REALTRENDS
THE TRUSTED SOURCE

COMPLIMENTS OF

APRIL 2017 NEWSLETTER

THANK YOU

30 YEARS OF SHARING AND COLLABORATING

Thank you to the executives who shared their expertise with us.

by Steve Murray, publisher

This issue marks the end of our first 30 years of publishing our REAL Trends Newsletter. Times have changed. Where we initially published the newsletter monthly in a printed fashion; today it is published online. Back then, we had 2,000 readers of the print publication. Today, we have over 30,000 readers of all our publications. Then, we were a subscription-based newsletter. Today, we are an advertising-supported publication company.

While we want to thank our readers; we also want to thank the hundreds of industry leaders who have shared their time to give us their stories, opinions and thoughts. Without these relationships, REAL Trends would not exist. While industry trends and strategies are vastly entertaining and interesting, it's the people who have made it fascinating and enjoyable.

For this, we remain sincerely thankful. To all who have willingly shared their time and thoughts with us, thank you.

REAL TRENDS VALUATIONS

WANT TO KNOW how much your brokerage is worth?

Contact Scott Wright or Steve Murray today to get more information about brokerage valuations.

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WHAT'S ON THE HORIZON FOR OUR INDUSTRY?

The more things change; the more they stay the same?

by Steve Murray, publisher

We're already at work on our next 30 years. All the pieces are there—a deep base of industry knowledge and a desire to report on it and engage with the people of residential brokerage. We also have a young, talented and somewhat experienced team who are learning about brokerage and related firms at a phenomenal pace. It's a business model built to last. We have a desire to continue to be The Trusted Source—now and forever.

When we old-timers talk, we're amazed at how resilient the industry has been. We can all admit that we thought it would have changed much more than it has—not that we wanted it to change. As you can see from some of our articles in this issue, while the players have changed, the fundamentals haven't.

When we old-timers talk, **WE'RE AMAZED AT HOW RESILIENT** the industry has been.

The internet was supposed to have changed everything, yet it really hasn't. Sure, the internet has expedited communications and access to information. It's also made it easier to find customers. However, the basic underpinnings of the industry remain remarkably similar to that of 30 years ago. Funny to think that 30 years ago, Keller Williams had just launched, Sears and Merrill Lynch were still around, and Berkshire Hathaway hadn't even begun to think about being in our business. There were more MLSs and regionalization was still in the future, but the central role of the Realtor® marketplace remains intact—perhaps stronger today than back then.

There are scenarios yet to unfold. Read further in this issue about some of the things that we think could have a profound impact on housing and brokerage. Some could change the way the industry is arranged, such as Upstream and ratings and review sites.

It will be fun to see where it all goes. And, we will do all we can do to be there to analyze it and report to you on our findings.

BIG ISSUES

REAL ESTATE IN THE NEXT 10 YEARS

Where will the next big impacts on housing come from?

By Steve Murray and reprinted from CEO Daily

In a recent session at the Association Executive Institute entitled "Real Estate in the Next 10 Years," REAL Trends shared some thoughts about where some of the big impacts on housing and brokerage will come from. Here are some trends from that presentation:

1. **The Advent of Driverless or Autonomous Cars**

   Americans spend an average of $9,100 per year on their cars. In total, $1.7 trillion was spent on buying, driving and repairing cars. Over $152 billion is spent on property and medical damage claims annually. Nearly 40,000 deaths and 4.4 million personal injuries were recorded in 2015, and that is just in the United States. And, virtually these deaths and injuries and claims were the result of driver error of some kind.

   Yet, on average, a car sits unused 96 percent of the time, and nearly 76 percent of all drivers drive alone.

   Imagine then, for the average driver who drives about 12,000 miles per year being able to have the same mobility at $.40 per mile—perhaps lower. That same driver would then save over half of the annual cost of having a car—$9,100 versus $4,800 per year for the same miles and destinations. Now think about that extrapolated over the whole population and the savings would be on the order of $800 billion per year!

   Here's the question: Where would Americans spend that extra money? Would it be on entertainment, food, travel, clothes—or would some extra go into housing? When you can work while in a car driven by someone or something else, do commute times matter that much anymore? Couldn't you live further out and have that place in the country? What about disabled Americans, wouldn't they be able to get around easier? And, how would such a change affect their choice of housing?

   So, while there may be no direct effect on brokerage (imagine agents focusing on their clients while in the car instead of driving), there could be a profound impact on how much consumers can spend on housing and how and where they might choose to spend it.

When you can work while in a car driven by someone or something else, do commute times matter that much anymore? Couldn't you live further out and have that place in the country?

2. **The Lengthening of Life spans**
   We are on the verge of enormous changes in life spans due to advances in what we call bio-genetics. Such changes allow doctors to grow your own replacement organs and limbs, solving the issues of the aging of our cells and their ability to replicate as we age—all are experiencing material advances.

   What happens to housing should our life spans increase 10-15-20 years? What changes happen in our work lives, with the housing we chose and where we end up when we are healthy and living well into our early 100s? How will that impact housing and housing choices? We already have tremendous growth in elderly and assisted housing but, clearly, it won't be enough if this happens—which most experts believe it will.

   Where will the money come from? How will Social Security and Medicare survive if you add 10-15-20 years to people's life times? These are questions that are going to plague America in the years ahead, and housing will be right at the heart of the challenges. We already are building enough for Boomers to downsize—how will the new supply be created?

