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## PART ONE

# MODERN-DAY DISRUPTORS

*A history of disruption in the real estate industry.*

*By Steve Murray, president*

Every news report you see includes the buzzword *disruptor*. The truth is that innovators and entrepreneurs have continually disrupted the industry. Let's take a walk down memory lane:

**October 1977.** Merrill Lynch, then the most powerful firm on Wall Street, announces to a private gathering of 50+ of the top independent brokerage firms that it's entering the residential brokerage business to offer full, one-stop shopping to American

consumers. It announces it will do so by acquiring the same residential brokerage firms sitting in the room. Panic ensues.

**Fall 1981.** Sears announced that it would purchase the 80+ percent of shares of Coldwell Banker that it did not already own. Sears says it would also offer one-stop shopping of housing-related financial services to consumers. It opens Coldwell Banker offices in many Sears stores. Sears also later acquires a retail stock brokerage business to complete its consumer

### 1-4 FIRST PERSON

- Part One: Modern-day Disruptors
- The Economy Roars; Housing Slumps
- Pioneers and Disruptors: A Tribute to David Charron

### 6-10 BROKERAGE

- Creation vs. Competition
- Strategies for Using brokerWOLF

- Sponsored Content: Providing Value to Agents

### 11-14 MARKET

- August Home Prices Increased 5.5 Percent
- September ShowingTime Showing Index

### 15-16 REGULATORY

- The CFPB Loses a Second CID Appeal

### 17 GLOBAL

- Tasmania: Australia's Little Known Island Gem

### 18 TECHNOLOGY

- There's No Perfect Brokerage Software Solution

### 19 PUBLISHER'S NOTE



## REALTRENDS

THE TRUSTED SOURCE

7501 Village Square Drive, Ste. 200  
Castle Rock, CO 80108  
Phone: 303-741-1000  
E-Mail: [realtrends@realtrends.com](mailto:realtrends@realtrends.com)  
Web: [realtrends.com](http://realtrends.com)

**President:**

Steve Murray - [smurray@realtrends.com](mailto:smurray@realtrends.com)

**Publisher:**

Tracey Velt - [tvelt@realtrends.com](mailto:tvelt@realtrends.com)

**REAL Trends Team:**

Alicia Vivian - [avivian@realtrends.com](mailto:avivian@realtrends.com)  
Bo Frize - [bfrize@realtrends.com](mailto:bfrize@realtrends.com)  
Brent Driggers - [bdriggers@realtrends.com](mailto:bdriggers@realtrends.com)  
Bryan Warrick - [hi@hihelloworldstudio.com](mailto:hi@hihelloworldstudio.com)  
Cooper Murray - [cmurray@realtrends.com](mailto:cmurray@realtrends.com)  
Doniece Welch - [dwelch@realtrends.com](mailto:dwelch@realtrends.com)  
Nikki Lindholm - [nlindholm@realtrends.com](mailto:nlindholm@realtrends.com)  
Peter Gilmour - [pgilmour@realtrends.com](mailto:pgilmour@realtrends.com)  
Rebecca Chapla - [rchapla@realtrends.com](mailto:rchapla@realtrends.com)  
Scott Wright - [swright@realtrends.com](mailto:swright@realtrends.com)  
Toni Lapp - [tlapp@realtrends.com](mailto:tlapp@realtrends.com)  
Trish Glodava - [tglodava@realtrends.com](mailto:tglodava@realtrends.com)

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financial services. Panic again ensues for residential brokerage firms across the country.

**1983.** This is the year that Intercommunity Relocation, one of the nation's largest networks of independent residential brokerage firms, was acquired by Equitable Relocation Management, then one of the nation's largest relocation management firms. They formed Equitable Realty Network. The network (and relocation business) was sold again in 1987 to Travelers Insurance, which shortly after that traded these assets to General Electric (GE). GE sold the network back to many of the same independent brokerage firms that had sold it to Equitable just eight or nine years before.

**August 1985.** Metropolitan Life Insurance announced that it would extend its consumer financial services reach by acquiring Century 21 Real Estate.

**August 1989.** After spinning off its residential brokerage arm, Merrill Lynch Realty, to a separate entity, Merrill Lynch sells the entity to Prudential to help Pru's franchise arm achieve its growth plans in residential brokerage, which it could not achieve organically.

**1993.** Sears announced it would sell Coldwell Banker Residential Real Estate to investment firm Fremont Group and a group of top executives. Fremont would go on to sell Coldwell Banker to HFS (today's Realogy) for nearly triple what it had paid Sears just three years before.

