

**Director's Report**  
**Randall S. Hall CCIM**  
**02/05/19**

**Upgrades to the NAR headquarters building in Chicago underway**

The [S.M.A.R.T. Budget Initiatives](#), approved by the Board of Directors last May, included a 10-year Master Vision Project for upgrading our Chicago headquarters building. Work began on the project in the fourth quarter of 2018. To ensure our membership is kept up to date on the project -- including exactly what they're doing and why -- NAR posted a video from the Real Property Operations Committee (RPOC), created using footage provided by the general contractor, GNP Partners.

Additional updates on the construction project will be posted on the HUB as upgrades are completed.

This video may be shared on social media. Here's suggested social media language to consider:

**We're taking pride in our home!** Check out the long-needed upgrades that have begun on the National Association of REALTORS® headquarters building in Chicago.

[vimeo.com/312177526/b85003fb47](https://vimeo.com/312177526/b85003fb47)

**Treasury, IRS Give Big Win to Real Estate Professionals in Qualified Business Income Rule**

Last month, the Treasury Department and the Internal Revenue Service issued final regulations regarding the new 20 percent deduction on qualified business income. Members have been uncertain about the true impact of the 2017 Tax Cuts and Jobs Act on their respective businesses. The ruling from Treasury and the IRS, however, signaled a significant victory for the real estate industry and for many of the National Association of Realtors®' 1.3 million members. "Friday's ruling is a result of several months of advocacy and collaboration between NAR, our members and the administration," said NAR President John Smaby, a second-generation Realtor® from Edina, Minnesota and broker at Edina Realty. "These final guidelines will allow real estate professionals to benefit from the Section 199A 20 percent pass-through deduction, a move that will empower Realtors® to expand their operations and provide improved services to consumers and potential homebuyers across the country.

A central component of the new tax law is a reduction of the corporate tax rate -- from 35 to 21 percent. However, since nine out of ten American businesses are structured as pass-through entities rather than corporations, the Section 199A provision provides critical tax deductions for small businesses and self-employed independent contractors, which is how many real estate professionals are classified.

The regulation clarifies that all real estate agents and brokers who are not employees but operate as sole proprietors or owners of partnerships, S corporations or limited liability companies are eligible for the new deduction, which can be as high as 20 percent. This includes



those whose income exceeds the threshold of \$157,500 for single filers and \$315,000 for those filing a joint return.

Second, the rule simplifies the process that owners of rental real estate property must follow to claim the new deduction. As written in the Tax Cuts and Jobs Act, only income that is from a “trade or business” qualifies for the 20 percent write-off. However, because this distinction was not clearly defined by Congress when crafting the law, various court rulings and prior IRS guidance have caused confusion among tax professionals in determining which rental properties were merely investments and which could accurately be considered a business enterprise.

NAR strongly urged Treasury and the IRS to simplify the rules in order to give millions of rental real estate owners certainty surrounding their ability to qualify for this new deduction. Friday’s final regulations included a bright-line safe harbor test requiring at least 250 hours per year spent on maintaining and repairing property, collecting rent, paying expenses and conducting other typical landlord activities.

Finally, within the proposed regulation released last August, those who had exchanged one parcel of real estate under Section 1031 for another parcel were unfairly denied deduction eligibility. However, NAR and multiple additional trade groups concerned with commercial real estate were vocal in highlighting this shortcoming. In a positive resolution to the situation, Treasury and the IRS recognized the initial ruling was misguided and corrected the policy in Friday’s final guidance.

### **Treasury Issues Rules for Investing in Qualified Opportunity Funds**

The Treasury Department has issued proposed regulations that provide guidance under new section 1400Z-2 of the Internal Revenue Code (Code) relating to gains that may be deferred as a result of a taxpayer’s investment in a qualified opportunity fund (QOF). Specifically, the proposed regulations address the type of gains that may be deferred by investors, the time by which corresponding amounts must be invested in QOFs, and the manner in which investors may elect to defer specified gains.

The Treasury Department and the IRS believe, based on the legislative history as well as the text and structure of the statute, that section 1400Z-2 is best interpreted as making deferral available only for capital gains. The proposed regulations provide that a gain is eligible for deferral if it is treated as a capital gain for Federal income tax purposes. Eligible gains, therefore, generally include capital gain from an actual, or deemed, sale or exchange, or any other gain that is required to be included in a taxpayer’s computation of capital gain. The proposed regulations address two additional gain deferral requirements. First, the gain to be deferred must be gain that would be recognized, if deferral under section 1400Z-2(a)(1) were not permitted, not later than December 31, 2026, the final date under section 1400Z-2(a)(2)(B) for the deferral of gain. Second, the gain must not arise from a sale or exchange with a related person as defined in section 1400Z-2(e)(2). Section 1400Z-2(e)(2) incorporates the related person definition in sections 267(b) and 707(b)(1) but substitutes “20 percent” in place of “50 percent” each place it occurs in section 267(b) or section 707(b)(1).

