



REALTRENDS
THE TRUSTED SOURCE

MARCH 2019 NEWSLETTER

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LEADERSHIP AND INDUSTRY CHANGES

MANY QUESTIONS WITH FEW ANSWERS

Real estate is moving at the speed of light. What do these changes mean to you?

By Steve Murray, president

The year started with some big surprises at the top of the real estate leadership ladder. Nick Bailey stepped down at CENTURY 21; John Davis stepped down from Keller Williams Realty, Ron Peltier changed roles at Berkshire Hathaway HomeServices. There were other senior management changes, as well, including the departure of Mike Ryan and Pete Crowe from RE/MAX International.

Adding to these changes, just before the end of the year, Realogy announced two new brands, Corcoran and Climb. Then, one of the most aggressive new firms of the last few years, Compass, announced that it's likely they would not be entering new markets in 2019 (at least in the United States) but would focus more on the continuation of building market share in the markets they are in and getting their technology platform more fully developed.

HOW WILL THIS AFFECT MY BUSINESS?

We have fielded dozens of calls from brokerage leaders as to what underlies all of these changes all within 60 days of each other. Generally, the questions fall into one of two categories: Is there something we should know about the background of these changes? And, will this affect the way business will be done in the future? Along with this question, of course, is how it might affect our business prospects.





REAL TRENDS

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FIRST PERSON

INSIGHT

We don't have any more clarity about the executive changes than anyone else outside a small circle of the executives involved in the decisions. What we can say with some certainty that, in most cases, the changes will not have any earth-shattering effects on the industry. Gino Blefari will become more involved with a broader range of issues at Berkshire, Gary Keller stepped back in as CEO and elevated Josh Team to be the president of Keller Williams. Michael Miedler has assumed Bailey's role at CENTURY 21 moving up from a senior position with the company. Ryan, who was with RE/MAX for over 24 years, will now serve in an advisory role.

Robert Reffkin's announcement that Compass was not going to enter new markets will have a significant impact on some brokerage firms' business prospects in 2019. Brokers in markets that Compass hasn't entered may be breathing a sigh of relief. Those in markets where Compass has established their brokerage can't see this as positive. Compass has proven to be effective at building their business in more than two dozen major markets and, according to Reffkin, they will continue to focus on building larger market shares.

Our answer to brokers in the markets Compass is in, and many others is that Compass is not the only aggressive recruiter of agents out there. Realty One Group, JP and Associates, HomeSmart, eXp and a handful of others are still very much in the hunt for growth through agent recruiting with low-cost agent business models. Whether the changes at the top of national firms are exciting to you or not, you will need to take them into account in your 2019-2020 planning. 🐾

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2019 MARKET

OPPORTUNITIES AND CHALLENGES

An uncertain market creates opportunity for brokers who learned from their mistakes in previous down markets.

By Steve Murray, president



With the housing sales forecast for 2019 decidedly uncertain, this sets up to be a challenging year for all incumbents, regardless of their size, market, brand name or business model. The news about executive leadership changes does not affect the market overall.

As to Realogy's launch of two new brands, we think that it creates new opportunities for them to grow their franchise reach. But, just as important, their unique approach to the potential for ownership of multiple brands sets up opportunities for growth of their own franchised brokerage firms that were not there before. It also opens the door to having capital from outside the industry.

KEY QUESTIONS FOR OWNERS

- Do you have a real budget and business plan for 2019?
- How much time have you allocated for relationship building activities with your highest producing agents?
- Do you have a system for building both vertical and horizontal communication with and among your management, staff, and agents?
- How many new services, programs, etc., are you planning to launch this year? Do you have the resources of time and people to launch them well? What are you going to cease doing so as not to overload or confuse your team?
- Do you have a cost reduction plan in your file for what happens if sales cool at any point?
- Do you have a minimum of three months cash reserves or access to cash available to you?

No one can say for sure what 2019 housing sales will look like, but when we examine a half-dozen forecasts, it seems that they all fall within up 3 percent in unit sales to down 4 percent or so in unit sales. So, bet on flat sales (at best), and you'll likely be safe in your forecasts and budgets.

Bet on flat sales (at best), and you'll likely be safe in your forecasts and budgets.

Do remember that tight inventories and a rising number of new agents are putting downward pressure on commission rates and vigorous competition for productive agents is putting downward pressure on gross Margins.

Those who plan best and focus on only a few key areas will come through this rough patch in better shape than they entered it. 🐾

BECOME A CATEGORY OF ONE

MAXIMIZE YOUR REFERRALS

It's still all about the relationship.

By Larry Kendall, author of *Ninja Selling* & Chairman Emeritus of The Group, Inc. Real Estate

Why do sales associates spend billions of dollars buying leads and chasing strangers? The research is clear. Buyers and sellers prefer to work with someone they know, like, and trust. That's why, according to REAL Trends 2018 Consumer Study, some 92 percent of consumers say they look for a referral from a friend when selecting a real estate professional.