**1995.** Metropolitan Life sold Century 21 to HFS (today's Realogy).

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Think today's froth of new entries is incredible to watch? Think that the brokerage industry is under attack from outsiders with substantial capital and that's something new? As these historical events show,

**THIS IS NOT THE FIRST  
TIME IT'S HAPPENED. AND,  
IT WON'T BE THE LAST.**

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Think today's froth of new entries is incredible to watch? Think that the brokerage industry is under attack from outsiders with substantial capital and that's something new? As these historical events show, this is not the first time it's happened. And, it won't be the last.

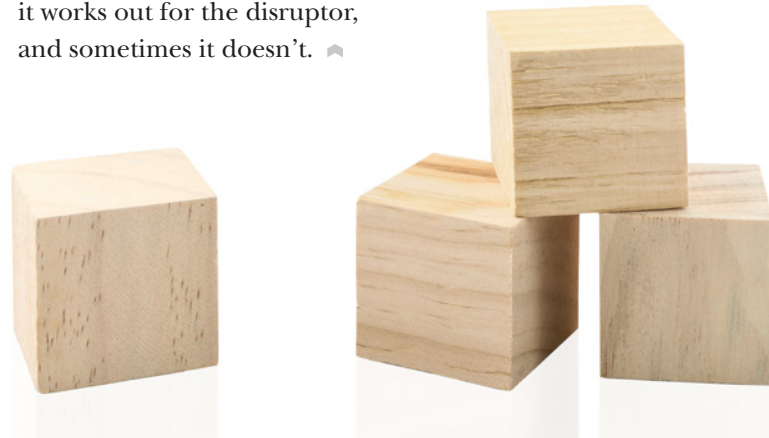
### Today's Well-capitalized Entries

Are today's new well-capitalized entries different? Yes, to some extent, but today's new competitors have the same goals as those listed above. The goal was the consolidation of a fragmented, under-capitalized industry, to improve the customer experience in buying and selling homes, and to cross-sell related services to American homebuyers and sellers. Oh, and to improve the profitability of the brokerage business in doing so.

Now, substitute Zillow, iBuyers, Compass, eXp, and others for Merrill Lynch, Sears, Metropolitan Life, Realty, and Berkshire Hathaway HomeServices. Improve the consumer experience in buying and selling homes. Consolidate market share among participants. Raise the profit margins for business enterprise. Sounds familiar, doesn't it?

We don't say that today's entrants are the same as those in the past, or that they will end up in the same position as some of these giants did in the past. Their approaches are different, and these are different times. Clearly, the internet has changed almost everything. But we note again, which we have in these pages before, that the underlying relationships between housing consumer and agent, and the agent and their brokerage, and the brokerage and the consumer have not changed all that much—yet.

Disruption is not new, and sometimes it works out for the disruptor, and sometimes it doesn't. ▲



## THE ECONOMY ROARS, BUT HOUSING SLUMPS

*Changing demographics and an imbalance in housing stock are two concerns of today's market.*

*By Steve Murray, president*

You read the headline, “lowest unemployment rate in 50 years achieved in October 2018.” Not since 1969 has the unemployment rate been this low. Real wages and household incomes are growing at the fastest rate since the early 2000s.

Meanwhile, existing home sales are slumping—down six of the last seven months on an annualized basis. New home sales are up slightly, but the year-over-year results have bounced up and down like someone on a trampoline. Affordability has decreased significantly. Inventory levels, while increasing in most markets, are still incredibly tight. Mortgage rates have risen to their highest levels in at least ten years. Year-over-year average price increases are softening.

### The Great Imbalance

The impact of too many households chasing too few homes for sale has finally reached a point where households can't or don't want to purchase into this kind of a market. There are great imbalances between the kinds of housing consumers want to buy and the

availability of homes to fill that need. There are not only far too few homes for first-time homebuyers, but there's also a critical shortage of smaller homes for Boomers who want to downsize. In some markets, these two demographic groups are competing for the same homes. Meanwhile, the smaller size of Generation X compared to Boomers means there are far fewer households available to purchase what the Boomers are trying to sell.

A cooling housing sales market will help rebalance these contradictions. It will cool housing price increases. It will head off rampant speculation that drove the industry into the tank in 2006. However, in flat markets, it will lead to even more competition in the brokerage industry. And, that will make growth more challenging and profitability particularly more difficult. ▲

Too many households chasing too few homes for sale has finally reached a point where households can't or don't want to purchase into this kind of a market.



# A TRIBUTE TO DAVID CHARRON

What can you say about an industry leader who is nearing the end of a 50-year career, who has earned universal respect among his peers and who few realize played important yet behind the scenes roles in how one part of the industry has evolved?



To some, today's MLSs remain dinosaurs in technology, but that isn't close to the truth. In fact, there are far fewer of them today than 30 years ago. The technology they provide their members and participants is far more advanced than they are given credit for. They are organized far better around regional markets than they have ever been before.

