase 2** would allow gatherings of up to 50 people and would enable restaurants to open at full capacity, bars to reopen with social distancing requirements, and colleges and technical schools to reopen.
- **Phase 3** would allow businesses and gatherings to resume as normal.

To enter the plan's first phase, Wisconsin would need to satisfy four "gating criteria." Under the first three criteria, the state would need to demonstrate a downward trajectory over a 14-day period of (a) reported influenza-like illnesses, (b) reported COVID-19-like syndromic cases, and (c) positive COVID-19 tests as a percent of total tests. According to Gov. Evers, this would be 14 consecutive days of declining numbers. Thus, if the numbers are declining for eight days in a row and an increase occurs on the ninth day, then the 14-day requirement would start over again.

In addition to the metrics for establishing a decline in cases, the fourth gating criterion under the plan calls for robust testing programs for those who need them — including health care workers — and hospitals would need to have the ability to treat all patients without crisis care. Gov. Evers has indicated that the goal for testing is to ensure that "everyone that needs a test should be tested."

The Department of Health Services has developed a dashboard that allows the public to track the progress for reopening businesses under the "Badger Bounce Back" plan. The dashboard evaluates each of the gating criteria based upon three color-coded

criteria: green indicating that the gating criteria has been met, red indicating that the gating criteria has not been met, and gray indicating that the data is still being gathered.

More information about the "Badger Bounce Back" plan, as well as the DHS dashboard mentioned above, is available at www.dhs.wisconsin.gov/covid-19/prepare.htm.

BACK TO BUSINESS PLAN

In an effort to get Wisconsin's economy up and running again, Wisconsin Manufacturers and Commerce (WMC) released the "Back to Business" plan. The plan was developed with input from both the medical and business communities and incorporates recommendations from the Centers for Disease Control (CDC) and Occupational Safety and Health Administration (OSHA).

The plan would require businesses and other organizations to use a state website administered by the Wisconsin Department of Health Services (DHS) that would help them determine if it is safe to reopen and the best way to do so. On the website, the business or organization would identify the type of business, based on a six-digit North American Industry Classification System (NAICS) code, as well as the county where they are located. A risk score of minimal, moderate or substantial would be calculated based upon the following criteria:

- Infection rate for their county
- Population density for their county
- Current health care capacity and utilization in the county of operation, including personal protective equipment (PPE) availability and ICU and ventilator capacity
- Interactive concentration (the amount of individual interaction for that particular business)



The risk score would inform the business owner of the necessary steps to reopen their business. Higher risk scores would require more safety requirements such as greater social distancing guidelines for employees and customers, operating at a reduced capacity, and enhanced cleaning procedures and PPE for employees. The scoring is dynamic and can change depending upon changes in circumstances. For example, an increase in the infection rates or a drop in the ventilator capacity could result in the need to put in place additional safety requirements to continue business operations.

Authors of the plan emphasize that one of its best attributes is the recognition that every business and organization, as well as every part of the state, is unique and requires a more individualized set of criteria to determine when it is safe to reopen.

The plan has widespread support among businesses, associations and numerous public officials. Before going into effect, the plan would need to be approved by both the legislature and governor.

More information about the “Back to Business” plan can be found at www.wmc.org/backtobusiness.

REOPENING PLANS BY OTHER MIDWESTERN STATES

Other states across the Midwest are also implementing plans to reopen their economies and could serve as good models for Wisconsin.

Illinois, for example, has a five-phased, regional plan that is similar to Gov. Evers’ “Badger Bounce Back” plan. Phase one of the plan is similar to Wisconsin’s “Safer at Home” order, which provided strict stay-at-home requirements and social distancing

guidelines, and allowed only essential businesses to stay open. Phase two of the Illinois plan, which began May 1, allowed more businesses to reopen including retail stores, which can now provide curbside pickup and delivery services.

Indiana has a multi-phased plan with the goal of reopening the entire economy by July 4. In early May, Indiana implemented stage two of its plan, which lifted restrictions on nonessential travel, and allowed social gatherings of up to 25 people if CDC and social distancing requirements are met. In addition, shopping malls, retail establishments, restaurants and bars that serve food were allowed to reopen at 50% capacity.

Minnesota also started to reopen its economy in early May by allowing nonessential retailers to provide curbside service and white-collar offices and nonessential manufacturing plants to open.

In determining the best way to reopen our economy in a safe and effective manner, Wisconsin lawmakers have numerous plans from which to choose, including allowing each individual business to decide how and when to open. Hopefully, a plan will be in development soon to provide businesses, workers and the public with some guidance and much-needed certainty.

As always, the WRA will be working closely with lawmakers on both sides of the aisle to adopt a plan that makes sense for Wisconsin families, workers and the overall economy.

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

“According to the plan, there is no set timeline for moving through each of the three phases.”



BY TRACY RUCKA

DIRECTOR OF PROFESSIONAL STANDARDS AND PRACTICES
LEGAL

AT RISK?

Help for homeowners suffering financial hardship due to the coronavirus pandemic

As the coronavirus pandemic continues, homeowners who are out of work or at a reduced rate of work may find it difficult to make mortgage payments. As homeowners ourselves and as the professionals who help fulfill and maintain the American dream of homeownership, we may be asked about what homeowners can do in these uncertain times.

If you, or a past client or customer, finds it difficult to make decisions about how to cover mortgage payments there are many resources and options available. For owners who are out of work, unemployment insurance (UI) or pandemic unemployment assistance (PUA) may be available. The Coronavirus Aid, Relief, and Economic Security (CARES) Act has provided an opportunity for independent contractors and self-employed individuals to apply for PUA. In some cases, between UI and PUA benefits and the additional Federal Pandemic Unemployment Compensation (FPUC) benefits, a homeowner may — in the short run — have the funding necessary to cover mortgage payments.