Thought-leader Simon Sinek was asked what he thought about our industry's obsession with technology, disruption, internet leads, and e-transactions. Here's his response: "Human beings are social animals and relationships will always win. There is a small percentage of people who want a transaction. Most want a

relationship. Invest in your relationships. They are your most valuable assets."

So, back to our original question, "Why do real estate professionals spend so much time and money chasing strangers when consumers prefer a relationship?" Two reasons:

1. Because it works! Their real estate professional abandons most consumers shortly after closing. The Zillow Consumer Housing Trends Report of 13,249 consumers found that 74 percent of them never heard from their real estate professional again after closing! It's clear most agents have a transaction focus instead of a relationship focus.

Because consumers are abandoned, they are ripe for internet lead generation, capture, and conversion. Even though consumers would prefer to work with someone they know or a referral, they end up working with strangers by default.

2. Most agents are committed to providing the five keys to maximizing referrals (see next page). Those who are committed build both a large and smart business. A smart company is a business that is sustainable in all market cycles and has a high net income per hour. In contrast, most lead generation models have a low net income per hour due to the cost of buying leads.



FIVE KEYS TO MAXIMIZING YOUR REFERRALS

1. Relationship & Referral Mindset.

Every person in the United States knows at least four people who will move this year. Our mission is to access and earn those referrals. You do this by building relationships instead of chasing transactions. You build relationships through the frequency of interaction.

2. Your Appearance. People will refer you if you make them look good. How you dress reflects on the person who referred you. Studies indicate that your appearance affects your income by at least 20 percent, and some studies say as much as 100 percent. Sloppily dressed agents may get the business, but they don't get the referrals. A survey of sellers found their two biggest complaints were that the agent was late for the appointment, and the agent didn't dress for the interview.

3. Fabled Service. Can you deliver "Wow!" Is your service memorable? Does your customer feel they are exceptional—or do they feel like they are just a transaction? They are not transactions; they are people.

4. Consistency. Do you deliver the wow consistently? Or is it by accident? Do all your customers receive the wow? Or, are you selective and only provide that level of service to high-end clients? Agents are notorious for this, and it's not seen in any other industry. When you check into a luxury hotel, rooms may range in price from \$300 a night to \$5,000 a night, but all guests are treated with the same care at the check-in desk. They are not treated differently. Do the same.

A real estate friend of mine was referred to one of the richest men in the

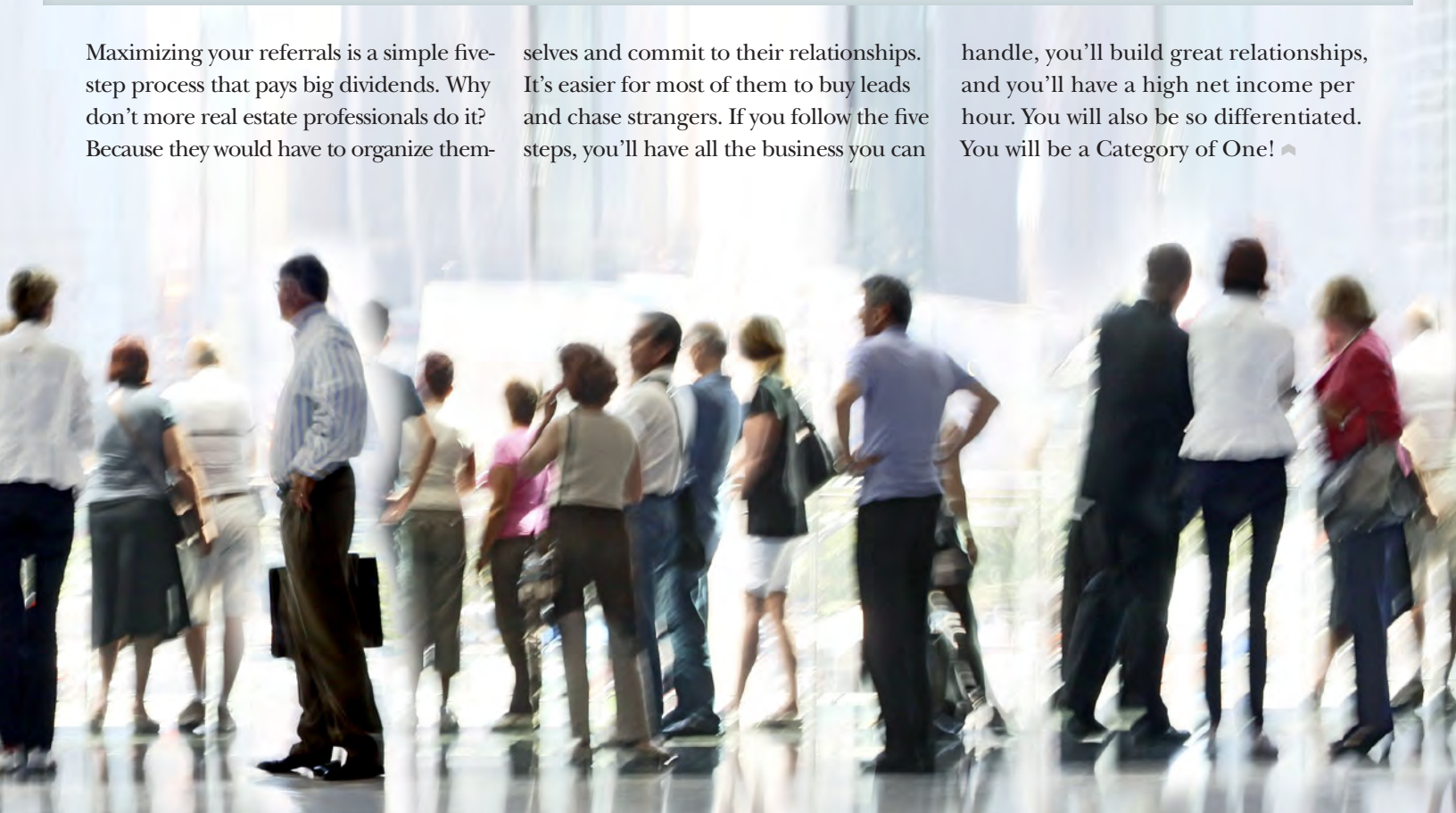
world by the man's limo driver who had purchased a low-priced, two-bedroom condo. Even though he was buying a lower-priced home, the limo driver received the wow and told the rich man about it. As a result, my real estate friend became the go-to agent for all of the corporate executives at the wealthy man's company—and consistently earns over \$1 million a year.