And through it all, one leader has had his hands in the middle of all it. For instance, in the late 1980s and early 1990s, he was one of the few MLS leaders who fully supported MLS consolidation and rationalization when it was neither popular nor desired by incumbents. He stuck his neck out to work tirelessly behind the scenes to move the MLS forward—few even knew he was involved. That is the way he liked it. While his public profile has grown over the years, it's not something he sought.

I am speaking of David Charron who recently stepped down from an active role at Bright MLS, which he helped shepherd. Many have heard of him, but few realize that his career started 50 years ago in the home book industry. When I say he's had a profound effect on regionalization, it's because, 30 years ago, we worked together to pressure fragmented local MLS systems in over 30 major markets to consolidate. He did so not because it was good for him, but because it was good for the industry. In fact, he took risks with his career to back brokerage firms in their efforts to achieve this.

While many know him better than I, we featured David and his life, which included many high moments as well as some deep personal challenges, in *LORE magazine*. In all these 30+ years of working with him, I have never seen him despairing of his life, work or the people with whom he worked. He's a true gentleman of the old school in his personal demeanor.

So, David, here's to you, to your incredible contributions to this great industry and, just as importantly, your personal grace and dignity in your relationships with all of us. From me to you: thanks for being such a constant friend over the years. 🍷

In all these 30+ years of working with him, I have never seen him despairing of his life, work or the people with whom he worked. **He's a true gentleman** of the old school in his personal demeanor. — Steve Murray

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# CREATION VERSUS COMPETITION

*Rethink what it means to be competitive by injecting creativity.*

*By Larry Kendall, author of *Ninja Selling* and chairman emeritus of The Group, Inc.*

The most successful business people I know focus more on creation than they do competition. In fact, the way to compete is by being the most creative. I often hear “Competition is what made this country great!” I will argue that competition caused someone to be more creative, and it is creativity that made this country great.

Certainly, competition exists, and sometimes it’s necessary, worthwhile, and even enjoyable—witness the sports culture in the United States. However, don’t leap to believing that all of life is a competition. One of the keys to being successful is figuring out what game you’re in. Is it a zero-sum game (winners and losers) where you need to compete, or is it a game of synergy (win/win) where you

need to cooperate? Both games exist in life. In either game, generally, the most creative person or team wins.

## **A 100-Year Old Lesson**

In 1910, Wallace D. Wattles wrote his classic self-help book, *The Science of Getting Rich*. His book was the basis of the successful movie and book, *The Secret*. What Wattles has to say about creating is the mantra for many entrepreneurs and value creators.

*“You must get rid of the thought of competition.*

*You are to create, not to compete for what is already created.*

*You do not have to take anything away from anyone.*

**ONE OF THE KEYS** to being successful is figuring out what game you’re in. Is it a zero-sum game (winners and losers) where you need to compete, or is it a game of synergy (win/win) where you need to cooperate? Both games exist in life.

*You do not have to drive sharp bargains.*

*You do not have to cheat or to take advantage.*

*You do not need to let anyone work for you for less than he earns.*

*You do not have to covet the property of others or to look at it with wishful eyes.*

*No one has anything of which you cannot have the like.*

*You are to become a creator, not a competitor.*

*You are going to get what you want, but in such a way that when you get it, every other person whom you affect will have more than he has now.*

*You are not seeking anything that is possessed by anybody else.*

*You are causing what you want to be created from formless substance, and the supply is without limits. Stick to the formulated statement:*

*There is a thinking stuff from which all things are made, and which, in its original state, permeates, penetrates, and fills the interspaces of the universe. A thought, in this substance produces the thing that is imaged by the thought. A person can form things in his thought, and, by impressing his thought upon formless substance, can cause the thing he thinks about to be created."*

Wattles' description of the "thinking stuff" is later called "the field" or "quantum field" by Albert Einstein and is beautifully and simply explained in the book *The Field* by Lynne McTaggart.

*The Science of Getting Rich* was the predecessor to later self-help books such as *The Master Key System* by Charles F. Haanel and *Think and Grow Rich* by Napoleon Hill. It has become a cult classic for many entrepreneurs and is free:

**CLICK HERE**

Read it and start creating! ➤



**A PERSON CAN FORM THINGS IN HIS THOUGHT,**  
and, by impressing his thought upon formless substance, can cause the thing  
he thinks about to be created.



# BROKERWOLF: TIPS AND TRICK FOR USING THIS BACK OFFICE SOFTWARE

by Alicia Vivian, CFO

There are many accounting and back-office software solutions for real estate brokerages today, and one size does not fit all. Many of REAL Trends' clients use brokerWOLF, the software developed by Lone Wolf Technologies, and the reviews on its functionality are inconsistent at best. Like many software platforms, the more information input into the system the more robust the reporting output. However, there does come the point where the cost of investing the time to populate each module outweighs the benefit of receiving meaningful and timely information.