In the event the homeowner cannot make full mortgage payments, the CARES Act may offer potential protections and options. Homeowners with federally backed mortgages — FHA, VA, USDA, Fannie Mae and Freddie Mac — have two potential protections. First, if the homeowner is late with payments, the lender may not initiate foreclosure actions for 60 days after March 18. Second, homeowners experiencing financial hardship due to the coronavirus pandemic have the right to request a forbearance of up to 180 days, possibly with an additional 180-day period. Receiving a forbearance is not automatic, nor is it a forgiveness of debt. The homeowners must reach out to the lender or servicer to initiate the process.

How do you determine if you have a federally backed loan? Homeowners can reach out to the lender or servicer directly or visit the Consumer Financial Protection Bureau website for information at www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214.

Other homeowners and lenders who are not covered by the CARES Act provisions may have similar options including forbearance. It is up to the homeowner to make contact with the lender to discuss criteria and options available to them. Being proactive to maintain a good working relationship with

the lender or servicer is in a borrower's best interest.

When a homeowner cannot make full payments or any payment, there are many opportunities to avoid the potential for foreclosure. What are some of the alternatives to foreclosure? A forbearance, renegotiation of payment and/or of length of loan, refinancing with a different loan or lender, the sale of the property, or a deed in lieu of foreclosure are all possibilities.

Forbearance of mortgage payments may be a positive long-term option allowing for the homeowner to remain in the home. What is forbearance? It is a process that gives the homeowner time. A homeowner may request that the mortgage servicer or lender pause or reduce payments for a period of time. This is not a forgiveness of the debt but a postponement or renegotiation of the debt obligation. For example, the homeowner may pay a portion of the mortgage now and add additional payments to the end of the loan or a lump sum when the forbearance period or loan term ends. Alternately, the homeowner and lender could renegotiate payments to cover the current shortfall over the remaining term of the loan once the homeowner can make payments. Any missed or reduced payments will still be made in the future. Again, it takes an affirmative approach to reach out to the lender to discuss options.

For loans covered by the CARES Act provisions, a homeowner has the right to request the forbearance. You must contact the lender. The good news is there will be no added fees or penalties for requesting a forbearance; the interest on the loan will accrue but no other additional fees will be imposed.

Who does the homeowner need to talk to? Start with the lender who made the loan. Alternately, it may be the loan servicer who collects the payments on the lender's behalf. Check the mortgage statement for information about who the loan servicer is.

When should an owner call? Owners should contact their lender when they will miss a payment or make a partial payment. Lenders will be experiencing higher than normal call volumes, so owners should be prepared when they call. Have lender information, the loan number and payment amount as well as current and expected household income and expenses. Determining the homeowner's current debts and expenses will help with negotiating what payment plan or forbearance option might be best. Each situation



As in any crisis, there may be scams and those attempting to take advantage of homeowners. Be wary of “cash for houses” offers, and always know who you are talking to; reputable lenders will not charge fees for a forbearance.

is different, so the plan for each homeowner may be different. Be honest to make a plan for optimal success. Again, before reaching out, prepare to be patient; there are thousands of homeowners attempting to reach out to lenders.

In preparation, have an idea of what the owner is looking for, and have paperwork and request prepared. Put requests in writing. Given the potential for many borrowers seeking adjustments, it is best practice to create a paper trail. Ask the lender to put their responses in writing too. If the owner is not able to obtain straight answers, ask to speak to a manager. Document who the owner talks to and ask for contact information to follow up.

Ask about the terms of a repayment plan. Understand whether the plan includes a lump sum, loan term extension, payment adjustments or more; and get the plan in writing from the lender. Read the paperwork. Know what you are signing and have a second set of eyes on the documents. Then follow through. If circumstances change again, reach out to the lender again if necessary to make modifications. Taking the affirmative steps now can prevent or reduce the chances of the lender initiating a foreclosure action.

As in any crisis, there may be scams and those attempting to take advantage of homeowners. Be wary of “cash for houses” offers, and always know who you are talking to; reputable lenders will not charge fees for a forbearance. Homeowners don’t have to do it alone. Finding and working with reputable counseling agencies is another path.

For more information, visit www.consumerfinance.gov/coronavirus. Also refer to the Homeownership Preservation Foundation at 888-995-HOME or 995hope.org/the-call. The Housing and Urban Development (HUD) list of approved counselors is available at www.hud.gov/counseling. The Consumer Financial Protection Bureau (CFPB) offers a Guide to coronavirus mortgage relief options at www.consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options.

For comprehensive information from the Consumer Financial Protection Bureau, refer to www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance.

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

PANDEMIC UNEMPLOYMENT ASSISTANCE vs. UNEMPLOYMENT INSURANCE



On March 27, 2020, Congress passed the federal stimulus package Coronavirus Aid, Relief, and Economic Security (CARES) Act, which introduced new programs designed to assist businesses that had to close or reduce services and individuals who experienced a loss or decline in income due to COVID-19. One of the programs created by the CARES Act is Pandemic Unemployment Assistance (PUA). PUA was designed to provide a benefit for people who are ineligible for “traditional” Unemployment Insurance (UI), such as independent contractors, those who are self-employed and workers with limited work history.



BY JENNIFER LINDSLEY
DIRECTOR OF TRAINING AND STAFF ATTORNEY
LEGAL

ELIGIBILITY

Both PUA and UI are administered by the Department of Workforce Development (DWD). While both PUA and UI have general eligibility guidelines, every applicant is different, and it is impossible to make a profession-wide determination of eligibility for either program.