5. Follow-up and Flow. Have you ever sent a referral to an agent and never heard back? Unfortunately, this is the industry standard. When you follow up, you are differentiated in our industry, and you get even more referrals. You need a follow-up system (mailings, emails, phone calls) that are driven by your calendar and keeps you in flow with your clients and referral sources.

Maximizing your referrals is a simple five-step process that pays big dividends. Why don't more real estate professionals do it? Because they would have to organize them-

selves and commit to their relationships. It's easier for most of them to buy leads and chase strangers. If you follow the five steps, you'll have all the business you can

handle, you'll build great relationships, and you'll have a high net income per hour. You will also be so differentiated. You will be a Category of One! ▲



BROKER PUBLIC PORTAL

BROKERS REPORT ON ADOPTION

With a partnership with Homesnap, brokerage firms are finding success with the Broker Public Portal.

By Tracey C. Velt, publisher

The Broker Public Portal has quickly evolved into a viable alternative to paying for advertising and leads on the portal sites. REAL Trends spoke with two brokers who were early adopters to talk about agent adoption and future plans.

“The joint venture with Homesnap propelled the initiative to deliver a product that is easy for agents to post listings and receive leads with the comfort of knowing that those leads would not be resold,” says Craig McClelland, vice president and chief operating officer of Better Homes and Gardens Real Estate Metro Brokers in Atlanta, Georgia. McClelland is the secretary of the BPP Board of Managers. His firm is one of the early adopters of the Broker Public Portal, (BPP) which is owned and operated by real estate brokerages and MLSs to deliver a better home search experience and provide the same comprehensive, real-time MLS data used by real estate professionals. “The

BPP is agent-centric; not advertising centric,” says McClelland, who notes that at the local level, the Georgia MLS has recently rolled out BPP and Homesnap.

BHGRE Metro Brokers has 26 offices and 2,400 agents and delivered over one million leads to its agents in 2018, with no charge to the agents for those leads. “Being involved in BPP gives them the tools that protect their business so they can build a business. There are a lot of tools out there that do the same, but agents have to pay for it and where their contacts end up is anyone’s guess,” he says. “If you’re in a market that doesn’t Homesnap, this is the time to raise your hand and ask how to get involved and get the product to your market.”

For John M. Deely, CRB, principal managing broker with Coldwell Banker Bain in Seattle, Washington says, “The data we can deliver to our clients through the BPP is superior to

anything we’ve had before and competes with some of the tech companies that are presenting data to our clients. It levels the playing field,” he says. He says his agents particularly like social media marketing solutions. “We’re in the center of the tech vortex, and we have a lot of workers who rely on multiple apps and resources,” says Deely. He tells the story of a recent Millennial homebuyer who had “all these different searches with multiple portals going on.” We showed him the Homesnap app, and it provided him with a different listing that wasn’t showing up on the other portal searches. “He and his wife were so impressed with that. It ended up being the home they bought.”

HISTORY OF BPP

In 2014, a handful of real estate industry visionaries set out to prove the naysayers wrong. Brokerage firms representing 300,000 agents and MLSs with 350,000 subscribers announced an effort to

ABOUT THE BROKER PUBLIC PORTAL

Broker Public Portal with Homesnap follows industry-defined Fair Display Guidelines: there are no display ads from other agents or brokers on one's listings, and all inquiries are sent to the listing agent or broker for free. Agents pay no additional fees to have their listings exposed to millions of consumers every day, other than their regular MLS dues. Agents' listings are available to millions of consumers nationwide without advertising fees. MLS support is burgeoning as the cost per agent is only \$1 per month per agent, which includes Homesnap and Homesnap Pro for agents.

develop and manage a new consumer-facing website. The collaboration was born, and brokerage firms and MLSs contributed funding to establish the governance of the Broker Public Portal.