3. **The Securitization of the Equity Side of Housing**
   Total mortgage debt at the end of 2015 was about $8.4 trillion dollars. For the most part, it has become securitized or it can be. But what about the estimated $13 trillion worth of housing equities (this was one estimate and it could be far larger)? Could it be securitized? Co-ops in New York are but one small, localized example where someone doesn't own a home but rather shares in a corporation that permits them to occupy a unit.

   There are approximately 22 to 24 million, one- to four-family homes owned by investors today. An estimated 400,000 are owned by publicly held investment companies. There are a growing group of companies buying more and some who are outright offering to buy homes directly from sellers.

   It is entirely possible that a new class of homeowner will emerge. An investor-owned class where rather than owning or renting, someone could buy shares in a company and choose to occupy the home of their choice. Think it's crazy? Remember that the Case-Shiller Index was built originally to enable investors to bet on the direction of the housing market.

   The transaction costs of the current fee-simple title way to acquire the right to live in a home are around $170 billion a year. Smart money is betting on a change that reduces these costs and where investors can participate in the housing market through these vehicles. Don't doubt that there are some smart investors looking at this right now. After all, $13 trillion is a lot of money to have tied up in equities in one market.

Rather than owning or renting, someone could buy shares in a company and choose to occupy the home of their choice.

4. **The Shift from Relationship-based Agent Selection to Online Selection**
   This one poses the biggest change to the way our business operates. There are three foundational parts of the Realtor marketplace—the use of agents in the purchase or sale. This remained remarkably consistent for 30-plus years. Second is how consumers find and choose agents for the purchase and sale of houses. Again, this has remained consistent for 30-plus years where consumers use a prior relationship to make their choice. Thirdly, the view by consumers that the commission-based method of compensation is fair to both parties.

   It is the second where change is going to take place first. Increasingly, consumers are using ratings and review sites to make their final choices. In our 2014 consumer study, over 55 percent of Millennials, 36 percent of Gen-X and 26 percent of Boomers used such a site before making their final agent choice. Of those who did visit a site, their decision was either reinforced or changed by what they found—or didn't find.

This will increase in the years to come as Gen-X, Millennials and even Gen-Z make up more of the buyers in the market. They will increasingly go to such sites, more often before they even think of using a referred source. Today, almost two-thirds of the agents are chosen based on a relationship; in the future that could fall to half or even fewer in the next 10 years. This will transfer market share and power to the more experienced, higher-performing agents and teams. This is particularly true of those with great expertise in marketing online.

Such a shift will further alter an already strained financial situation for brokerage firms; will make it far harder for new agents to get a foothold in the market, and raise the cost of high-producing agents beyond where it is today. While this is not likely a Tsunami-level event, consider it a large tidal surge—one that keeps on building, slowly but surely.

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AN EXCERPT FROM THE BOOK “NINJA SELLING”

STOP SELLING AND START SOLVING!

People love to buy, but they hate to be sold. So, stop selling!

by Larry Kendall, author of Ninja Selling and chairman of The Group, Inc.

What is *selling?* Webster’s New World Dictionary describes selling in two different ways. They are:

1. Selling, at its best, is serving and solving—often solving a need or want customers didn’t even know they had. The customer comes first. The word *sell* comes from an old English word, *sellan,* meaning to give. Giving service, counsel, and value is the highest form of selling and is the foundation of *Ninja Selling*. Is there any more noble purpose in life than to bring value to others? Our mission is to help our students sell in this manner and make it easy for both them and their clients.

2. Unfortunately, there is another form of selling. Selling, at its worst, is pitching and pushing—often resorting to high-pressure tactics and trickery. In fact, the slang description of selling in the dictionary is to cheat, hoax or dupe. The salesperson is looking out for their interests, not the customers. Unfortunately, this form of selling is often depicted in movies and gives selling a bad image. It causes many to avoid a career in sales and others to avoid salespeople. It is to this form of selling that we say: “Stop selling!” There is a better way. We call it the Ninja Way.

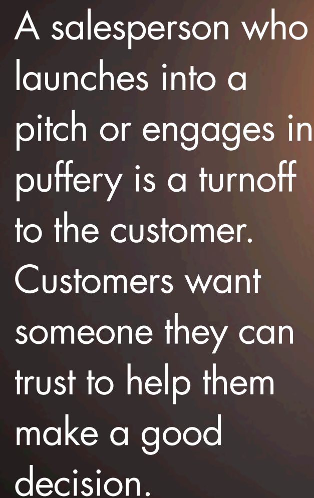
When customers sense high-pressure tactics or manipulation, they either put up their defenses, causing the salesperson to push harder, or they run away, causing the salesperson to chase them. Would you like to attract customers rather than chase them? It’s simple: stop selling and start solving! Focus on creating value by asking the right questions and finding out what your customers want and are willing to pay for. As a Ninja, you will be selling at its very best—solving, serving and giving value. And, customers will beat a path to your door.

The Internet Has Changed Selling in Two Profound Ways

The days of high-pressure selling techniques are over. Perhaps you were taught combative selling; always be closing (ABC); you have to have 10 no’s to get your first yes—grind them down, they buy or die. Customers no longer put up with these tactics. What’s changed? The internet has changed selling in two profound ways.