PUA

To be eligible for PUA, the applicant must be unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 scenarios. The COVID-19 scenarios include “Self-employed/Independent Contractors/1099 filers/Farmers — and affected by COVID-19” and “Otherwise not qualified for regular or extended UI benefits and affected by COVID-19.” The full list of COVID-19 scenarios is available on the DWD website at dwd.wisconsin.gov/dwd/publications/ui/pua-18774-p.pdf.

DWD has encouraged people who think they might be eligible to apply and let DWD evaluate the application.

UI

To be eligible for UI in Wisconsin, a person must be unemployed through no fault of their own, meet a minimum earnings threshold, be available and able to work, and actively seeking employment. Generally getting fired for misconduct or substantial fault or quitting a job would make someone ineligible for UI. The minimum earnings threshold is used to determine if a person earned enough earnings during the person’s base period to qualify for the minimum UI benefit. If a person does not have enough earnings to qualify for the minimum weekly benefit rate, the person does not qualify for UI. The base period is the first four of the last five completed calendar quarters before the person files for UI. DWD offers a helpful chart to determine which quarters an applicant should use to determine if the person earned enough to qualify for the minimum weekly benefit rate at dwd.wisconsin.gov/dwd/publications/ui/ucb_15533_p.pdf.

Due to the COVID-19 pandemic, the requirement to actively seek work has been suspended per Gov. Evers’ Emergency Order 7: Order to the Department of Workforce Development Regarding Unemployment Insurance (EO #7). Normally, to maintain eligibility, a recipient of UI must conduct four work search activities per week to receive the UI benefit. According to EO #7, “a public health emergency constitutes four work search actions for each claimant who files a claim for each week during which the public health emergency is declared.” Even though the work search requirements are temporarily suspended, some individuals who apply for UI may still need to register with the Job Center of Wisconsin. Upon receipt of an application for UI, DWD will notify the applicant whether the applicant needs to register with the Job Center of Wisconsin to be

eligible for UI. Failing to register with the Job Center of Wisconsin, even if not required to do four work search activities during the COVID-19 pandemic, may lead to a delay in obtaining benefits.

APPLICATION PROCESS

For both PUA and UI, the application begins online with DWD. PUA applicants will also need to submit proof of income as part of the process.

PUA

Applying for PUA is a five-step process.

1. Apply online on the DWD website at my.unemployment.wisconsin.gov/Claimant/Logon/TermsAndConditions.

Individuals who applied for UI but did not qualify because of a lack of covered employment, such as independent contractors, will have to apply for PUA to determine eligibility. Applications for UI are not evaluated for PUA eligibility.

Applicants should have the following documentation available to begin the application process:

- Social Security Number.
- Wisconsin Driver’s License (if the applicant has one).
- A list of all employers in the past 18 months, their complete addresses (including zip codes), telephone numbers and the beginning and end dates of the work performed.
- Proof of wages/self-employment from the most recent tax year.

2. Submit proof of income.

Within 21 days of submitting the online PUA application, the applicant must submit proof of income to DWD.

- Previous year’s (2019) complete Federal Tax Return including as applicable:
 - Schedule C-Profit or Loss from Business
 - Schedule F-Profit or Loss from Farming
 - Schedule K-1 Partner’s Share of Income
- Previous year’s (2019) W-2
- Final pay stub in 2019

If an applicant does not have 2019 proof of income information, the applicant can provide 2018 federal tax returns, but using 2018 information means the applicant will only be allowed the minimum PUA benefit if found eligible. If the applicant becomes able to provide proof of 2019 income, the applicant’s claim may be reevaluated, possibly resulting in an adjustment to the benefit amount. Proof of income may be submitted by fax or mail.

3. Application is processed.

DWD is processing many applications for PUA and UI and is cautioning applicants to be patient as they work through the increased volume of applications. To allow DWD to process

applications as quickly as possible, they are recommending that applicants not call to check on the progress of an application. DWD will contact an applicant by phone or by mail if more information is needed or if there is a problem with the application.

4. Eligibility is determined.

Applicants will receive an eligibility decision from DWD. Eligible applicants will receive further instructions on how to file weekly claims.

5. File a weekly claim.

Eligibility is determined on a weekly basis. Eligible applicants must file a weekly claim to receive the benefit. An applicant cannot start filing weekly claims until the applicant has been found eligible for PUA.

An applicant may be eligible for a benefit for some weeks and not others. If an applicant earns \$500 or more of income in a week, that applicant will not be eligible for a benefit for that week. According to DWD, real estate agents should report commission in the week it was earned.

Those who qualify for PUA and work less than 32 hours per week and make less than \$500 per week may be able to make claims retroactively to February 8 or when the applicant was impacted by COVID-19, whichever is later. Doing some work may not make an individual ineligible for PUA, but the agent may not exceed the 32 hours/\$500 per week threshold.

UI

A person who has worked for a covered employer in the last 18 months should apply for UI instead of PUA. A covered employer is an employer that pays UI taxes. The application process for UI is similar to PUA except that an applicant does not need to submit proof of income as DWD will be able to verify an applicant's income through the employment history provided by the applicant. The online application for UI is available at dwd.wisconsin.gov/uiben/apply.

DWD recommends that UI applicants have the following information available when applying:

- A username and password for filing online
- A valid email or mobile number
- Social Security Number
- Wisconsin driver's license or identification number
- Work history for the last 18 months
- Current address

Like PUA applicants, a UI applicant must also file a weekly claim to maintain eligibility.

BENEFITS

Both PUA and UI benefits are taxable. DWD recommends eligible individuals have state and federal taxes withheld from weekly benefits so they do not have to pay the taxes later. Applicants can opt to have taxes withheld from benefits during the application process. As with any tax issue, applicants are encouraged to speak to their tax adviser if they have questions about federal and state withholding from PUA or UI benefits.