I was afforded the opportunity to participate in an in-depth training session of brokerWOLF at Lone Wolf headquarters a couple of months ago. Here are my takeaways:

## Control Features

Many brokerages have multiple offices, some grown organically and others acquired. Does this matter when talking about brokerWOLF? It does! Each instance of brokerWOLF is specific to one Federal Employer Identification Number (FEIN). Therefore, if you have offices that have different FEINs, you won't be able to integrate the data in brokerWOLF to report on the company as a whole.

Similarly, if you have agents who sell out of more than one office, you can't assign them to multiple locations in brokerWOLF. The agent identifier links to only one office. The workaround for this is to create alternate agent identifiers specific to each office.

In brokerWOLF, it's standard to enter an agent's license number and expiration date into his or her record. So, what happens if an agent's license expires or the renewed license information fails to make its way into the system? Believe it or not, the system will not allow you to attach an agent to a new transaction or commission check if that agent's license is showing as expired. That's a nice supplemental control!

## Accounting for Teams

Teams are much more prevalent in today's residential real estate industry than they were ten years ago. The additional complexity of tracking team activity can be cumbersome

and, oftentimes, the administration of that activity is manual. I learned that brokerWOLF can be set up for teams, where team staff members can be linked under the team lead but still retain their own records. Splits and fees can be assigned to each team member, and the software calculates amounts for every transaction.

## Is This Working Correctly?

Sometimes it is difficult to know whether or not your system is operating as it should. Below are a couple of reports whose output may indicate that something within your system—or operations—has gone awry. Be sure to pay attention to the date ranges and parameters being used on the reports you are running to avoid differing output for the same metric.

- **Transaction Action Report (2.P.1.2).** This report shows outstanding items for all of your sub-ledgers that are impacted by a transaction. The report should be blank. If it shows outstanding items, then some clean-up may be required.
- **Analysis of Deposits (3.A).** When a transaction is closed in brokerWOLF, the system automatically relieves the trust liability as part of the accounting entry. As the trust account holding the funds will not decrease until the monies have been moved from it, there may be a difference between the *Trust Account* and the *Trust Liability Account*.

The opposite can be true if funds are extracted prior to the transaction being marked as closed in the system. Either of these scenarios does not necessarily indicate that there is a problem. However, the transactions that are out of balance should be current. If your Analysis of Deposits report is showing entries in the No Funds Remaining section, and they are months or years prior, you should research as soon as possible as it may indicate a larger issue.

Although accounting and back-office software may not be something that you want to dedicate a significant amount of time with, a little research and familiarity with your system can result in a higher level of operating efficiency for your brokerage. As we see, across all brokerages, gross margin compression; profitability more than ever relies more heavily on the management of operations and less on GCI. ▲





# OFFERING VALUE TO AGENTS

*One Broker's Journey to kvCORE and Broker Sumo*

When Paul Carlson, president of Five Star Real Estate in Grand Rapids, Mich., started his search for a platform to run his brokerage, he found he was frustrated very quickly. “We weren’t happy with our old vendor, and the product was outdated,” says Carlson. So, when he found kvCORE, an all-in-one solution for real estate website, lead, and CRM, he liked what he saw. According to Paul, “the back end was more approachable than most, and they talked about it being a platform, which means they can integrate various apps, such as CirclePix, into the system,” he says.

As a whole, Paul was looking for a Brokerage Platform Partner—a company that had the technology, flexibility, people and principles that would drive success today and for years to come. His selection of the kvCORE Platform and BrokerSumo was based on a few primary factors.

## Brokerage Branding & Flexibility

However, more important to Carlson than the lead routing and capture was the flexibility to tailor the solution to his brokerage. “The Inside Real Estate team worked with me on settings and customization and that was huge,” says Carlson. “If I’m using the same platform as my competitors, I needed to differentiate our front-end website branding—we were able to do that with a custom Wordpress site that integrates seamlessly.” Plus, he says, “it’s important to the agents to have some website customization options as well.”

The key for Carlson was that he didn’t want someone coming to the website to be treated like a lead. “When someone comes to an agent’s website, they come to find out more about that person. They’ve likely already been on Realtor.com, Zillow or Trulia searching for properties, so now they want to figure out who they’re going to hire,” he says. Although customization was limited, the folks at Inside Real Estate worked with Carlson to include a photo of the real estate agent and the agent’s bio on the home page. “I didn’t want the user to have to click a bunch of pages to read about who the agent is. It’s not perfect, but I liked that Inside Real Estate was willing to work with me,” he says.