First, in the old days, the salesperson used a superior product and market knowledge as a lever to manipulate or outwit the customer, who was at a distinct disadvantage. Today, most customers have done a great deal of research online, even before they enter the showroom, sales center or open house. In some cases, they know more about the market and the product than the salesperson.

A salesperson who launches into a pitch or engages in puffery is a turnoff to the customer. Customers want someone they can trust to help them make a good decision. Do customers get the feeling that you are there to help them or to sell them?



Second, since the advent of the internet, pushy salespeople can be roasted by customers on social media. A salesperson’s reputation can be made or broken by just one customer. On the positive side, when you create value—solve their problems (pain) or make them feel good (pleasure)—your customers consider you their trusted advisor. They will tell their friends on social media. Today, the story your customers tell about you is far more important than the story you tell about yourself.

What story will they tell? That you were selling? Or, that you were solving and serving?

BROKERAGE

DOLLARS AND CENTS

LESS AND LESS FOR THE BROKER!

In 2016, the average broker kept only 15 cents of every dollar of commission earned.

By Scott Wright, director of mergers and acquisitions

As recent as the mid-1990s, the average brokerage firm was retaining about one-third of every dollar of commission earned by their agents. Those days indeed bring back fond memories for brokers who were around back then, but many of these same brokers are today being driven out of the business as the retained dollar continues to decline.

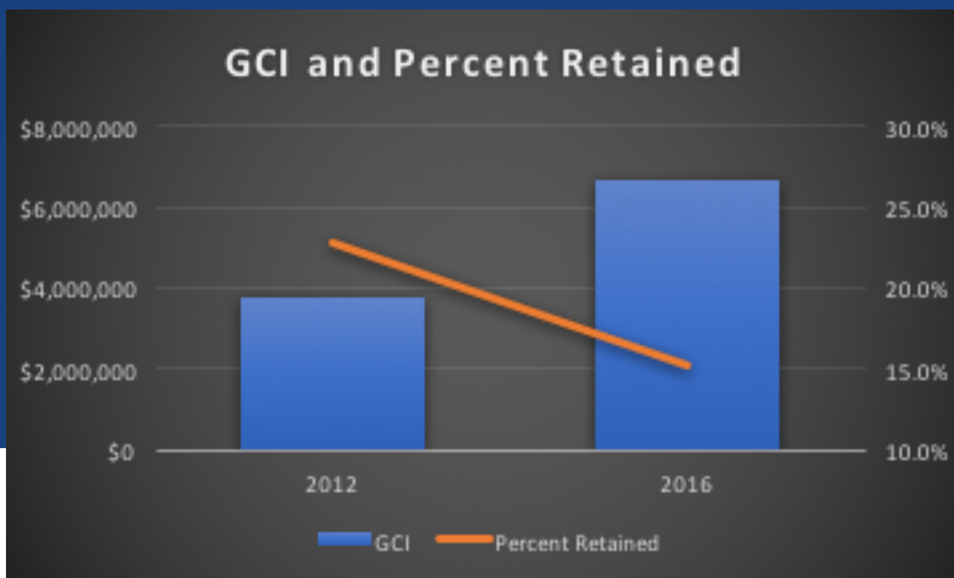
Brokers are Losing Bargaining Power

Ask the owner of any brokerage firm about this decline, and the answers will be resoundingly similar. Brokers are losing bargaining power as they try to recruit and retain top agents. We can discuss the forces behind this trend until we're blue in face, but the fact is it's the new reality in the real estate industry.

At REAL Trends, we've been watching this trend unfold for nearly 30 years, and have been able to quantify it via various research studies and benchmarking tools. The recent update of our benchmark data shines a light on what brokers have been dealing with.

The percentage of gross commission income retained had been declining since well before the mid-1990s when it was about 33 percent. It fell to 28 percent in 2003 per our Brokerage Performance Report. As you can see in the chart, "GCI and Percent Retained," it averaged 23 percent in 2012, which happened to be the trough for housing prices following the bloodbath several years prior. It has continued to decline. With 2016 numbers now in the books, we see a ghastly 15 percent retained. The average broker is now only keeping 15 cents of every dollar of commission earned!

The hundreds of brokers populating this benchmark report come in all shapes and sizes. Some are small independents, some are major national brands, some are on graduated commission plans, and some are on 100 percent plans. By the nature of averages, some brokers are still retaining well above 15 percent, and some are only in the single digits. When it all comes together, the trend for percent retained continues to slide.



With 2016 numbers now in the books, we see a ghastly 15 percent retained. **The average broker is now only keeping 15 cents of every dollar of commission earned!**

Forced to Adapt

Brokers have been forced to adapt to this downtrend in a variety of ways, one being to increase office productivity. As you can see in the chart, per-office Gross Commission Income has significantly increased since 2012 (since the brokers that feed our benchmark data vary in size, we standardize the numbers on a per-office basis). In 2016, the average office brought in $6.7 million in GCI, nearly double what it did in 2012.

Despite declining retention rates, this big increase in office productivity has led to an increase in Company Dollar, to the tune of 19 percent over this same period. The savvy brokers have so far been able to adapt to improve their above-the-line numbers on balance. Though brokers are getting less and less of every dollar of commission earned, they're finding ways to thrive in this ever competitive real estate market.