PUA

The benefit amount under PUA is 1% of 2019 net income, subject to the PUA minimum of \$163 per week and PUA maximum of \$370 per week. Benefits are payable for up to 39 weeks, retroactive to the week ending February 8, 2020, or the first week an individual was out of work due to COVID-19, whichever is later. The last payable week is the week ending December 26, 2020.

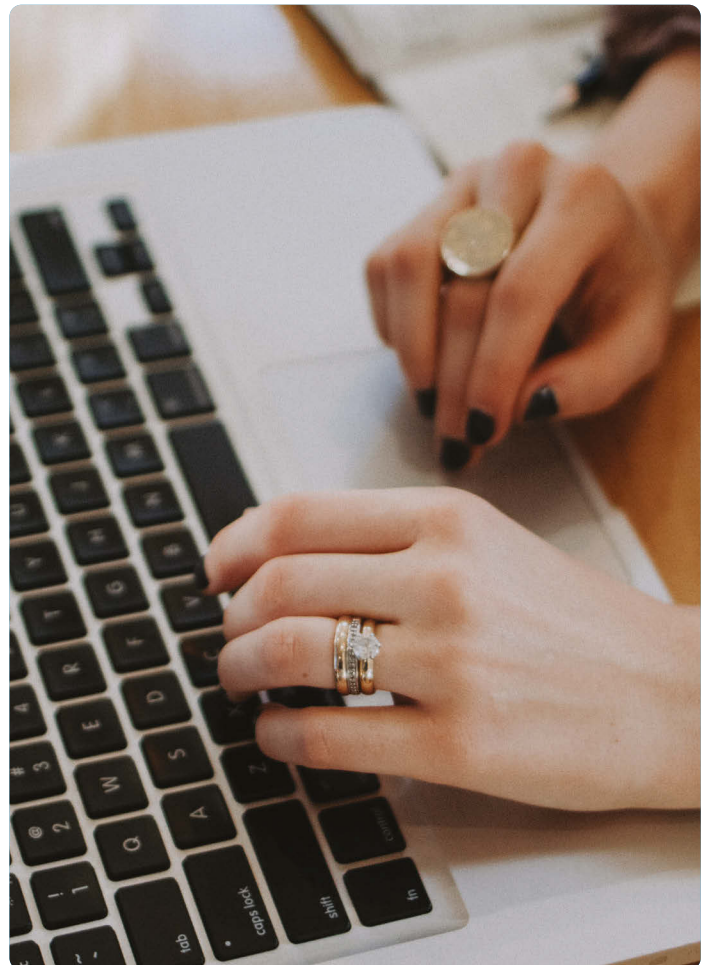
UI

The weekly benefit for UI is 4% of the total high quarter wages from covered employment in the applicant's base period. The minimum weekly benefit is \$54, which would require high quarter earnings of \$1,350. The maximum weekly benefit rate is \$370, which would require high quarter earnings of \$9,250.

FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION

The Federal Pandemic Unemployment Compensation (FPUC) is another CARES Act program, which provides an additional \$600 per week for individuals who qualify for either PUA or UI. The weeks run from April 4, 2020, to July 25, 2020. Per DWD, once a person qualifies, or is eligible for UI or PUA, the FPUC will be automatically added to the benefit payments. No additional application is necessary.

Jennifer Lindsley is Director of Training and a staff attorney for the WRA.



EASEMENTS

Unlike the immortal jellyfish, easements do not last forever

The Wisconsin Land Title Association graciously prepared the following general FAQ regarding private ingress/egress easements in Wisconsin, in response to the request of the Wisconsin REALTORS® Association. This FAQ is informative but does not take the place of legal advice. If members or their clients and customers have questions about the existence or enforceability of a particular easement, they are strongly encouraged to seek the advice of a qualified real estate attorney.

We hear that there are concerns about the expiration of easements. What's happening?

The brief answer to this question is yes, easements do not live forever and do have expiration periods.

By way of background, an express easement is an interest in real property that gives someone the right to use another person's property — a right which is not automatic and must be in writing. Most often, these easements are used for access to landlocked parcels, so this Q&A will generally cover issues related to access easements.

In order to memorialize the easement, best preserve the rights of the owner of the property using the easement (called the "benefited property"), and provide public notice of the right to use the property the easement crosses (called the "burdened property"), the easement agreement should be recorded with the Register of Deeds in the county where the property is located. Wis. Stat. § 893.33 has long required that to continue the effectiveness of an easement, another instrument must be timely recorded expressly referring to the original easement ("re-recorded"), even if the original easement on its face says it never expires. Until July 1, 1980, the requirement to re-record was 60 years. That meant the easement had to be put of record at least every 60 years or it was no longer enforceable.

In the late 1970s, the Wisconsin Legislature changed the statute so that on July 1, 1980, the 60-year re-recording period was reduced to 40 years. Easements recorded on and after July 1, 1980, are enforceable for 40 years, unless properly extended. The legislative change also meant that any document initially covered by the 60-year recording requirement now, at least arguably, has to be re-recorded on or before July 1, 2020. In other words, documents recorded between July 1, 1960, and June 30, 1980, appear to have the shortened period of 40 years for re-recording of, at the latest, June 30, 2020. That date, June 30, 2020, is now upon us.

The seller has a property benefited by an easement recorded in 1970. How does he make sure it continues?

Many easements recorded between July 1, 1960, and June 30, 1980, may not be enforceable unless properly re-recorded on or before June 30, 2020. Thus the best practice would be to re-record the easement now to continue its enforceability, or alternatively the parties can enter into a new easement. Property owners should consult an attorney to assist.

How does a property owner re-record the easement to restart the statute of limitations?

Unfortunately, the statute does not provide specific guidance on re-recording. In part, the statute states that, "... the timely recording of an instrument expressly referring to the easements ..." will operate to restart the statute of limitations for another 40 years. Although vague, there are some best practices that should be considered, and we strongly encourage the parties to contact their attorney to assist in maintaining the enforceability of easements.

