



**VIRTUAL/TELECONFERENCE
REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL
4822 Madison Yards Way, Madison
Contact: Will Johnson (608) 266-2112
November 21, 2024**

The following agenda describes the issues that the Council plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions and deliberations of the Council.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes of September 12, 2024 (3)**
- C. Reminders – Scheduling Concerns
- D. Introductions, Announcements, and Recognition**
 - 1. Recognition: Debra Conrad (Resigned: 9/26/2024) (4-5)
 - 2. Introduction: Jennifer N. Lindsley
 - 3. Introduction: Tami K. McFarlane
- E. Administrative Matters**
 - 1. Department, Staff and Council Updates
 - 2. Real Estate Examining Board Update
- F. WB Pre-Agency Agreement – Discussion and Consideration (6-8)**
- G. Review of Forms That Should Be Revised to Respond to the Settlement Agreement in the Sitzer-Burnett Class-Action Lawsuit – Discussion and Consideration
- H. Review of Real Estate Contractual Forms for Revision – Discussion and Consideration
- I. Next Steps**
- J. Public Comments**

ADJOURNMENT

NEXT MEETING: JANUARY 23, 2025

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of any agenda item may be changed by the board for the convenience of the parties. The person credentialed by the board has the right to demand that the meeting at which final action may be taken against the credential be held in open session. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL
MEETING MINUTES
SEPTEMBER 12, 2024**

PRESENT: Casey Clickner, Debra Conrad, Michael Gordon, Cori Lamont, Sonya Mays, Kim Moermond, Laura Peck, Angela Rowland, Thomas Weber Jr.

EXCUSED: Jonathan Sayas

STAFF: Will Johnson, Executive Direction; Renee Parton, Legal Counsel; Dialah Azam, Board Administration Specialist; and other Department Staff

CALL TO ORDER

Sonya Mays, Chairperson, called the meeting to order at 9:34 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

MOTION: Casey Clickner moved, seconded by Laura Peck, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES FROM MAY 30, 2024

MOTION: Debra Conrad moved, seconded by Cori Lamont, to approve the minutes of May 30, 2024 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION

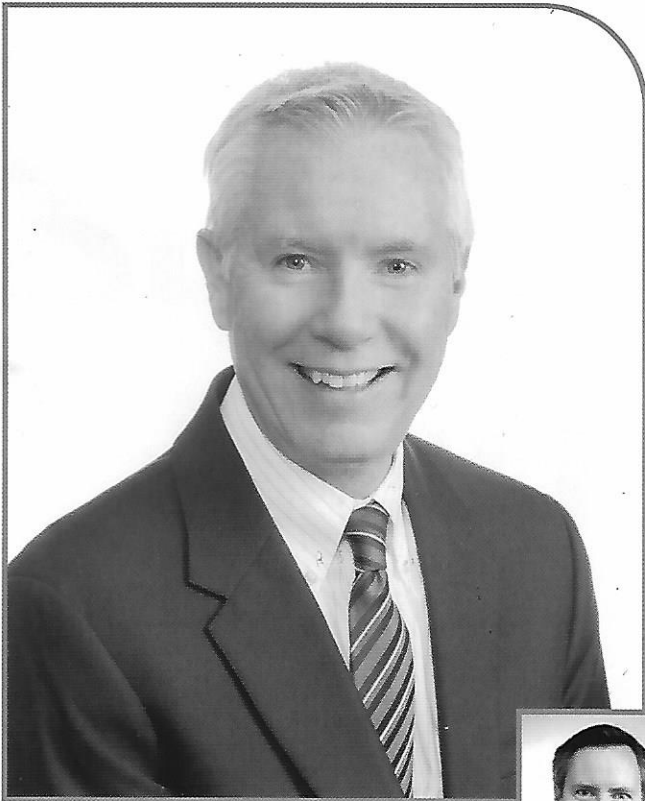
Recognition: Pamela Widen (Resigned: 7/8/2024)

MOTION: Angela Rowland moved, seconded by Laura Peck, to recognize and thank Pamela Widen for their years of dedicated service to the Council and State of Wisconsin. Motion carried unanimously.

ADJOURNMENT

MOTION: Cori Lamont moved, seconded by Casey Clickner, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:31 a.m.



JOE MURRAY

37 years with the WRA advocacy team

Before joining the WRA, Joe built a strong foundation in politics, serving as a staff member in the Wisconsin Legislature and managing campaigns, including the Attorney General race for Don Hanaway. Even though Joe didn't know much about the REALTOR® community when he joined the WRA staff, his understanding of political fundraising as well as the inner workings of the legislature made him a perfect candidate to join the WRA.