REAL TRENDS 500 2006-2015

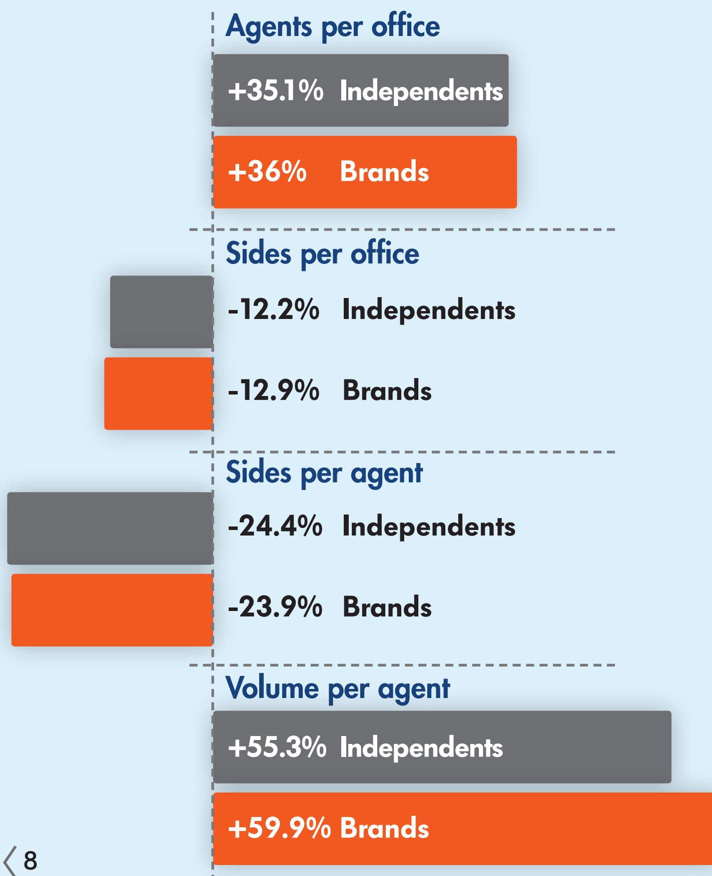
FACTS AND TRENDS FROM REAL TRENDS TOP 100 FIRMS 2006-2015

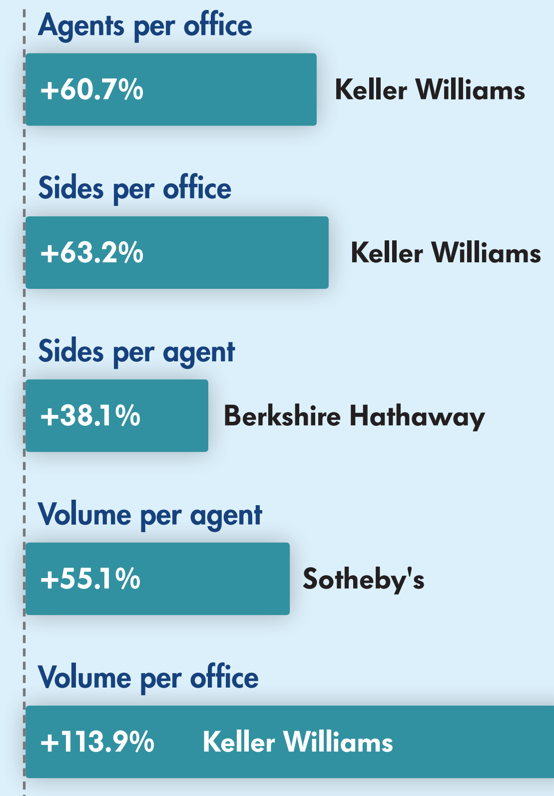
Data analyzed from almost 10 years of brokerage insights

By Steve Murray, publisher

We did a review of the top 100 firms in the country from 2006 to 2015 that were ranked on the REAL Trends 500. Here's a synopsis of those findings.

- 70 firms that were ranked in the top 100 firms in 2006 were still in the top 100 as of 2015. Of these, 35 were affiliated with a national brand and 35 were independent;
- 50 firms grew their closed transactions over those 10 years while there were 20 that didn't.
- Total new and existing home sales were down 23.1% from 2006 to 2015 according to NAR's home sales totals.
- These 70 firms grew on average 13.3% during the same period.
- These 70 firms averaged 13.4% increase in agent productivity and 13.8% in office productivity in the 10 years.
- Of the top 10, eight grew almost entirely via organic means. Two grew mainly through acquisition of other firms.
- Of the top 10, seven were affiliated with a national franchise organization while three were independent.
- Two firms grew more than 240% during the 10 years. One grew almost entirely by organic means and one almost totally by acquisition.
- Of these 70 firms, seven were in the northeast, 23 were in the south, 17 were in the Midwest and 24 were in the western region.





NEW STUDY

WHAT TO PAY AND HOW TO FIND (AND KEEP!) GREAT PEOPLE IN YOUR BROKERAGE

The power of your real estate firm and brand is strengthened by the caliber of people you have supporting it. Finding the right people who share your vision, work ethic and culture is no small feat.

by Deirdre LePera, director of business development

Several employees can have one or two of the characteristics above (vision, work ethic, cultural fit), but the almost-there approach only works for so long. Ultimately, it's the employees who align with you in all three areas that drive the success of your company short-term and the success of your brand long-term.

The other side is that the employee who aligns with you emotionally also must align with you rationally. This is where the expected hours of work in a week, the number of vacation days per year and the total compensation package come into play. Even though this is the analytical part of the equation, it is often where brokerage owners have a challenging time establishing a competitive package that is beneficial for both parties.