One option to consider for the re-recording would be to create an affidavit with the owner's attorney that says the easement is being re-recorded for purposes of complying with the statute and attach a copy of the original easement. To ensure that the re-recorded easement can be found in the public records by all affected parties, it would be best practice to properly identify the current owners of the land (both benefited by the easement and burdened by the easement) and the legal descriptions of the property (both of the benefited parcel and the burdened parcel) in the affidavit.

Additionally, if a property owner is conveying a parcel for a new transaction now and the property being conveyed is benefited by an access easement, they should strongly consider having the new deed drafted with a specific reference to the recording data of the previous easement and including the legal description of the easement area if available.

What happens if the easement is not timely re-recorded?

If not timely and properly re-recorded, the easement probably is no longer enforceable as originally intended. It is strongly advisable to consult an attorney before placing anything of record.

How will this impact the ability to get title insurance?

This is very fact intensive, but where the easement was not timely re-recorded, it is likely a title company will not be able to provide insurance that the easement is enforceable or ensure that the property has legal access. It is also important to know, in most cases, that the title insurance policy only insures issues prior to the date of policy.

Does the statute of limitation for easement enforcement apply to all types of easements?

No. There are a number of different easements this statute does not currently apply to, with certain conservation easements, utility easements and easements benefiting railroads being a few of the named exceptions.

Where can one get more information about easements?

Generally Wisconsin access easement law is set forth in Wis. Stat. § 706.02, § 893.33 and case law interpreting those statutes. Whether an easement is or is not enforceable typically is fact intensive and many times must be vetted through the courts when neighbors are in a disagreement.

As to whether a particular easement either benefits or burdens a particular property, a party may want to review its title insurance policy or engage a local title insurance company that can provide a search of the property for a fee. Finally, as to the scope of the easement or whether the easement is enforceable, consult with an attorney.

DISCLAIMER: The information contained in this article is solely for general interest. This information is general in nature and is presented without any warranty or representation. This article should not be relied or acted upon or construed as legal advice and is not a substitute for obtaining legal advice from an attorney licensed in Wisconsin.

Founded in 1906, the Wisconsin Land Title Association (WLTA) is an association dedicated to the advancement of the profession of evidencing title to real property. WLTA members consist of a cross section of real estate professionals including title insurance agents and underwriters, attorneys, REALTORS®, mortgage lenders and registers of deeds. The WLTA aligns itself with other associations and organizations to streamline homeownership and transfers of real property.



RESOURCES

Learn more about easements from the following WRA resources:

- "Private Access Easements" in the Thursday Takeaways video series: www.wra.org/ThursdayTakeaways/Episode33
- "Easements: Re-record or Lose?" in the January 2015 Wisconsin Real Estate Magazine: www.wra.org/WREM/Jan15/Easements



BY CORI LAMONT

SENIOR DIRECTOR OF LEGAL AND PUBLIC AFFAIRS
LEGAL

ACTION! *Are You Ready* FOR YOUR CLOSE-UP?

The coronavirus and “Safer at Home” orders propelled everyone into technology overload — Zoom, Microsoft Teams, Skype, WebEx, virtual open houses, remote online notarization and electronic earnest money payments, to name a few. And even before the pandemic that forever altered our world, behavior and business, video and audio surveillance equipment started to appear everywhere, including individual homes.

The accessibility of affordable, wireless security systems and wireless cameras has allowed numerous property owners to have surveillance equipment on their property. Property owners are equipping their properties with cameras on the outside, possibly on the inside, and even in the doorbells. This equipment may allow owners of real estate to hear, see, record and potentially have interactive conversations with individuals on their property even if the owners are not home.

The motivations behind homeowners’ decisions to have cameras in their homes and on their properties are numerous. For instance, it is not uncommon for property owners in more rural settings to have cameras at the beginning of their driveways to deter individuals from coming onto their property. In addition, individuals may have surveillance equipment to protect their property, to have a watchful eye on their children who come home from school before an adult can be home, to monitor a caregiver who attends to a family member while they are away at work, or to confirm the delivery of a package.

One thing we do know is that whatever the reason for having them on their property, cameras will continue to be everywhere.

LEGISLATIVE RESPONSE

Due to the increasing questions by real estate agents surrounding this issue, the WRA decided to add as one of its legislative priorities during the 2019–20 legislative session to clarify in Wisconsin law that it is not a violation of privacy for a seller to have audio or video recording equipment in the property during an open house, individual showing or other viewing of the real estate.

Prior to the law change, Wisconsin law did not prohibit sellers from using surveillance equipment or recording devices to monitor their homes during open houses or individual showings. Further, Wisconsin law did not require sellers or their agents to notify buyers or post any signs informing the prospective buyers or agents of the existence of surveillance in the property.



995.60 USE OF SURVEILLANCE DEVICES IN CONNECTION WITH REAL ESTATE SALES

(1) DEFINITIONS. In this section:

- (a) "Real estate" means land and the improvements to the land.
- (b) "Record" means to take a photograph, to make a motion picture, videotape, audiotape, recording, or other visual or audio representation, or to record or store in any medium data that represents a visual image or sound recording.
- (c) "Representation" means a photograph, exposed film, motion picture, videotape, audiotape, recording, other visual or audio representation, or data that represents a visual image or audio recording.
- (d) "Surveillance device" means a camera, audio or video recorder, or any other device that may be used to observe, record, or transfer sounds or images.

(2) USE OF SURVEILLANCE DEVICES. Except as provided under sub. (3), an owner of real estate may use a surveillance device in or on the real estate to observe or record an individual who is present in or on the real estate for a private showing, open house, or other viewing of the real estate in connection with the owner's attempt to sell the real estate.