## Sphere Marketing

While lead-gen is critical, Carlson says its sphere marketing that can take many agents’ business to the next level and kvCORE focuses strongly on that. “The platform is designed to keep you in touch with your sphere. kvCORE leverages the same intelligence for agents’ SOI that was built for nurturing leads, just tailored to the SOI experience. The fact that it’s such a focus is huge. One of our top agents works entirely with their sphere,” he says.

kvCORE offers a smartphone app. The app will prompt you to text, email or call a certain number of clients each day. “If you do that, you’ll reach your entire sphere more than once a year.

The truth is, according to the

“When someone comes to an agent’s website, they come to find out more about that person. They’ve likely already been on Realtor.com, Zillow or Trulia searching for properties, so now they want to figure out who they’re going to hire.” – Paul Carlson, president, Five Star Real Estate



National Association of Realtors®, only 6 percent of agents consistently reach out to their spheres. We're trying to solve that disconnect between our agents and their databases. If this can help agents at the lowest level click a switch and connect, it's worth it," he says.

#### More Efficient Commissions & Reporting

Soon after implementing kvCORE, Carlson discovered BrokerSumo, Inside Real Estate's accounting and commission automation program. "We had frustrations with our old client because it felt like it hadn't been updated since 1994. Sure, they had thousands of reports, but how many do you really use," he asks.

With BrokerSumo, which also integrates with his 3rd party reporting tools, Carlson can streamline and customize all of his back-office reports. "It also saves us thousands a month compared to the product we were using," says Carlson. Plus, he adds, he had to manually crunch numbers because they couldn't push numbers into a third party reporting solution. "Now, the data is automatically pulled in and, we can create reports that

get automatically sent every month. We have more control and are looking at relevant data rather than having thousands of options that didn't work for us."

#### Constant Innovation

Last, but not least, Paul liked that Inside Real Estate is committed to innovation and keeping their customers at the forefront of technology. "We've bought tech platforms before, where the product just never changed. I want to know that someone is thinking about the end user and improving the product. I need to know that if I'm paying a lot of money that the technology is going to evolve," he says. That is what Inside Real Estate and kvCORE provide to Paul as his Brokerage Platform partner.

Overall, says Carlson, it's too soon to give solid numbers on things like lead conversion; however, the benefits from customization to automation and reporting have already become apparent. "We're excited for where we're headed," says Carlson, "and we're excited to have a technology partner committed to that vision with us." 🏡



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# 2018 CONSUMER STUDY

What do home buyers and sellers really think about using a real estate professional when buying and selling a home?

What do home buyers and sellers really think about using a real estate professional when buying and selling a home? REAL Trends, in conjunction with The CE Shop and the California Association of Realtors® conducted a Harris Interactive & Analytics study of consumers from around the country. Check our blog at <http://www.realtrends.com/blog> on November 12 to view the study.

Housing consumer research produced by Harris Insights & Analytics and underwritten by the California Association of Realtors®, the CE Shop and REAL Trends





# CORELOGIC REPORTS AUGUST HOME PRICES INCREASED BY 5.5 PERCENT YEAR OVER YEAR

*Homeowners Expect Sale of Current Home to Fund Downpayment for Next Purchase.*

- Homeowners waiting to sell, hoping to afford larger downpayment on next home
- Nevada and Idaho were the only states to post double-digit annual price growth in August
- Home prices projected to increase 4.7 percent by August 2019

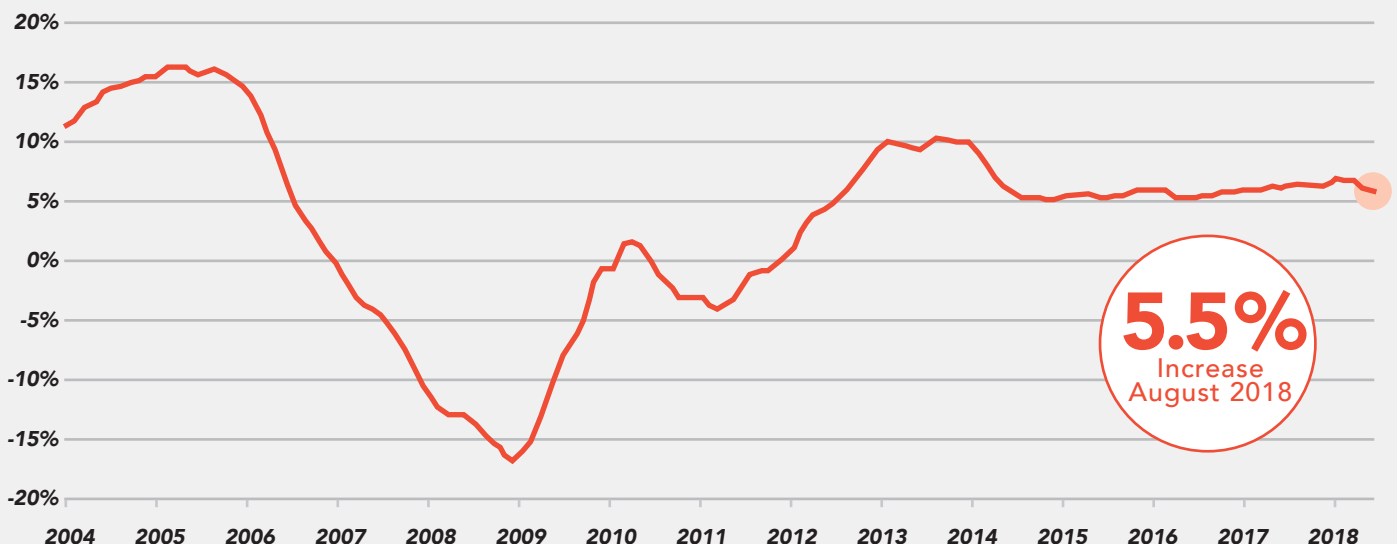
CoreLogic® recently released the CoreLogic Home Price Index (HPI™) and HPI Forecast™ for August 2018, which shows home prices rose both year over year and month over month. Home prices increased nationally by 5.5 percent year over year from August 2017. On a month-over-month basis, prices increased by 0.1 percent in August 2018. (July 2018 data was revised. Revisions with public records data are standard, and to ensure accuracy, CoreLogic incorporates the newly released public data to provide updated results each month.)