The complete text for the proposed rules can be found at:

<https://www.irs.gov/pub/irs-drop/reg-115420-18.pdf>



## **Important Changes to the NAR Campaign and Election Process**

The Board of Directors recently approved a number of changes to the NAR campaign and election process. Please note that the submission period for filing a NAR Application for Elected Office is now March 1 through June 1. The revised Application for Elected Office and Campaign and Election Rules Manual reflecting all of the changes approved by the Board of Directors at the 2018 REALTORS® Conference and Expo will be available mid-January.

If you have any questions, please contact Lesley Muchow, CCRC Staff Executive at [lmuchow@realtors.org](mailto:lmuchow@realtors.org) or Amy Jones, CCRC Staff Executive at [ajones@realtors.org](mailto:ajones@realtors.org).

## **REALTOR® Fund: \$1 Million to Fire Victims**

The REALTORS® Relief Foundation is making \$1 million in assistance available to people hit by devastating fires in California. REALTORS® and associations across the country are stepping up, too, with donations to help people in need. Dozens of people have died in the state's deadliest fire ever and thousands of properties have been destroyed.

## **Renewal of Flood Insurance**

On Dec. 21, 2018, the President signed legislation passed by Congress that extends the National Flood Insurance Program's (NFIP's) authorization to May 31, 2019.

Congress must now reauthorize the NFIP by no later than 11:59 pm on May 31, 2019.

NFIP reauthorization is an opportunity for Congress to take bold steps to reduce the complexity of the program and strengthen the NFIP's financial framework so that the program can continue helping individuals and communities take the critical step of securing flood insurance. The level of damage from the 2017 hurricanes makes it clear that FEMA needs a holistic plan to ready the Nation for managing the cost of catastrophic flooding under the NFIP.

## **Home Sales Up After 6 Monthly Drops**

Existing-home sales increased 1.4 percent in October, to a 5.22-million sales pace, NAR's latest data show. "Gains in the Northeast, South, and West helped sales activity rise for the first time since March," says NAR Chief Economist Lawrence Yun.

## **Commercial Real Estate Income Up**

Median gross annual income for commercial real estate practitioners who are members of NAR hit an all-time high of \$150,700 in 2017, up from \$120,900 in 2016, according to the [2018 Commercial Member Profile](#). The median sales transaction volume in 2017 was \$3,870,500, up from \$3,500,000.



## **NAR Board Passes Business-Oriented Strategic Plan**

The NAR Board of Directors at its meeting in Boston earlier this month adopted a five-year strategic framework to provide a more visionary, holistic, and business-oriented approach reflective of NAR's expanding role in technology and other arenas critical to real estate. It also approved policies supporting remote notarization, Opportunity Zones, and inflation indexing for capital assets. It also passed Core Standards changes for commercial boards, changes to enhance cooperation among brokers, and a rule change on evaluating ethics complaints while a criminal action is pending. Access Special INS with complete meeting summary.

## **NAR Governance Review Launches**

A new presidential advisory group (PAG) is looking at what changes, if any, should be made to the structure of NAR's governance system. The Game Changer PAG is composed of more than 50 members and association executives who will look at the structure, process, people, resources, and operating environment of NAR's governance system. It will not delve into state and local association governance.

## **New Leadership Team Installed**

NAR's 2019 Leadership Team was installed at the association's Board of Directors meeting in Boston. The team includes John Smaby of Edina, Minn., president; Vince Malta of San Francisco, president-elect; Charlie Oppler of Tenafly, N.J., first vice president; and John Flor of Chetek, Wis., treasurer. Also on the team are two appointed vice presidents: Brian Copeland of Nashville, Tenn., vice president of association affairs, and Tracy Kasper of Caldwell, Idaho, vice president of advocacy.