(3) PROHIBITED USES. (a) An owner of real estate may not use a surveillance device under sub. (2) in a bathroom or washroom.

(b) 1. Except as provided under subd. 2., an owner of real estate may not copy, sell, rent, broadcast, post, publish, distribute, disclose, transfer, or otherwise share a representation of an individual recorded with a surveillance device under sub. (2).

2. An owner of real estate may provide a representation of an individual recorded with a surveillance device under sub. (2) pursuant to a court order or to the request of a law enforcement officer who is investigating possible criminal conduct.

(4) INTERPRETATION. (a) The use of a surveillance device by an owner of real estate in or on the real estate under this section does not constitute installing a surveillance device in a private place for purposes of s. 942.08 (2) (a).

(b) An owner of real estate that records a representation of an individual with a surveillance device under this section does not capture a representation of the individual under circumstances in which the individual has a reasonable expectation of privacy for purposes of s. 942.09 (2) (am) 1.

(5) ENFORCEMENT. An individual who violates sub. (3) (b) 1. may be required to forfeit not more than \$500.

And as of January 22, 2020, 2019 Wis. Act 72 clarified in Wis. Stat. §995.60 the rights of those owning and entering properties for sale under surveillance. According to Wis. Stat. §995.60, "Use of surveillance devices in connection with real estate sales," only applies to open houses, individual showings and other viewings in connection to the sale. In addition, Wis. Stat. §995.60 provides that:

- It is not an invasion of privacy when the owner of real estate has surveillance, whether audio or video, in an open house, individual showing or other viewing in connection to the sale of real estate.
- "Property" and "owner" are broadly defined to include all types of properties, not limiting the law to residential.
- The owner of the real estate may not copy, sell, rent, broadcast, post, publish, distribute, disclose, transfer, or otherwise share a representation of an individual recorded with a surveillance device unless it is pursuant to a court order or the request of law enforcement investigating possible criminal conduct.
- Use of surveillance equipment in bathrooms is prohibited.
- An individual who copies, sells, rents, broadcasts, posts, publishes, distributes, discloses, transfers, or otherwise shares a representation may be required to forfeit not more than \$500.

The law does not require a seller to post or disclose that he or she has surveillance equipment in the property. Additionally, the law does not require the real estate licensee to ask the seller about surveillance equipment in the property. Further, the law does not require any disclosure by the real estate licensee as to any surveillance equipment in the property.

Sellers arguably have the right to protect their property, and for safety reasons, should not have to publicly announce by posting on the property or via the MLS that there is surveillance equipment in the property. Requiring sellers to announce that they have surveillance equipment impedes their safety rights in many ways. Sellers have placed their home on the market and allow buyers and agents to be in their home, potentially without the seller or their agent there. Sellers are not inviting the buyer or their agent as an overnight guest, but again are offering the buyer the opportunity to be in their home with a very limited set of facts.

BEST PRACTICE

Even with Wisconsin law clarifying it is not an invasion of privacy to have surveillance equipment in or on the property, licensees would be best served to be very careful about their observations and comments regardless if they are knowingly being recorded. Best practice would be to always advise your buyers to pretend they are being videotaped or recorded when in a property for an individual showing or open house.

Licensees should encourage buyers to refrain from saying certain things about the property — whether good or bad — until outside of the property. But keep in mind that "outside of the property" probably means out of earshot of the watchful doorbell that triggered a video recording when you stepped out on the porch after the showing.

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



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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 UPDATE LIVE

New Wisconsin real estate legal live webcast

Legal Update Live brings Wisconsin real estate law to life with real-time analysis about the newest legal developments that affect your practice. Simply tune in, listen and learn from Wisconsin's top experts. These Legal Update Live episodes are available on demand:

Episode 4: Information Overload: What You Really Need to Know About COVID-19

With so much information available about the pandemic and its effect on real estate, Episode 4 cuts through the noise and explores essential strategies you need to know for your essential business.

Watch now: WRA.ORG/LULIVE/EPISODE4

Episode 5: What Reopening Wisconsin for Business Means for REALTORS®

When and how will businesses reopen their doors? Episode 5 of Legal Update Live reviews various plans to open Wisconsin's economy, discusses the impact of the Wisconsin Supreme Court's decision on the "Safer at Home" order, and explores considerations for real estate companies reopening offices.

Watch now: WRA.ORG/LULIVE/EPISODE5

Episode 6: Wisconsin's Eviction Moratorium Is Over. Now What? Landlord/tenant law attorneys Jennifer Hayden and Tristan Pettit address the concerns and challenges facing landlords after the Wisconsin Order #15 prohibition on evictions expired.

Watch now: WRA.ORG/LULIVE/EPISODE6

LEGAL HOTTIPS

Latest Discussions on the WRA Legal Hotline

- Five-day notice for rent default and evictions for holdover tenants.
- Whether landlord can evict on five-day notice given before orders.
- Firm proposes entering agents in drawing for referrals to affiliated title company.
- Subsoil testing in proposed use contingency shows large ledges of rock.
- Roof leaking one week after closing.

Read: WRA.ORG/LEGALHOTTIPS

LEGAL NEWS EMAIL

Best Practices for In-person Open Houses During COVID-19

The WRA has received questions relating to in-person open houses. The WRA recommends sellers and their agents avoid having in-person open houses even after Wisconsin's "Safer at Home" order has been lifted and instead encourages virtual showings or individual showings to interested buyers. However, if sellers, firms and agents are willing to have in-person open houses, the WRA created a document titled "COVID-19 Best Practices for In-person Open Houses."

Read: WWW.WRA.ORG/HOTTIPSPDF/052620/NEWS

LEGAL UPDATE

Legislative Changes Impacting Real Estate Technology

This Legal Update explores two pieces of legislation surrounding the modernization of real estate technology, specifically remote online notarization and seller surveillance of property.