Looking ahead, the CoreLogic HPI Forecast indicates that the national home-price index is projected to continue to increase by 4.7 percent on a year-over-year basis from August 2018 to August 2019. On a month-over-month basis, home

prices are expected to decrease by 0.4 percent from August to September 2018. The CoreLogic HPI Forecast is a projection of home prices calculated using the CoreLogic HPI and other economic variables. Values are derived from state-level forecasts by weighting indices according to the number of owner-occupied households for each state.

“The rise in mortgage rates this summer to their highest level in seven years has made it more difficult for potential buyers to afford a home,” said Dr. Frank Nothaft, chief economist for CoreLogic. “The slackening in demand is reflected in the slowing of national appreciation, as illustrated in the CoreLogic Home Price Index. National appreciation in August was the slowest in nearly two years, and we expect appreciation to slow further in the coming year.”

**Figure 1: National Home Price Change** HPI Percentage Change Year over Year



According to the CoreLogic Market Condition Indicators (MCI), an analysis of housing values in the country's 100 largest metropolitan areas based on housing stock, 38 percent of metropolitan areas have an overvalued housing market as of August 2018. The MCI analysis categorizes home prices in individual markets as undervalued, at value or overvalued, by comparing home prices to their long-run, sustainable levels, which are supported by local market fundamentals (such as disposable income). Additionally, as of August 2018, 18 percent of the top 100 metropolitan areas were undervalued, and 44 percent were at value. When looking at only the top 50 markets based on housing stock, 46 percent were overvalued, 12 percent were under-valued and 42 percent were at value. The MCI analysis defines an overvalued housing market as one in which home prices are at least 10 percent higher than the long-term, sustainable level. An undervalued housing market is one in which home prices are at least 10 percent below the sustainable level.

In 2018, CoreLogic together with RTi Research of Norwalk, Connecticut, conducted an extensive consumer housing

sentiment study, combining consumer and property insights. The study assessed attitudes toward homeownership and the drivers of the home buying or renting decision process. August data indicates that, while home prices are cooling, they are still rising in most markets. Home sales are down in some metros, in part because sellers believe prices will continue to rise and that by waiting, they can sell their homes for a better price. Many intend to use proceeds from the sale of their current home to fund the downpayment of their next home. Sixty-six percent of homeowners who are considering buying in the next 10 years will need to sell their current homes to finance their next one. Meanwhile, 35 percent of recent homebuyers said they used funds from the sale of their previous home to finance the downpayment of their current home.

“In some markets, homebuyers and sellers are remaining cautious and taking a pause as price appreciation continues to rise,” said Frank Martell, president and CEO of CoreLogic. “By waiting to sell, homeowners believe they will get the greatest return on their investment; the more money they have for a downpayment, the easier the purchase payments will be for their next home.” ▲

**Table 1: Home Price Change and Market Conditions for Select Metropolitan Areas**

Select Metropolitan Areas	August 2018 12-Month HPI Change Year over Year Single-Family	Market Condition as of August 2018
Las Vegas - Henderson - Paradise NV Metropolitan Statistical Area	13.7%	Overvalued
San Francisco - Redwood City - South San Francisco CA Metropolitan Division	9.8%	Normal
Los Angeles - Long Beach - Glendale CA Metropolitan Division	7.4%	Overvalued
Denver - Aurora - Lakewood CO Metropolitan Statistical Area	7.4%	Overvalued
Houston - The Woodlands - Sugar Land TX Metropolitan Statistical Area	5.0%	Overvalued
Boston MA Metropolitan Division	4.9%	Normal
Miami - Miami Beach - Kendall FL Metropolitan Division	3.5%	Overvalued
Chicago - Naperville - Arlington Heights IL Metropolitan Division	3.4%	Normal
Washington - Arlington - Alexandria DC - VA - MD - WV Metropolitan Division	2.9%	Overvalued
New York - New Jersey - White Plains NY - NJ Metropolitan Division	0.8%	Overvalued