## **NAR, FEMA Seek Better Disaster Preparedness**

2018 NAR President Elizabeth Mendenhall and Federal Emergency Management Agency Administrator Brock Long signed a Memorandum of Agreement (MOA) on natural disaster preparedness during the REALTORS® Conference & Expo in Boston. The MOA represents a partnership effort between FEMA and NAR to educate and help Americans better prepare for disasters. It also allows REALTORS® to continue building on the REALTORS® Relief Foundation, which makes donations from REALTORS® and others available to households in need after a disaster.

## **Issue Updates**

### **Conforming Loan Limits to Rise 6.9%**

The maximum conforming loan amount that Fannie Mae and Freddie Mac can back will increase to \$484,350 from \$453,100 in 2019, a 6.9 percent increase, the Federal Housing Finance Agency announced. For high-cost areas, the limits-which are also used to define FHA limits-will rise to \$726,525 from \$679,650. "Without this assurance that loan limits keep up with home price growth, borrowers across the country risk being pushed out of the market altogether as mortgage rates and rising home prices continue to hold back potential



homebuyers," NAR President John Smaby said in a statement applauding the government's announcement. Determine your area's limit.

### **Increase to Appraisal Threshold Proposed**

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation have released a proposed rule that would increase the threshold for residential real estate transactions requiring an appraisal from \$250,000 to \$400,000. [More](#).

### **FHA Fund in Good Shape**

FHA's main insurance fund is in good financial health, the agency reports. The capital reserve ratio is 2.76 percent for 2018, an increase from 2.18 percent for fiscal year 2017. The total capital reserves for 2018 are \$34.86 billion, an \$8.12 billion increase from 2017. This is the fourth year in a row that the fund exceeds the statutory requirement to maintain at least a 2 percent capital reserve ratio.

### **Ginnie Mae: Maintain Liquidity in All Conditions**

Draft legislation called the Bipartisan Housing Finance Reform Act is a good start for ensuring the availability of safe and affordable mortgage financing, NAR told House Financial Services Committee Chair Jeb Hensarling (R-Texas). Even so, NAR would like to see a dual mandate for Ginnie Mae: to safeguard the secondary mortgage market while at the same time ensuring a deep, liquid, affordable, and national mortgage market, in all types of conditions. Ginnie Mae is the secondary mortgage market guarantor for FHA and other federally insured loans.

### **Give CRA Credit for Housing Counseling**

Banks should get credit under the Community Reinvestment Act when housing counseling can be tied directly to better homeownership outcomes, NAR says in comments to the Comptroller of the Currency. NAR also says more focus should be put on development of housing in areas where there isn't enough affordable housing to meet needs of underserved households.

### **NAR Urges OK of Consumer Protection Chief**

Kathleen Kraninger should be confirmed as director of the federal agency that looks after Americans' financial interests, the Bureau of Consumer Financial Protection, NAR says in a letter sent jointly with other industry groups to the Senate Banking Committee. Kraninger is a former head of the White House Office of Management and Budget and has years of experience in Washington.

### **Don't Lose Sight of Fannie, Freddie Mission**

A proposed framework for overseeing Fannie Mae and Freddie Mac doesn't do enough to ensure the two secondary mortgage market companies would provide liquidity at affordable



mortgage rates for people who need it, NAR says in comments to the Federal Housing Finance Agency, the companies' conservator

## **Legal**

### **NAR: Competition in Real Estate Is Essential**

An article on nar.realtor highlights steps NAR has taken since 2008 that have given consumers unprecedented access to listing data while empowering the brokerage community to adopt and leverage the power of the internet. A settlement agreement between NAR and the Department of Justice intended to ensure that NAR policies relating to Virtual Office Websites (VOWs) did not suppress technological innovation, reduce competition on price and quality, or reduce efficient cooperation among brokers expired on Nov. 18, 10 years after it went into effect. NAR continues to keep the VOW policy in place as outlined in the agreement.

### **MLS Access and Ethics Training**

The deadline for members to complete Code of Ethics training is Dec. 31. A new resource explains the consequences for members who don't fulfill the requirement.

### **Decisions Enhance Ethics Efforts**

The latest Voice for Real Estate news video looks at two decisions earlier this month by the NAR Board of Directors to enhance cooperation among brokers and keep ethics complaints on track. The first allows associations to process ethics complaints while criminal litigation is pending, and the other aligns MLS rules with other rules requiring listing brokers to provide written notification to cooperating brokers on the disposition of their offer. [More](#).

### **Incorrect Info to Buyers is Negligent, Court Says**

Buyers had adequately demonstrated fraud and negligent misrepresentation when they bought a property on the belief that it came with three lots, not two, the Court of Appeals of Michigan ruled, affirming the trial court.