A Limited Liability Company was formed, and it drafted one of the first applications to utilize the RESO RESTful API that the National Association of REALTORS® set as the new standard for MLS data. The use of a standard API resulted in the rapid adoption of the Broker Public Portal concept by MLS organizations across the country. In very short order, 45 MLSs joined the effort.

From the beginning, the concept was straightforward. Broker Public Portal sought to place control of home listings back in the hands of the professionals who list and sell the property while providing consumers with a better online experience through direct access to real-time MLS data. The concept also

was committed to connecting consumers with the professionals best equipped to help them, the people who sell homes, not advertisements.

PARTNERSHIP WITH HOMESNAP

In January 2017, Broker Public Portal and Homesnap formed the National Broker Portal, LLC, a venture equally owned by the two companies. They agreed that the best path to success would be to establish a mutual partnership with Homesnap providing technology, brand, and operational expertise, rather than creating a vendor agreement. As equal partners, their interests are aligned.

This strategy added significant momentum to the project. The Homesnap consumer app became the No. 1 rated app in the Apple Store. Homesnap Pro gained penetration becoming available to 71 percent of U.S. agents. And by the end of 2017, the number of participating MLSs increased

to 145, a growth rate of 150 percent. Broker Public Portal with Homesnap represented brokerages and MLSs with over 875,000 agents. A revolutionary idea is becoming a reality. About 80 percent of the real estate industry is comprised of the largest 100 MLSs; the remaining 20 percent is represented by less than 600 smaller MLSs.

FUTURE OF BPP/HOMESNAP

One of the future goals of the BPP, according to Deely, is to “work on more information. That’s what our firm is doing with Homespotter within the Matrix, where one can set up and manage searches for clients to help them understand what they’re looking at and help them find the right home.”

According to McClelland, “We understand, as business owners and operators, that you can’t take your eye off adoption until you’re fully adopted. You can’t set new goals when you’re not finished with the first goal, which is nationwide adoption.” ▲

RECRUITING

HOW ONE AGENT RECRUITED 50 AGENTS HER FIRST YEAR AS A MANAGER

Baltimore Broker Nakia Evans talks about how teaching makes all the difference.

By Tracey C. Velt, publisher

One minute on the phone and you can sense Nakia Evans, manager of the Fells Point office of Coldwell Banker Residential Real Estate in Baltimore, is a confident leader. She has that poise and self-assurance that immediately makes you listen carefully. So, it's no surprise to know she bought her first house at age 23. "I bought a HUD home. I had three small children and didn't want to rent," she says. When, five years later, she decided to buy a bigger home, she did extensive research on the area she wanted to live, the home she preferred

and any financial assistance programs available. By the time she hired a Realtor to help her, all that needed to be done was view the homes and sign the paperwork. "She told me I would be great in real estate," Evans laughs. "So, I earned my license, but I kept a full-time job while practicing. In my family, you had a 9 to 5 job and a second part-time job; that's just what you do."

FACING ADVERSITY

In 2011, everything changed after she was in a car accident where she was hit

head on by a drunk driver. She was forced to take a year off work to recover. "My position at my full-time job was terminated because I wasn't able to work for so long. I decided to get into real estate full time," she says.

While working at an apartment community doing leasing, she earned her broker's license. She also took about 83 hours of continuing education credit in 2015. Finally, in 2016, she went full time. A year later, she was promoted to manager of the Fells Point office. She

recruited 50 agents her first year. She did it by crafting an Agent Bootcamp, offered to any agent, including those in her office. The boot camp offers business best practices such as time blocking, business planning and more. Her first boot camp, she had 35 agents attend.

HERE'S HOW SHE DID IT:

1. Target your audience. Since Evans had been a dual-career agent, she wasn't averse to working with part-timers. "It takes time to make it in this career, so if I spend time with people who show a desire, I feel I can help them be successful and they'll ultimately move to full time," she says. She also targets people in real estate school. "Most managers only target the ones who pass the test the first time. I reach out to those who don't pass the test on the first try as well. I wanted to get in front of them before they passed the exam

and had other brokers recruiting them," says Evans.

- 2. Get the word out.** Evans used Eventbrite, Facebook and Instagram to get the word out about her boot camps. "Social media is great for reaching people," she says.
- 3. Be flexible.** Rather than hold a boot camp during the day, consider holding it in the evening. "I used to hold coaching in the mornings and would get a few people. Now I do it in the evening, around 6 p.m. and the turnout is double."
- 4. Spend time with agents outside the office.** Evans does everything from attend continuing education courses with her agents to riding with them out in the field. "When agents see how involved I am, it shows how

much you care and that good will goes a long way," she says.