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:

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A variety of scanner apps are available for both Android and iOS devices. Check out these three real estate-friendly options.

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PDFELEMENT

The highly rated PDFelement app converts your photos into PDFs on your smart device easily. This scanner app not only lets you to snap photos of documents for conversion, but also allows you to take images from your photo album and transition them into PDFs. Plus, the PDF files you create on this app have an Optical Code Reader, so the text inside the PDF can be exported for use in Microsoft Word, PowerPoint, Excel and more.

SCANBOT

Considered to be the most advanced PDF scanner app, Scanbot is easy to use and available for free. This app utilizes advanced scanning technology via auto-optimization, blur-reduction and various color modes, helping you to scan and convert quickly. Scanbot also allows you to send your documents as a fax or email



right from the app itself. Also, Scanbot comes with options for editing, cropping and filtering your scan however you see fit, along with being able to save the scan for later use with just one tap of a button.

BOTTOM LINE

When you're working remotely or on the go, you need a scanning app that can help you create PDFs. Since these apps have free versions, it's easy to try them all out and find out which one you prefer. And remember, if you have any questions or challenges with your smartphone, the Tech Helpline is only just a chat, text or call away!

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



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BY JOE MURRAY
DIRECTOR OF POLITICAL AND GOVERNMENTAL AFFAIRS
GOVERNMENT AFFAIRS

CAMPAIGNS *in the AGE of* COVID-19

On June 1, all candidates running for office at the federal, state and local level in Wisconsin must file their nomination papers to have their names qualify for the November 3 election ballot. The process of running for office begins long before Election Day, starting months in advance with candidates collecting signatures to qualify for the ballot, fundraising and building grassroots political organizations to get their names and messages out to voters.

But this year, candidates face a very significant challenge. The COVID-19 pandemic has changed almost everything. In the age of social distancing, political campaigns will have to adapt to the restriction on face-to-face interactions with voters while campaigning at every level. Events that feature large crowds have been canceled, and the most common task of the grassroots campaign — knocking on doors — is taboo for now.

In spite of all this, the elections to be held on November 3 are underway. Three political factors will ultimately influence the final results, perhaps significantly, one way or another:

1. The 20 state legislative seats with no incumbent running.
2. The incredible surge in absentee voting.
3. The big question of how voters will respond to the COVID-19 “Safer at Home” shutdown that has produced the highest number of unemployed workers in Wisconsin since the Great Depression.

OPEN LEGISLATIVE SEATS

The 2020 legislative election cycle includes 20 open state legislative districts. These are districts where the incumbent has decided to retire or possibly run for a different office. In the state Senate, there are seven open seats; in the state Assembly, 13 districts are open. This is an average number of open seats over the last 10 years.

After looking closely at the voting history of all 20 open seats, one conclusion is pretty clear: only six of the 20 districts (30.0%) will be or could be highly contested between the two major parties. The other 14 seats are either strong Democrat or Republican districts and will remain in the same party hands after the elections on November 3.

Why are open legislative seats important to political insiders? Because open seats in any election cycle, depending on where they are located, offer the best possibility to flip from one party to the other. Based on historical voting numbers, only six open seats fall into competitive territory this year, and this means that additional “opportunity” seats will be in districts with incumbents running for reelection, and incumbents are generally more difficult to defeat.

ABSENTEE VOTING WILL CONTINUE TO SKYROCKET IN WISCONSIN

Badger State voters have a long-held tradition of turning out to vote in big numbers. Wisconsin voter turnout is always near the top compared to most states, and political prognosticators believe that November 2020 voter turnout could break all previous records in the state.

Even with the COVID-19 pandemic, many believe turnout will surge, in large part due to absentee early voting. Prognosticators point to the recent election for state Supreme Court between liberal Jill Karofsky and conservative Dan Kelly. In the April 7 election, 71% of all votes cast were absentee. This represents a dramatic increase over all previous elections. For example, in the November 2016 election and 2018 midterms, fewer than 30% of all votes were cast absentee. Fear of the pandemic drove Wisconsin voters to vote absentee, “essentially turning the voting pattern in Wisconsin upside down, from being mostly in-person to mostly by mail,” according to UW-Madison political science professor Barry Burden.

Assuming absentee voting surges, how will this impact final results? Donald Trump carried Wisconsin by approximately 22,000 votes in 2016, one of the narrowest margins in the country. Will the November absentee surge prove to be an advantage for Trump or Biden? And how will this surge affect down-ballot elections for Congress and state Legislature? Research has suggested that down-ballot races could be most impacted by higher turnout driven by absentee voting. That may influence the outcome in highly competitive districts where the two parties spend the bulk of their time and resources.

HOW WILL THE COVID-19 SHUTDOWN IMPACT NOVEMBER ELECTIONS IN WISCONSIN?



On March 25, Gov. Tony Evers issued his first “Safer at Home” order, prohibiting social gatherings, shuttering thousands of businesses, and restricting movement for everyone except “essential” service providers. On April 15, Evers directed the state Department of Health Services to extend the order for an additional four weeks.

The original order to stay “safer at home” was issued by Gov. Evers with no input from legislative Republicans who control both houses of the Wisconsin Legislature. When the governor had his Health Services Secretary Andrea Palm extend the order until May 26, GOP leaders were again not consulted. From a political standpoint, this means Gov. Evers will receive either the credit or the blame from voters for this shutdown.

With Evers in support of the extended shelter orders and Republicans arguing for a gradual but faster opening of the economy, the COVID-19 pandemic response may be viewed in a classic Democrat versus Republican political frame this November. If that happens, it’s an open question: which side will benefit politically?