Over the last 15 years, REAL Trends has periodically produced a Brokerage Compensation Report to help brokerage owners identify the average compensation for the key management positions inside real estate firms. This year, the data for the REAL Trend's 2016 Brokerage Compensation Report is comprised of nearly 65 residential real estate firms representing over 37,500 sales associates and $103.8 billion in total sales volume.

The report includes compensation information for nine different real estate brokerage positions, including the CEO, CFO, Technology Director, and Office Manager. Virtually every brand and business model is represented in the report with total compensation for each position segmented by bonus, benefits, and base salary. The total compensation is compared against the firm's annual GCI and annual gross margin revenue. Additionally, compensation for each position is segmented by the agent count, regional location and if the brokerage is affiliated or independent.

The purpose of creating the 2016 REAL Trends Brokerage Compensation Report is to provide brokerage owners with the analytical information they need to hire and retain the right people to drive their business.

Let REAL Trends provide you with the real estate industry's most comprehensive resource on total compensation for key positions in a brokerage. Get the Brokerage Compensation Report today.

Let REAL Trends provide you with the **REAL ESTATE INDUSTRY'S MOST COMPREHENSIVE RESOURCE** for key positions in a brokerage.

6 SIGNS THE MARKET IS SOFTENING

Predictions for the national real estate market.

by Steve Cook, editor of Real Estate Economy Watch

Last year was not a great one for the housing economists who forecast home sales. Most, include NAR[1] and Fannie Mae[2], predicted that existing homes sales would end up south of a 3 percent increase over 2015. In fact, sales did a little better, rising 3.2 percent for the best sales year since 2006.[3]

This year, experts are low-balling sales even more. Realtor.com has existing home sales rising only 1.9 percent this year[4] and Fannie Mae has them rising only 1.8 percent[5].

The good news is that these are predictions for the fictitious "national" real estate market and may have little or nothing to do with what happens in your local market. It's not unusual for a third or more of local markets to go the opposite direction of the "national" market trends. The primary reason you should take notice of the forecasters is to correct the expectations of your clients and customers who read the headlines and may expect the worst this year.

Much less local data and market analysis exist at the local level than the national level, though there is much more available today from MLSs, trade groups, data providers and local media that there was just a few years ago. Anticipating in advance when sales and prices will rise and fall at the local and hyper-local levels is still more an art than a science.

Here are six signs that sales may be softening in your local market. They are less scientific—and less accurate– than the databases, algorithms and repeat sales indices used by economists to formulate national forecasts.

However, when two or more of these signs appear in a given month, it could be cause for alarm.

Chronically low local inventories will always cut sales. Real estate is all about supply and demand. When there are fewer houses to sell and demand is average or better, prices rise and properties sell faster for a while. When prices are too low, as they were in 2007 to 2013, fewer houses coming onto the market is a good thing because the current level of demand will lower total supplies and prices will rise, encouraging more sellers to list, and they sales will rise. In today's markets, however, demand is stronger and low inventories are forcing up price fewer houses to sell automatically translates into fewer sales.

Pay close attention to current active listings and new listings in your MLS. February, March and April are the months when sellers traditionally replenish depleted inventories to reach buyers over the spring and summer season. If inventories that are falling now were also lagging last year, you are witnessing a significant decline over two years or more that sure will result in low sales. Sometimes low inventories early in the year drive prices up quickly. Sellers quickly become motivated, and conditions can improve by June or July—in time to salvage sales for the balance of the year after some damage is done.

Declining pending sales can be a barometer. Not all markets report pending sales, which occur when a seller accepts a buyer's offer, but the house has yet to close. Pending sales often differ from closed sales in the same

Anticipating in advance when sales and prices will rise and fall at the local and hyper-local levels is still more an art than a science.

month; about 15 percent of deals can fall through for a variety of reasons that may or may not reflect falling demand. However, pending sales do give an indication of what closed sales will look like in the current month. You can easily compute monthly pending sales. You can get a feel for pending sales in a hyper-local market by keeping track of contracts within a Zip code or a community on a monthly basis. Remember, seasonality will affect pending sales as well as closed sales, so a simple month to month decline may not be a cause for concern if you are entering late summer, fall or winter markets.

Longer hyper-local days on market show activity is slowing. Today's MLS and aggregator sites make it easy to search Zip codes and hyper-local communities and neighborhoods by sales and pending sales. If you subscribe to market data information from your MLS or vendors like CoreLogic or RBI, you can search by community or Zip Code to find current days on market and months' supply data. These data will vary by the season, so month-to-month comparisons may be misleading. Get a year over year comparison by looking up days on market and months' supply data from a year ago to determine how your market looks. If houses are taking longer to sell or if the months' supply is larger than it was last year, those are signs that demand is not keeping up with supply and sales may be weakening and you might experience fewer sales than a year ago.

Sale-to-list price ratios can be a tip-off. When homes end up closing below their list prices, sellers are getting less than they hoped for their homes. Either they are settling for offers below their list prices or buyers are successfully negotiating lower prices, which reflects diminished seller confidence due to flagging demand. Market reports from RBI, CoreLogic and other vendors provide sales-to-list ratios by county, city, Zip code even community or neighborhood. Many buyers price their homes above market price in hopes of getting a windfall or strengthening their market position when negotiating with buyers. A list-to-price ratio of 96 percent or above, therefore, is not a cause for concern and may be a sign that demand is strong. However, when sales-to-list ratios fall into the low 90s or 80s and should decline continue for a month or more, you probably are seeing an early sign that demand is waning, and sales will falter when sellers resist the pressure to cut prices.