Other than events, Evans says it's vital to keep your current agents happy and talking about you. "Create video testimonials and feature them on your website. Share them to social media," she says. In fact, social media is vital to Evans' recruiting. "I showcase what we're doing on social media, including our involvement with our local Board of Realtors®," she says. Finally, thoroughly interview all prospects before hiring. "Meet them in your office, especially at a time when some agents will be around. Our agents provide feedback as well," she says.

Overall, the key to recruiting is to build relationships and offer value. If agents aren't getting it from their broker or manager, they'll be enticed by what you're offering. ♡

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WHO'S CHANGING THE GAME IN 2019?
 Click here to find out!

NINE PERCENT DROP IN JANUARY'S REAL ESTATE SHOWING ACTIVITY

Sluggishness portends slower spring showing and sales activity in key markets across U.S.

KEY POINTS:

- January showing traffic was down 9 percent year-over-year in the U.S.; the West Region saw its 11th consecutive month of declines with an 18.8 percent year-over-year drop in showing activity
- A decline in showing traffic continued again in January for the Northeast (-2.4 percent), South (-11.5 percent) and Midwest regions (-12.4 percent), the fourth consecutive month where all regions saw a year-over-year drop

If January is any indication, home sellers are bracing themselves for a tenuous start to 2019, as the first month of the year saw a 9 percent drop across the U.S. in year-over-year residential showing activity, according to data from the ShowingTime Showing Index®.

In a notable contrast to January 2018, when the 12-month average year-over-year increase in showing traffic

nationwide was 7.7 percent, January 2019 saw the 12-month average decline to almost one percent. The decrease in showing activity has been felt throughout the country but most noticeably in the West Region, which experienced an 18.8 percent year-over-year drop last month. The Midwest Region recorded a year-over-year decline of 12.4 percent in January, with the South Region not far behind with a year-over-year drop of 11.5 percent.

The Northeast Region saw a more modest drop of 2.4 percent in January.

“Showing traffic continues to subside from last year’s impressive heights,” said ShowingTime Chief Analytics Officer Daniil Cherkasskiy. “In January, we did not see an influx of home shoppers to reverse year-over-year declines in showings, which suggests that we may see slower traffic this spring compared to last year.”

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— Daniil Cherkasskiy,
ShowingTime
Chief Analytics Officer



ShowingTime® Showing Index January 2019

UNITED STATES

-7.7%

WEST REGION

-20.1%

MIDWEST REGION

-12.4%

SOUTH REGION

-11.5%

NORTHEAST REGION

-1.5%

The ShowingTime Showing Index tracks the average number of buyer showings on active residential properties on a monthly basis, a highly reliable indicator of current and future demand trends.

Methodology: The ShowingTime Showing Index® measures showing traffic per residential property for sale by agents and brokers utilizing ShowingTime solutions for property-access management. A higher number means that an average home receives more buyer visits in a given month. All index values are scaled relative to initial index value set to 100 for January 2014. ShowingTime facilitates more than 4 million showings each month.



The ShowingTime Showing Index, the first of its kind in the residential real estate industry, is compiled using data from property showings scheduled across the country on listings using ShowingTime products and services, providing a benchmark to track buyer demand. ShowingTime facilitates more than four million showings each month.

Released during the third week every month, the Showing Index tracks the average number of appointments received on active listings during the month. Local MLS indices are also available for select markets and are distributed to MLS and association leadership.

To view the full report, visit www.showingtime.com/index.

ABOUT SHOWINGTIME

ShowingTime is the residential real estate industry's leading showing management and market stats technology provider, with more than 1.2 million active listings subscribed to its services. Its showing products and services simplify the appointment scheduling process for real estate professionals, buyers and sellers, resulting in more showings, more feedback and more efficient sales. Its MarketStats division provides interactive tools and easy-to-read market reports for MLSs, associations, brokers and other real estate companies. ShowingTime products are used in more than 250 MLSs representing nearly one million real estate professionals across the U.S. and Canada. For more information, contact us at research@showingtime.com.

CORELOGIC RELEASES MOST RECENT HPI FORECAST VALIDATION REPORT

Analysis reveals 12-month, National Forecast is within 0.1 percent of actual HPI increase

CoreLogic® (NYSE: CLGX), a leading global property information, analytics and data-enabled solutions provider, released its latest CoreLogic HPI Forecast Validation Report that compares its 12-month CoreLogic Home Price Index (HPI) Forecast to the actual CoreLogic Home Price Index. The report compares the changes in national and key Core-Based Statistical Area-level (CBSA) forecasts made in November 2017 to the actual HPI index, which includes data through November 2018.

The CoreLogic HPI Forecast is a projection of home prices using the CoreLogic HPI and other economic variables. National values are derived from state-level forecasts by weighing indices according to the number of housing units for each state.

The report showed:

- The national forecast prediction of a 4.7 percent increase was within 0.1 percent of the 4.8 percent increase of the HPI for the 12-month period ending in November 2018.
- The most accurate CBSA-level forecast was for the Cambridge-Newton-Framingham, MA area, which at 5.5 percent came on target of the actual HPI increase of 5.5 percent.
- The widest CBSA gap was in San Diego, CA with a 6.4 percent over-estimation of actual increase (10.4 percent forecasted vs. 4.0 percent actual). CoreLogic noted that the variance in this under-valued CBSA was due to a downturn of overall demand, combined with a concern over long-term affordability.