Joe's knowledge of Wisconsin's political history is unparalleled. When political experts need guidance, Joe is their go-to authority. For over three decades, Joe has helped the WRA innovate its political operations and advocacy, traveling across the state to show members how the REALTORS® Political Action Committee (RPAC) benefits their business.

There are a few things you can always count on with Joe: he knows every name of every Assembly and Senate lawmaker and their district number, it's almost impossible to stump him on a Wisconsin political history question, and he is almost always available to talk.

To say Joe has a passion for politics is an understatement — his commitment has been an obsession that has benefited the WRA for the last 37 years.



DEBBI CONRAD

32 years with the WRA legal team

Debbi's journey in real estate runs deep, with a wealth of knowledge in areas like condominium, title and landlord-tenant law. She's not only shared her expertise by authoring numerous legal publications for the WRA and beyond, including the *Wisconsin Real Estate Law Manual*, but she's also spent over a decade lending her insights regarding the state-approved (WB) forms as a member of the Department of Safety and Professional Services' Real Estate Contractual Forms Advisory Council.

However, what truly defines Debbi's legacy isn't just her legal accomplishments. It's her unwavering dedication to Diversity, Equity and Inclusion (DEI) throughout her 32-year career. Her passion for creating a more inclusive industry shines through her work administering the Partnership for Success scholarship program and her efforts with the National Association of REALTORS® to include sexual orientation in the REALTOR® Code of Ethics. These are the contributions that will leave a lasting impact on the real estate community.

While we will miss Debbi's and Joe's presence, we are excited for them as they begin this new chapter. We extend our deepest gratitude for all they've done and wish them a joyful and fulfilling retirement.

Memo

To: WI DSPS Real Estate Contractual Forms Advisory Council

From: Sonya Mays, Chair

Date: 11.05.2024

Re: Recognition

I would like to take this opportunity to recognize Debbi Conrad who recently announced her retirement after 32 years with the WRA legal team and is also stepping down and resigning from the Real Estate Contractual Forms Advisory Council.

It has been an honor and a pleasure serving alongside such a great talent, wonderful attorney, and legacy in our real estate community. Debbi has been a trailblazer and reckoning force for our Council. She has helped us successfully navigate through many twists and turns in the real estate industry, most recently and notably the 2024 NAR settlement mandate regarding the 18 WB forms that were updated.

Debbi's list of accomplishments and contributions far exceed the parameters of this memo. Thus, we are forever grateful for her unyielding dedication, vision, contributions, and selfless service to the Council and real estate industry. She will be greatly missed, as we wish her all the very best in her next chapter.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Will Johnson, Executive Director		2) Date When Request Submitted: 11/11/2024
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others
3) Name of Board, Committee, Council, Sections: Real Estate Contractual Forms Advisory Council		
4) Meeting Date: 11/21/2024	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Discussion and Consideration of WB Pre-Agency Agreement
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:		
11) Authorization		
<i>Will Johnson</i>	<i>11/11/2024</i>	
Signature of person making this request	Date	
Supervisor (if required)	Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date		
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Board Admin Specialist prior to the start of a meeting.		

WISCONSIN REALTORS® ASSOCIATION
4801 Forest Run Road, Madison, Wisconsin 53704

PRE-AGENCY SHOWING AGREEMENT FOR WISCONSIN PROPERTIES

Under Wisconsin law, buyers have choices in their relationship with an agent. There are essentially three agency options available for buyers under Wisconsin law: pre-agency, subagency, and buyer agency. Each agency type varies by what level of brokerage services may be provided.

A buyer can sign a buyer agency agreement with a firm and be the firm's client with all the services and duties that come with being a firm's client. A buyer could work with the firm that has the property listed or another firm and not sign a buyer agency agreement. The buyer would be a customer of the firm with some services and duties but not client-level duties. When the buyer is a customer of either the listing firm or another firm, the agent working with the buyer cannot put the buyer's interests ahead of the seller's interests. A buyer and a firm also can operate for a limited time in what is known as pre-agency where the buyer is not yet a customer nor a client. During pre-agency, the agent cannot put the buyer's interests ahead of the seller's interests and cannot engage in any negotiation on behalf of the buyer.

BUYER RELATIONSHIPS WITH AGENTS

1. Buyer in Pre-agency: A buyer in pre-agency is not a client or a customer of the real estate firm and its agents. In pre-agency the firm and its agents may provide the buyer services such as showing properties and act as a neutral information provider, but the firm cannot negotiate for the buyer. "Negotiate" is defined in Wis. Stat. § 452.01(5m). One example of negotiations would be drafting an offer for the buyer. If during pre-agency, negotiations are requested or initiated, then at that point pre-agency authorization ends and the firm and the buyer would establish either subagency, where the firm is a subagent of the listing firm, as defined in Wis. Stat. § 452.01(7r) and the buyer is a customer, or execute a buyer agency agreement where the buyer is a client, if they wish to proceed together. Both the buyer and the firm have a choice at that point whether to proceed together, and if so, under which agency relationship.