Buyer traffic creates buzz. The rise and fall of buyer interest in a local market or hyper-local market can be detected in several non-scientific ways that can give you a "feel" for what's happening. In recent years, researchers at the National Association Realtors have experimented with lockbox data that records home showings. NAR also publishes a Traffic Index within its monthly Realtors Confidence Index report that gives a feel for buyer and seller traffic based on reports from Realtors participating in a monthly survey. I'm not aware of any MLS or local lockbox data from Supra or Sentrilock, but if local market data on showings could be aggregated and released at the local level, it would be a very helpful indicator. If you work in a large brokerage or network with other agents, you can take the temperature of local buyer traffics by keeping track of open houses and showings.

Price reductions are hard evidence. Every local market has a few sellers who get a little greedy and price their homes too far above market expectations. When they cut the price 5 percent, they are simply facing reality. When owners whose prices are close to market price medians start reducing prices, however, something serious is going on. Sales usually fall before widespread price cutting occurs, so price cutting is not an early indicator, but a final confirmation that demand is not strong enough to maintain current price levels and sales will suffer until price corrections occur.

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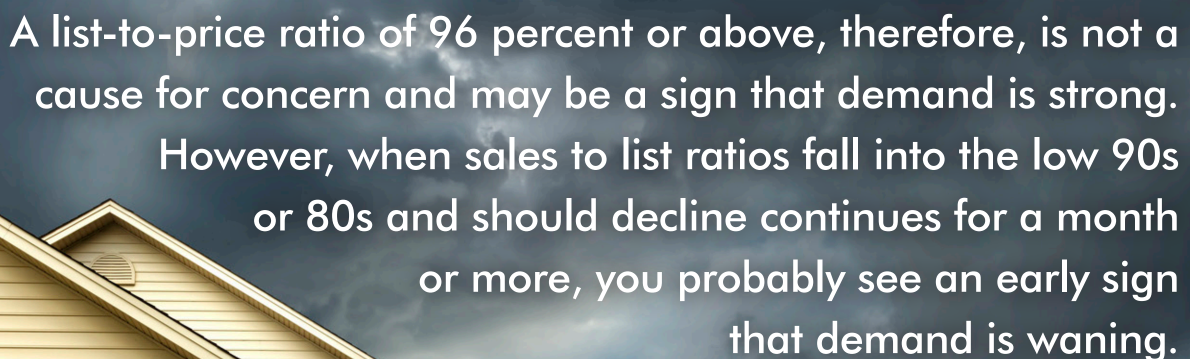
[1] https://www.nar.realtor/news-releases/2016/01/nar-forecast-modest-increase-in-home-sales-expected-in-2016

[2] http://www.fanniemae.com/resources/file/research/emma/pdf/Housing_Forecast_011416.pdf

[3] https://www.nar.realtor/news-releases/2017/01/existing-home-sales-slide-in-december-2016-sales-best-since-2006

[4] http://research.realtor.com/2017-national-housing-forecast/

[5] http://www.fanniemae.com/resources/file/research/emma/pdf/Housing_Forecast_012017.pdf



THE ATTRIBUTES OF GREAT CEOS

REAL Trends has collected research on CEOs for the past 30 years. Here are some insights into what makes a great leader.

By Steve Murray, publisher

Through our reporting and consulting practice (and our 360 total newsletters), we've had the incredible honor of interacting with the leaders of many different brokerage firms—different models, brands and sizes. We've tracked the performance of thousands of brokerage firms over the past 30 years.

Here's a summary of what we've observed about the best residential brokerage firm CEOs.

They care about what they do tremendously. The best CEOs care about their business and people, and they communicate it numerous ways. This is not just about being emotionally connected to their business and people, but it helps. It means that they care to do the best they can to protect and preserve their cultures, and they reinforce the behaviors that reflect who they are and how they want the company to be viewed. They work extremely hard and are compassionate.

They are decisive. The best CEOs know that they must make decisions, large and small, every day (including weekends). They almost never have all the information they will need within the timeframe in which they must decide. But, they don't shy away from making them. Rarely do these great CEOs doubt their decisions. They know some will work out the way they want and some don't. Often, they use gut feelings to guide them every bit as much as data.

They care more about their people than they do making money. This is also what our 2006 study, "People Still Matter," found. The great majority of the 169 personal interviews we did with agents of 16 firms said this was evident in the behaviors and communications of the leader. We see it every day in our consulting work. They like profit as well as any other business leader, but they behave in ways that let their companies know that are prepared to sacrifice some profit to improve the company's services to its agents.

While their personalities are very different; they all have high ethical standards. The best leaders run the gamut of personality types. Some are gregarious. Others don't talk much at all. Some are brilliant strategists; others just win because they will outwork their competitors. They are just different than each other. But, they all share one important attribute—high levels of integrity. They believe in fairness, honesty and being direct. They don't seek shortcuts and rarely will they be found to have treated those with whom they do business with anything less than respect.