- Among the 10 most accurately forecasted major MSAs, nine areas had forecasts with less than a 1 percent difference from actual values.
- Severe inventory shortages and rising interest rates impacted the forecasts of several MSAs, reflecting the overall market volatility of the past 12 months.

“The latest HPI Forecast Validation report continues to demonstrate why CoreLogic is the gold standard when it comes to home price forecasting,” said Ann Regan, executive, product management for CoreLogic. “Despite an extremely volatile market, our forecasts were still able to provide terrific insight into the overall housing economy, providing HPI clients with the reliability they need in the current market.”

10 Most Accurately Forecast CBSAs

Listed in order of accuracy

Ranking	Market	Population	HPI Actual Change	Forecasted Change	Difference
1	Cambridge-Newton-Framingham, MA	4.732 million	5.5%	5.5%	0.0%
2	St. Louis, MO-IL	2.797 million	3.7%	3.7%	0.0%
3	Pittsburgh, PA	2.360 million	4.6%	4.3%	-0.3%
4	Portland-Vancouver-Hillsboro, OR-WA	2.389 million	4.7%	5.0%	0.3%
5	Seattle-Bellevue-Everett, WA	3.867 million	5.7%	5.3%	-0.4%
6	Virginia Beach-Norfolk-Newport News, VA-NC	1.718 million	2.6%	3.4%	0.8%
7	Jacksonville, FL	1.631 million	6.1%	5.2%	-0.9%
8	Los Angeles-Long Beach-Glendale, CA	13.131 million	5.2%	6.1%	0.9%
9	Denver-Aurora-Lakewood, CO	2.850 million	6.3%	5.4%	-0.9%
10	Cincinnati, OH-KY-IN	2.131 million	5.4%	4.4%	-1.0%

Source: CoreLogic November 2018

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WEBSITE ACCESSIBILITY LAWSUITS SOARED IN 2018



What are you doing to make your website more accessible? You better do something, or you may have to face a lawsuit.

By Sue Johnson, strategic alliance consultant

Thanks to a 2017 decision by the Department of Justice (DOJ), legal challenges over website accessibility for disabled individuals are a rising threat to companies with an internet presence.

The federal law governing website accessibility is Title III of the Americans with Disabilities Act (ADA), enacted to prevent discrimination against people with disabilities in places of “public accommodation” such as offices, retail outlets, and events.

Passed in 1990, before the advent of the Internet, the law says nothing about websites. However, the DOJ has made it clear that it considers a company’s website to be a place of “public accommodation” subject to the ADA, and it announced in 2015 that it would propose website accessibility standards under Title III by 2018.

Then, in December 2017, the DOJ withdrew all pending ADA Title III rulemakings, saying that it is evaluating how best to address the availability of

next-generation services that provide text, pictures, and video capabilities.

In this regulatory void, the number of website accessibility lawsuits filed by the plaintiff’s bar and disabled advocacy groups against private companies has skyrocketed.

THE FUNDAMENTAL FACTS

According to the law firm of Seyfarth Shaw, the number of ADA Title III lawsuits filed in federal court in 2018 hit a record high of 10,163—up 34 percent from 2017 and triple the number of cases filed in 2013. California, New York, and Florida led the pack by a wide margin as the states with the most Title III lawsuits, with Texas, Georgia, Pennsylvania, Arizona, Massachusetts, New Jersey, and Alabama making the top ten. Seyfarth Shaw noted that its statistics do not even include the number of filings under state anti-discrimination laws, which it does not track.

Actual and potential defendants include companies across the whole range of industries. The law firm of

Ballard Spahr recently reported accessibility claims against mortgage websites that allegedly hinder disabled individuals from accessing applications and other online content. The National Association of Federal Credit Unions (NAFCU) said that hundreds of credit unions in 26 states received demand letters in 2017-2018 from law firms representing disabled clients who allegedly could not access the credit union’s website. The National Association of Realtors® (NAR) has noted that letters to real estate brokerages from law firms threatening website accessibility litigation are plentiful.

WHAT’S AT STAKE?

Plaintiffs cannot sue for monetary damages under the ADA, but they can seek a court order requiring the company to redesign its website. The court’s ruling for plaintiffs typically need businesses to implement the Web Content Accessibility Guidelines (WCAG) 2.0, Level AA, a universally accepted set of guidelines for accessible online content.

Plaintiffs also can seek reimbursement of attorneys' fees. Seyfarth Shaw says that a majority of federal courts have not been willing to grant early motions to dismiss, and advises that defendants who are unwilling to settle should prepare to go through discovery and summary judgment, if not a trial.