Today, it’s difficult to predict. Will Wisconsin voters hold Gov. Evers responsible for the economic fallout from his order to shut down and punish down-ballot Democrats this November, or will voters hold President Trump responsible for the medical and economic fallout and punish Republicans at the polls? It was, after all, governors who were responsible for orders to shelter in place, while the Trump administration struggled for an effective response to the pandemic.

On the one hand, opinion polls show the shelter orders were popular in Wisconsin, but on the other hand, there were several protests in Wisconsin and elsewhere objecting to the ongoing quarantine. It’s unclear how this will play out in November. The quarantine may have been necessary to slow the rapid spread of COVID-19, but it created a large, diverse and growing segment of economic losers. Those economic losers do not fall neatly into partisan columns.

We will have to wait until November to get the answer.

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

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THURSDAY TAKEAWAYS

Weekly guide on sales tips for your business.



MORE EPISODES

- EP. 36: "CARES Act and Mortgage Forbearance" with Tracy Rucka
- EP. 35: "Sharing One Buyer's Inspection Report with a New Buyer" with Jennifer Lindsley
- EP. 34: "Contacting Represented Parties" with Jennifer Lindsley
- EP. 33: "Private Access Easements" with Jon Sayas, Cheri Hipenbecker and Brad Hoeschen
- EP. 32: "There's a Form for That " with Jennifer Lindsley

Catch it online: wra.org/thursdaytakeaways

LEGAL UPDATE LIVE

Latest legal news in Wisconsin real estate.



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- EP. 3: "The Federal CARES Act: Today and Beyond"
- EP. 2: "Unemployment for REALTORS® Under the CARES Act"
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PEARL INSURANCE LENDING A HAND WITHOUT PLACING YOUR BUSINESS AT RISK

We all tend to go out of our way to help clients. However, lending a hand can often be a tricky proposition, especially in the age of social distancing, and might just place your business at risk. Thinking twice before acting is a good check to ensure your assistance to clients is fair and equitable across the board.

Here is a real-world scenario involving a real estate agent's professional recommendation. The advice seemed straight-forward enough, but in retrospect, it should have been presented differently in order to assist the client and protect the agent.

SITUATION

A buyer exercised his right to obtain a home inspection but had either never made a home purchase before or was not from the area. The buyer asked his agent for a recommendation due to being unfamiliar with local home inspectors. The agent worked with an excellent home inspector who had always been dependable but had never identified a defect significant enough to cause a potential purchase to fall through. The buyer accepted the referral and, without any significant defects contained in the inspector's report, the sale closed. The home inspector was paid, and the agent earned his commission and felt he had provided helpful service to the buyer.

PROBLEM

After the closing, the buyer determined there was a significant, visible defect the seller didn't disclose. The home inspector failed to discover the defect, and hence nothing was included in the inspection report. The seller either rolled the sales proceeds into a new home and/or was judgment-proof. Because the buyer's agent offered only one inspector recommendation, the buyer claimed the agent either (1) recommended an inspector who glossed over defects in order to ensure the sale occurred, thereby protecting both the agent's commission and continued referrals; and/or (2) referred the buyer to an inspector who the agent knew, or should have known, was incompetent. The buyer ultimately sued his own agent.

MISTAKE

If an agent is asked for a home inspector recommendation, the best practice is to provide multiple options for the buyer. At least three choices should be provided to avoid the appearance of an agent and home inspector having an improper, unspoken agreement that might place their own interests ahead of the buyer's.

RESULT

In addition to suing the seller and settling with the home inspector, the buyer sued the seller's agent, alleging the agent knew of the misrepresentations in the seller's disclosure notice. The buyer also sued his own agent for the conduct of the home

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inspector the agent recommended. In this scenario, the real estate professionals with insurance coverage became the target defendants.

PREVENTION

While it is clearly acceptable to have a prior relationship with home inspectors or knowledge of their quality of work to provide helpful recommendations, agents must maintain an arms-length relationship in order to ensure their fiduciary duty to the buyer is satisfied. If asked for referrals, the buyer's agent should provide multiple recommendations for home inspectors and any other requested professionals. Agents should always put the interests of the buyer ahead of his or her own, even if it prevents a sale from closing. In the end, there are other properties the agent can locate for the buyer, or the buyer can choose to negotiate concessions from the seller in order to close the deal.

Providing assistance to your clients is good business, but it's important to ensure there is no appearance of impropriety and all your clients are offered the same high level of customer service. For more information, visit pearlinsurance.com/wra.

This contributing article is from Pearl Insurance, a WRA partner.



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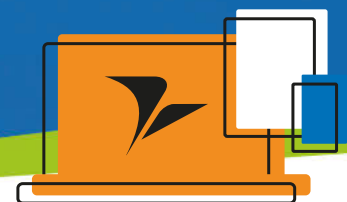
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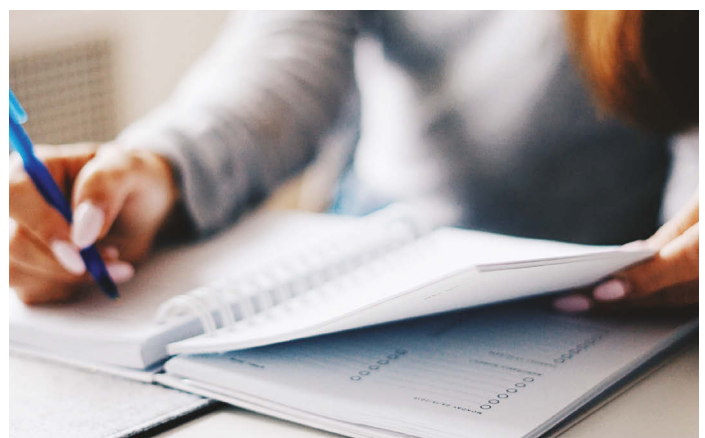
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