They are competitive. Regardless of their personality type or style and brokerage size, the men and women who lead great brokerage firms are very highly competitive. They want to achieve their goals whether it is increased market share, size or productivity. They want to succeed, and they employ all talents in the attempt to achieve their goals. Saying to them that something can't be done is like waving the red flag at the bull.

It could be that financial or technological acumen will be far more important tomorrow than it has been in the past. Certainly, these great CEOs also know how to read an income statement and balance sheet. But, when you've had the chance to observe them as we have, you find that their curiosity doesn't turn first to these areas, but more towards how they can recruit better, develop better management skills or increase the professionalism of their people. We believe that regardless of what challenges appear in the future, it's the traits we list above that will matter most.

POTENTIAL SURGE IN STATE CFPB ENFORCEMENT ACTIVITY

State attorneys general and financial services regulators may be highly motivated to ramp up their enforcement activity in any perceived void created by Cordray's eventual departure.

by Sue Johnson, strategic alliance consultant

Both critics and supporters of the Consumer Financial Protection Bureau (CFPB) are awaiting developments that will determine the direction of the agency over the next several years.

So many questions: Will the full First Circuit Court of Appeals in the CFPB's legal dispute with PHH uphold a three-judge panel's October 2016 ruling that the CFPB's Director should be accountable to the President, opening the door for President Trump to fire Director Richard Cordray? Will Trump try to fire him with cause regardless of the ruling? Even if Cordray survives these challenges, he is certain to leave when his term expires in July 2018, allowing Trump to nominate a Director who likely would have a less aggressive approach to consumer financial protection law enforcement.

However, little attention has been paid to state attorneys general and financial services regulators, many of whom will be highly motivated to ramp up their enforcement activity in any perceived void created by Cordray's eventual departure. Thus, it is worth paying attention to where the potential danger spots are, and to prepare now for increased state enforcement activity.

The Danger Spots

Expect certain states to be more active in filling any enforcement gap they think will be created by a change at the helm of the CFPB.

Currently, 21 states have Democratic attorneys general, who traditionally have taken a more aggressive approach towards general consumer protection enforcement. One also could look to the 16 Democratic attorneys general who signed a motion to intervene on behalf of the CFPB in its appeal of the PHH ruling, saying that they have a "vital interest" in enforcing consumer financial protection laws. The motion, which was denied, was signed by attorneys general in Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Mississippi, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and the District of Columbia.

Financial services attorneys also point out that Democratic-controlled states such as California, Illinois, Massachusetts and New York (through Department of Financial Services Superintendent Benjamin Lawsky) are particularly known for taking an activist approach toward consumer financial protection law enforcement.

It is worth paying attention to where the potential danger spots are, and to prepare now for increased state enforcement activity.

Providers of consumer financial services need to be prepared for this potential surge in state enforcement activity.

Many state attorneys general or regulators—including Lawsky and attorneys general in Illinois, Maryland, Virginia, Florida and Connecticut—already filed lawsuits under Dodd-Frank (often in coordination with the CFPB), Federal consumer protection statutes, and state consumer protection laws. Attorneys general network with each other through the National Association of Attorneys General and the Democrat Attorneys General Association (DAGA), enhancing the possibility for successful consumer financial protection enforcement actions to spread to other states.

Laws That State Regulators Can Enforce

States that pursue enforcement actions have a variety of laws they can use to challenge consumer finance practices.

- **State UDAP Laws:** Most states have consumer protection statutes that prohibit "unfair and deceptive acts and practices" (UDAP) that generally are not subject to federal preemption.
- **Dodd-Frank's UDAAP Provisions:** Dodd-Frank authorizes state attorneys general and regulators to bring enforcement actions under its broader "unfair, deceptive and abusive acts and practices" UDAAP ban. According to a paper by the National Consumer Law Center, the ability to enforce Dodd-Frank's UDAAP provisions "may be especially helpful in states that have holes in their UDAP statutes; as a counter to any claim that a state UDAP statute is preempted; and if the conduct is 'abusive' but not as clearly unfair or deceptive".
- **Federal Consumer Protection Statutes:** Dodd-Frank authorizes a state attorney general or regulator to bring a civil action against any entity that is "state-chartered, incorporated, licensed, or otherwise authorized to do business under state law" under Title X of Dodd-Frank and its regulations, which include consumer mortgage regulations such as "ability to repay" and steering. In addition, some Federal Statutes (e.g., RESPA, the Fair Credit Reporting Act and the Truth in Lending Act) expressly confer on state attorneys general the authority to enforce all or part of these laws.
- **State Consumer Protection Statutes:** Many states have their own consumer financial protection laws, including laws that specifically restrict affiliated businesses or prevent salespersons from wearing "two hats" in real estate or mortgage transactions.

Summary

Providers of consumer financial services need to be prepared for this potential surge in state enforcement activity. While states may not have the supervisory and research capacity of the CFPB, a good compliance management system that is knowledgeable about relevant state law and regulators could significantly lower a company's future legal risks.

EDEN ISLAND—SEYCHELLES

A GEM OF THE INDIAN OCEAN

Eden Island is a fully functional residential and commercial marina development covering 140 acres with over 500 luxury homes, each with its own private mooring.

by Peter Gilmour, REAL Trends chief foreign correspondent

The Republic of Seychelles is an African country consisting of 115 tropical islands, approximately 1,000 miles off the east coast of Africa in the Indian Ocean. The islands are ancient fragments of the supercontinent, Gondwana, and are known for their many species of rare fauna and flora with some islands being declared World Heritage sites.