LEGAL DEFENSES ARE DWINDLING

Many defendants have filed motions to dismiss based on a denial of due process, pointing to the lack of DOJ regulatory guidance. Some district courts have agreed. This argument was rejected in January 2019 by the Ninth Circuit Court of Appeals in *Robles v. Domino Pizza*, which found that Domino's has been on notice of DOJ's position that its website must effectively communicate with disabled customers since 1996. The court also found that the district court erred in applying the "primary jurisdiction" doctrine, under

which courts do not decide cases where enforcement agencies with particular expertise should weigh in first.

Some district courts also have dismissed website accessibility cases in which the plaintiff has not alleged that barriers on the website impeded access to an actual physical place. But appeals courts in recent cases (like the Ninth Circuit in *Domino's* and the Eleventh Circuit Court of Appeals in *Haynes v. Dunkin' Donuts*) have taken the position that the ADA is not limited to tangible barriers that disabled persons face but can extend to intangible barriers, such as online services of a physical location.

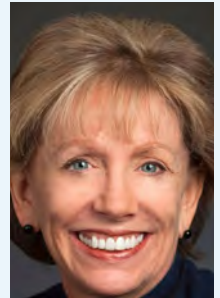
A January 2019 National Law Review article written in the aftermath of the Dunkin Donuts case concluded that "[t]he arguments available to businesses seeking to dispose of website accessibility claims at the outset of litigation as a matter

of law are dwindling, which may result in opportunistic plaintiffs' attorneys filing even more claims regarding website accessibility."

REDUCE LEGAL RISKS

Given this recent spike in lawsuits, it's advisable to assess your website's compliance with Title III of the ADA now, with the assistance of legal counsel experienced in website accessibility issues. Not only can you reduce your legal risks, but you will be accommodating a potentially valuable segment of the marketplace.

Sue Johnson is the former executive director of RESPRO, the Real Estate Services Providers Council Inc. She retired in 2015 and is now a strategic alliance consultant.



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VALUING SMALL- TO MEDIUM-SIZED BROKERAGE COMPANIES

By Scott Wright,
president

Our new e-book has generated a lot of buzz among broker owners. At REAL Trends, we've been getting a lot of inquiries from folks wondering what's behind the science of valuing smaller brokerage firms.

It's no secret that the housing bull market is in the rearview mirror — years of sharply rising home prices driven by a lack of inventory already created affordability issues. When you factor in rising interest rates and economic fears driven by tanking stock markets and political turmoil, the housing market is no doubt going to feel it. As existing and new home sales continue to slide, the residential brokerage industry is indeed feeling a bit of a pinch.

These questions and more prompted REAL Trends to develop the e-book mentioned above that focuses on smaller-sized firms. This book is free for download on our website, and below are some highlights:

1. Approaches to Value. Learn about the two most common strategies that are used to value residential real estate brokerage firms. Understand how to normalize earnings,

which expense and income items are included and excluded? How do we treat earnings when the owner(s) is a material producer? We dive deep into these topics and more and provide worksheet examples to tie it all together.

2. Deal Terms. Once a value is established, what are reasonable terms that buyers and

As existing and new home sales continue to slide, the residential brokerage industry is indeed feeling a bit of a pinch.

sellers can expect? Most commonly, only a portion of the purchase price is up front, with the balance paid via a contingency-based earnout. With the primary asset in this industry being an independent contractor who can come and go as they please, the risk needs to be spread between the buyer and the seller. We provide examples of standard terms and how earnouts are calculated.

3. Key Factors That Influence Value. Numerous factors influence value, some more important than others for smaller-sized firms. How does the role of the owner affect value? How does the concentration of sales across the agent base affect value? Do synergies matter? How are things different if we're dealing with firms affiliated with national or regional franchises?

Download the FREE e-book to get answers: [CLICK HERE](#) ▶

This cyclical activity, mixed with the sharp and steady structural decline of retained company dollar, has put the heat on firms of all sizes. Smaller firms though are feeling especially vulnerable given their lack of economies of scale. There are many excellent smaller brokerage firms able to maintain top- and bottom-line margins, but countless more are finding it harder to repel the relentless assault on their businesses.

ACQUIRING AND SELLING SMALLER FIRMS

The inquiries we're getting are from both buyers and sellers. Buyers want to understand the mechanics of acquiring smaller firms—what to look for, how to value them, and what kind of terms they should be offering. Sellers, depending on their state of urgency, want to know some of the same—what's their value, what are reasonable terms, and how do they increase their value if they decide to stay the course?

GLOBAL RESIDENTIAL PROPERTY PRICES

PRICES WILL RISE IN 2019 AT SLOWER PACE

Here are the factors affecting property prices, according to the 2019 Knight Frank Prime Global Forecast.

By Peter Gilmour, chief foreign correspondent

Slowing price growth is the story for 2019. Five of the 15 global cities tracked in the Knight Frank Prime Global Forecast—New York, Singapore, Dubai, Mumbai, and Hong Kong—all show zero or negative price growth. Berlin, Madrid, and Paris top the list with price growth of 6 percent, followed by Miami at 5 percent, Vancouver at 3 percent, Los Angeles and Sidney at 2 percent, and Geneva, Melbourne and London at 1 percent.