2. Buyer as Customer: If a subagency relationship is chosen by the buyer and the firm or if the buyer initiates subagency with another firm, the buyer is a customer. The buyer would receive the duties owed to all parties, including the authorization for negotiation, but would not receive client level services, and would not receive price advice, e.g., advice such as how much a buyer should offer on a property, or negotiation recommendations or recommendations regarding which property or properties to pursue. Buyers who are customers receive a separate disclosure and agents who are working with buyer customers cannot put the buyer customer's interests ahead of the seller's interests.

3. Buyer as Client: When a buyer wants to have access to the full suite of brokerage services, the buyer would sign a written buyer agency agreement with the firm and become the firm's client. When a buyer is a client, the firm can put the buyer's interests ahead of the seller's interests while observing duties that agents owe to all parties in a transaction. When a buyer is a client, the firm can provide information and advice such as how much the buyer should offer for the property, and negotiation recommendations or recommendations regarding which property or properties to pursue, and other client services the firm offers.

PRE-AGENCY AGREEMENT

The undersigned Prospective Buyer and the Firm hereby enter this Pre-Agency Showing Agreement on the following terms and conditions:

THIS IS NOT AN AGENCY AGREEMENT. THIS AGREEMENT DOES NOT AUTHORIZE AN AGENT TO DRAFT AN OFFER TO PURCHASE. This is an agreement that authorizes the Firm and its agents to help the Prospective Buyer identify and locate properties and to show homes to the Prospective Buyer in a pre-agency relationship. The Firm and agents may show properties and provide information, as requested. Either the Prospective Buyer or the Firm may discontinue working together under pre-agency at any time, upon informing the other, and it is agreed and understood that whether to proceed with any further or additional brokerages services, whether under subagency or under buyer agency, is a choice between the Prospective Buyer and the Firm and agents.

Compensation. A firm may receive compensation for showing properties to a Prospective Buyer during pre-agency. The Prospective Buyer and the Firm agree the Firm shall be paid \$_____

(insert amount, if any) for showing properties. The fee cannot be paid to the agent directly and must be paid to the Firm.

48 **Real estate commissions and compensation are not set by law and are fully negotiable. A firm working with a**
49 **buyer for services covered by this Agreement cannot receive compensation or fees from any source that**
50 **exceeds the amount specified in this Agreement, unless agreed to in writing.**

51 **The compensation paid under a Pre-Agency Agreement to the Firm does not prohibit the Firm from receiving**
52 **other compensation as an agent working with a buyer as a client or customer in the purchase of a property.**

53 **FAIR HOUSING / NON-DISCRIMINATION.** The Firm and its agents agree that they will not discriminate based on race,
54 color, sex, sexual orientation as defined in Wisconsin Statutes § 111.32(13m), disability, religion, national origin, marital
55 status, lawful source of income, age, ancestry, family status, status as a victim of domestic abuse, sexual assault, or
56 stalking, or in any other unlawful manner.

57 **NOTICE ABOUT SEX OFFENDER REGISTRY.** The Prospective Buyer may obtain information about the sex offender
58 registry and persons registered with the registry by contacting the Wisconsin Department of Corrections on the Internet
59 at <http://www.doc.wi.gov> or by telephone at (608) 240-5830.

60 **DUTIES TO ALL PARTIES.** Under Wisconsin law, a firm and its agents owe certain duties to all parties in transaction,
61 including during pre-agency. The Firm and its agents owe the Prospective Buyer:

- 62 ▪ The duty to provide brokerage services fairly and honestly.
- 63 ▪ The duty to provide brokerage services with reasonable skill and care.
- 64 ▪ The duty to disclose in writing certain material adverse facts about a property, unless disclosure of the
65 information is prohibited by law
- 66 ▪ The duty to keep confidential information given to the firm in confidence or information a reasonable person
67 would want to be kept confidential, unless the law requires disclosure. The firm and its agents will not
68 disclose the confidential information of the parties.
- 69 ▪ The duty to provide accurate information about market conditions that affect the transaction within a
70 reasonable time of the party's request for it, unless disclosure of the information is prohibited by law.
- 71 ▪ The duty to safeguard trust funds and other property held by the firm or its agents.
- 72 ▪ The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose
73 the advantages and disadvantages of the proposals.

74	(x) _____		
75	Prospective Buyer	Print Name ▲	Date

76	(x) _____		
77	Prospective Buyer	Print Name ▲	Date

78	(x) _____		
79	Agent for Firm Print Name ►	Firm Name ▲	Date