Victoria is the capital city of Seychelles and is situated on the largest island, Mahe, a lush mountainous island with towering granite peaks. More than 80 percent of the population live on Mahe, which has the only commercial seaport and an international airport which receives daily direct flights from England, Europe, the Middle East and South Africa. Eden Island was created on a dead coral flat just off the coast of Mahe and was established as part of the Seychelles Government's East Coast Reclamation Plan. This remarkable success story was the dream of developer Craig Heeger and has had a major positive effect on the Seychelles from both an economic and socio-economic perspective.

Luxury Homes and Private Moorings

Today, Eden Island is a fully functional residential and commercial marina development covering 140 acres with over 500 luxury homes, each with its own private mooring. The Eden Island Marina is the most modern and well-equipped international marina in the Indian Ocean Islands and can accommodate vessels of up to 300 feet in length. Visitors to the marina have a full compliment of services, including a luxury hotel, shopping mall, restaurants and marine repair facilities.

Luxury homes comprise a range of villas, maisons and apartments, individually orientated to optimize privacy with large windows and extended covered verandas inviting the beautiful visitors inside.

Apartment Living

Apartments range from 900 square feet to 2100 square feet, maisons from 1,750 square feet to 3,190 square feet, and the villas with private swimming pools from 2,500 square feet to 6,000 square feet. Top-of-the-range villas are selling now between $2.5 million and $6 million. Rentals for the villas range from $1,200 to $2,000 per night during peak periods. The island is car-free, and a parking garage is provided for owners' cars.

Whether it's cruising the islands, fishing on the shallow flats, diving with dolphins, sampling the local flavors or savoring the Creole culture, Eden Island is truly a gem of the Indian Ocean.

HOW DOES YOUR WEBSITE PERFORM **COMPARED TO YOUR COMPETITORS?**

by Paul Salley, manager of marketing strategy & business development

Understanding how visitors interact with your website is critical information to have. How can you improve your sites' functionality, if you don't know what needs to be fixed? Two primary metrics to watch are average time on site and average pages viewed per website session.

Average time on site is simply the amount of time a user spends on a website in a single session or visit. REAL Trends has analyzed hundreds of top brokerage websites across the country, including traffic behaviors through Google Analytics. Google Analytics is a free tool that every brokerage should use to monitor web traffic and activity. Through this research, we learned that the average time spent on a brokerage website is between five and six minutes. Average pages viewed per website session are the number of pages on your website a user looks at in a single visit. This average for brokerage sites is 7.15 pages.

With this knowledge, combined with the fact that more than half of web traffic comes from a mobile device, can help you analyze your websites to see where you need to improve. Looking at the user experience through the lens of a mobile consumer will provide insights as to why a consumer may or may not be spending enough time on your site. If your averages are significantly lower than the national average for time on site or pages per session consider the following:

- Is my website enabled for a quality mobile experience?
- Is my website responsive for mobile?
- Do I have an intuitive navigation bar?
- Can I easily go to different landing pages on my site?

If the answer is no to any of the questions above, correct these basic elements immediately. Doing so will result in an instantly noticeable increase of time on site and page views.

For additional website and technology trends, check out the 2016/2017 REAL Trends Online Performance Study: **CLICK HERE**

Is my website enabled for a quality mobile experience?

Is my website responsive for mobile?

Do I have an intuitive navigation bar?

Can I easily go to different landing pages on my site?

CELEBRATING REAL TRENDS 30TH ANNIVERSARY

APRIL 1988:
THE BIG STORIES

To celebrate REAL Trends' 30th anniversary year, we will bring back old articles from our early years to see how much (or little) has changed about the industry.

by Steve Murray, publisher

Unreal, but our main story in the April 1988 edition of the REAL Trends newsletter had to do with a "looming price war" due to the number of businesses and organizations starting to charge referral fees. Thirty years ago, we mentioned relocation management firms, corporate networks, independent relocation centers brokerage's own Limited Function Referral Organization (LFRO) as some of the most evident players.

Today, we still have the relocation management firms as key sources of business, which charge referral fees for the referral of clients and customers. But, we've also seen the development of affinity group business (such as USAA), mortgage firms (Quicken Loan's In-house Realty) and independent referring organizations (The Referral Exchange) to mention a few. Another development to watch in 1988 was agent teams who charge referral fees to areas where they don't employ their own agents. Some things never change in our world!

LET'S MAKE A DEAL!

2017 REAL Trends DEALMAKERS CONFERENCE

August 10-11, 2017
Westin Tabor Hotel
Denver, Colorado

REAL Trends is bringing together the best valuators, dealmakers from prominent national and regional firms and experts in the legal and tax areas of mergers and acquisitions for a 24-hour program in Denver.

This first-of-its-kind conference focuses solely on how to value brokerage firms and teams, how to accomplish the sale or purchase of these firms and discussions about the way to put deals together.

This first year we are limiting attendance to 100 people. CEOs, COOs, CFOs and Team owners and executives are invited to attend. We will start at 2 p.m. Thursday, August 10 and end at 2 p.m. on August 11 (with time for dinner and sleep in between!).

Questions? Call Dani Stufft (DStufft@realtrends.com) or
Rebecca Chapla (Rchapla@realtrends.com) at 303-741-1000.

CLICK HERE to find out more and register.