Berlin, Madrid, and Paris are predicted to resist the downward trend of prime residential property prices in 2019. According to the Knight Frank Prime Global Cities index, which tracks property prices across 43 cities worldwide, prices are rising at the slowest rate since 2012.

An interesting statistic is that prime residential prices, over the last ten years, have risen by over 100 percent in Berlin and Vancouver, and more than 50 percent in Sydney, Melbourne, and Miami. One major anomaly is that, while prices have risen 33 percent in London over the last ten years, the previous five years have shown a reduction in prices of 2 percent.

FACTORS AFFECTING PRICES

The significant factors affecting the fluctuation in property prices, according to the report, are changes to property market regulations, the rising cost of property financing, uncertainty in the UK and Europe due to Brexit, and the increased supply of prime property in some markets.

Vancouver, Singapore and Hong Kong have all introduced new property taxes in 2018, which have affected prices as buyers and developers adjust. Vancouver added a 20 percent tax on foreign buyers and a higher stamp duty. Singapore added a buyer stamp duty for foreign buyers and developers, and Hong Kong added a vacancy tax for developers with apartments unsold for six months.

New Zealand introduced a total ban on foreign buyers purchasing existing homes, although they still qualify to buy new properties. Events that will impact property prices in 2019 will be led by the UK leaving the EU, which is still a significant uncertainty and affects many countries. There may be a

possible relaxation of loan-to-value ratios in Hong Kong which will impact borrowing. Technology will be seen as an essential driver to price growth with universities, technology parks and start-up industries playing an active role in increasing demand for residential properties in certain areas.

Although U.S. buyers are benefiting from the strong dollar, there hasn't been a steady flow of U.S. buyers offshore in 2018. 2019 may be the year that U.S. buyers increase their share of overseas purchases.

The report also predicts that in addition to the six major urban markets that saw residential properties sell over \$25 million in 2018, San Francisco, Chicago, Dallas, Beijing, and Shanghai could join this elite group of cities with ultra-prime property sales.

Property remains a highly rated asset class, and for investors in prime residential property, 2019 may be a year of opportunity. ▶



THE OTHER SIDE OF
REAL ESTATE

THE KEY TO

MAKING SUCCESSFUL TECH DECISIONS

It's amazing how simple some concepts appear but how complicated they are in practice. Here are some observations on how decision making at the brokerage level can improve.

By Warren Dow

Who's the decision maker? Ultimately, the broker-owner is the final decision maker at 99 percent of brokerages. But, the size of a brokerage has an impact on how much involvement the broker-owner has in the due diligence and analysis of whether they should say "yes" or "no."

A smaller brokerage, generally up to 15 or 20 agents, may only have a single administrator and their agents. This would leave the broker-owner involved in nearly every step of the decision-making process. On the other hand, a medium-sized brokerage, between 20

to 50 agents, will start hiring management and administrative positions. The management team could be dedicated to a specific function, like accounting, or they could have more open-ended positions that touch many different aspects of the business, such as business development. Finally, a large brokerage, generally over 50 agents, will start hiring dedicated positions for each management function. In most brokerages, decisions usually pass through the appropriate channels before reaching the broker-owners desk for a final decision.

USER ADOPTION IS THE KEY

More importantly, user adoption is the key to a successful decision. Management should be asking the key questions: Will my agents and staff use this? If so, how many of them? The only way to get the answer to these questions is to make sure stakeholders, such as agents and staff, are brought in to give their feedback. Not only will this information be useful in making the final decision, but if the brokerage decides to move forward with the solution, the agents and staff are much more receptive to using it because they were part of the decision-making process.

MANAGEMENT SHOULD BE ASKING THE KEY QUESTIONS:
Will my agents and staff use this? If so, how many of them?

As an example, in my role as vice president of business development, I've been tasked with moving all agent-focused services to the cloud from a dedicated remote desktop server

I hadn't had time to have one-on-one meetings with all the firm's agents and staff. I had a decision to make. Do I present my proposal to my broker-owner without stakeholder feedback?

Or, do I delay my goal and the job I'd been tasked with to ensure a successful migration? I ended up calling a good friend and former business partner, Alex Camelio, for his take, and he said, "Your agents being a part of the decision is just as important as the decision itself." I took his advice, and it's made all the difference.

My advice to vendors: Help your decision-makers present your product and services to their teams; give them the assets to bring everyone into the process. To other brokerages, make your agents a part of the process; otherwise, the success of your decisions are just a roll of the dice. ♣

Warren Dow is the VP of Business Development at Peabody & Smith Realty based in New Hampshire. Warren has over a decade of leadership experience in real estate software and services. With a degree in behavioral neuroscience and a background in technology, consumer engagement, and marketing strategy, Warren offers a unique perspective in brokerage efficiencies with a client-first mentality. ♣



environment. Within a few weeks, I knew which vendors I wanted to work with.

You can have the best system in the world, but if no one is using it, it doesn't make a bit of difference.

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—Steve Murray, president

2019

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