Source: CoreLogic Q2 2018

\*Including Distressed Sales

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\*\* The forecast accuracy represents a 95-percent statistical confidence interval with a +/- 2.0 percent margin of error for the index

For more information on CoreLogic and this report:

**CLICK HERE**



# DECLINE IN YEAR-OVER-YEAR SHOWING ACTIVITY SHOWS ANOMALIES AS BUYER DEMAND REMAINS STRONG IN MOST OF U.S.

*Hurricane Florence doesn't slow activity in the South; rest of country experiences a year-over-year decrease*

## Key Points:

- The U.S. ShowingTime Showing Index® for September 2018 experienced a -3.5 percent change compared to September 2017 when showing traffic was near an all-time high
- South Region (+5.2 percent) exhibits 12th consecutive
- ShowingTime combines showing data with findings from its MarketStats division to provide a set of benchmarks that track demand for active listings throughout the country

The ShowingTime Showing Index® revealed that homebuyer demand remains high throughout much of the country despite showing activity leveling off from last year's record numbers.

The September 2018 U.S. Index exhibited a 3.5 percent year-over-year decrease in showing traffic, the second consecutive month the national index has decreased from last year's historic heights.

September showing activity also decreased year-over-year in the Northeast (-6.0) and Midwest (-2.8 percent) regions, marking the fifth straight month of declining showing traffic in the Northeast and second straight in the Midwest.

The West Region, which has experienced high prices and tight inventory for much of the year, decreased by 17.2 percent year-over-year. September is the eighth

consecutive month the region has exhibited year-over-year declines.

"Most regions posted year-over-year decreases last month, which is a continuation of the trend we've been tracking for the West Region," ShowingTime Chief Analytics Officer Daniil Cherkasskiy said. "For the Midwest Region, though it has posted a slight year-over-year decline, pending next month's adjustment, it's more the result of the Showing Index hovering close to all-time highs over the last 18 months."

The South Region continued to experience an increase in showing activity despite Hurricane Florence hitting land on Sept. 14, exhibiting a 5.4 percent year-over-year increase. That increase is due to showing traffic decreasing following Hurricane Irma in September 2017.

**WEST REGION:**  
- 17.2%

**MIDWEST  
REGION:** - 2.8%

**SOUTH REGION:**  
+ 5.2%

**NORTHEAST  
REGION:** - 6.0%

"Most regions posted year-over-year decreases last month, which is a continuation of the trend we've been tracking for the West Region."

— **Daniil Cherkasskiy, ShowingTime  
Chief Analytics Officer**



## THE SHOWINGTIME SHOWING INDEX

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, which facilitate more than 4 million showings each month.

Released on or around the 20th each month, the Showing Index tracks the average number of appointments received on an active listing 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](http://www.showingtime.com/index).

### About ShowingTime

ShowingTime is the leading showing management and market stats technology provider to the residential real estate industry, with more than 1.2 million active listings subscribed to its services. Its MarketStats division provides interactive tools and market reports for MLSs, associations, brokers, agents, and other real estate companies, along with recruiting software that enables brokers to identify top agents. Its showing products take the inefficiencies out of the appointment scheduling process for real estate agents, buyers and sellers. ShowingTime products are used in more than 250 MLSs representing over 950,000 real estate professionals across the U.S. and Canada. ▲

# ShowingTime Showing Index® September 2018

**-3.5%**

**United States**

**-6.0%**

**Northeast**

**+5.2%**

**South**

**-2.8%**

**Midwest**

**-17.2%**

**West**

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 CFPB LOSES A SECOND CID APPEAL

*Acting CFPB Director Mick Mulvaney is reexamining the agency's enforcement processes and specifically requested public comment on Civil Investigative Demands earlier this year.*

*By Sue Johnson, strategic alliance consultant*



For the second time in two years, a U.S. Court of Appeals has struck down a Civil Investigative Demand (CID) issued by the Consumer Financial Protection Bureau (CFPB) because its Notification of Purpose is overly broad.

The case is *CFPB v. Public Data*, in which a three-judge panel for the Fifth Circuit Court of Appeals refused to enforce a CID because it didn't adequately identify the conduct being investigated or the provision of law alleged to have been violated.

The September 6, 2018 decision follows an April 21, 2017, opinion by a three-judge panel for the D.C. Circuit Court of

Appeals in *CFPB v. ACICS*, which refused to enforce a similarly-worded CID. Together, these cases reveal an increased judicial scrutiny of the CFPB's Civil Investigative Demand process.

## **The CFPB's Civil Investigative Demands**

Dodd-Frank gave the CFPB broad enforcement authority concerning several consumer financial protection laws. When the CFPB suspects a violation, it issues CIDs to any person it believes has information relevant to the violation. Each CID must contain a Notification of Purpose that "state[s] the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation."

In the seven years of the CFPB's existence, its CIDs have been worded in extremely broad terms. It's not uncommon

Each CID must contain  
a Notification of  
Purpose that "state[s]  
**THE NATURE OF  
THE CONDUCT  
CONSTITUTING THE  
ALLEGED VIOLATION**  
which is under  
investigation and the  
provision of law  
applicable to such  
violation."

for a CID's Notification of Purpose to describe the purpose of the investigation as being whether the recipient is engaging in "unlawful acts or practices" in violation of a named federal consumer financial law or "any other federal consumer financial law," without citation to any specific statutory provision.

Some CID recipients have called the resulting investigations fishing expeditions that ultimately force them to settle with the CFPB.

#### **The Fifth Circuit Ruling in *Public Data***

In the *Public Data* case, the CFPB issued a CID to a company that provides public records to the public through an internet-based search engine.

The CID's Notification of Purpose read: "The purpose of this investigation is to determine whether consumer reporting agencies, persons using consumer reports, or other persons have engaged or are engaging in unlawful acts and practices in connection with the provision or use of public records information in violation of the Fair Credit Reporting Act . . . or any other federal consumer financial law. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest."

Public Data petitioned the CFPB (then headed by Director Richard Cordray) to set aside the Notification of Purpose because it was inadequate. The CFPB denied the petition. When the CFPB sought a federal court order to enforce the CID, the court rejected Public Data's argument that the CID failed to provide fair notice of the violation under investigation and ordered that it respond to the CID. Public Data appealed to the Fifth Circuit.

Like the D.C. Circuit panel in 2017, a Fifth Circuit panel reversed the trial court's ruling and struck the CID down in its entirety.

First, the panel determined that the CID did not identify what conduct it believed violated the law when it stated that the purpose of the investigation was to determine whether persons were engaging in "unlawful acts and practices in connection with the provision or use of public records information." "Providing and using public records are not violations of federal law," it wrote. There must be a Notification of Purpose that tells a reviewing court "what the inquiry actually is."

Second, the panel noted that the CID only referred to a potential violation of the Fair Credit Reporting Act (FCRA), an expansive law with at least 71 provisions, without identifying the applicable provision in that law. Moreover, the additional statement that the CFPB was investigating potential violations of "any other federal consumer financial law" defeated "any specificity provided by the reference to FCRA."

#### **Summary**

Acting CFPB Director Mick Mulvaney is re-examining the agency's enforcement processes and specifically requested public comment on Civil Investigative Demands earlier this year.

The CFPB defended the *Public Data* CID before the Fifth Circuit under Mulvaney's leadership, and, as recently as July 23, 2018, Mulvaney denied a request by Firstsource Advantage to modify or set aside a CID with similarly broad language. "[T]he fact that a notification of purpose [uses] broad terms to articulate an investigation's purpose... does not constitute a defect in the CID," he said in his decision.

It is possible that the *Public Data* decision, coupled with public comments received this year on the CID process, may motivate the CFPB to reconsider its approach. In the meantime, there now are two legal precedents that may provide companies in receipt of broadly-worded CIDs more strategic options. 🐟

Some CID recipients have called the resulting investigations **FISHING EXPEDITIONS THAT ULTIMATELY FORCE THEM TO SETTLE** with the CFPB.



# AUSTRALIA'S LITTLE KNOWN ISLAND GEM

By Peter Gilmour, chief foreign correspondent

On a recent trip to Australia to research the changes in the property market and trends affecting the residential real estate market, I came across interesting real estate facts about Tasmania.

Tasmania is an island state of Australia located 150 miles south of the Australian mainland covering approximately 25,000 square miles. It has a population of approximately 525,000 people. National parks and World Heritage sites cover half the island and about 40 percent of the population live and work in the state capital, Hobart. Tasmania was permanently settled by the British in 1803 as a penal settlement and became a state of Australia in 1901.

## Modern, City Living

Hobart may be a small city, but it offers modern city-style living with the country on its doorstep. The city is attracting many artists, sculptors, painters, and writers, as well as tourism operators who are taking advantage of a booming tourism industry. There is a wide range of housing options with cute townhouses in Salamanca, grand old stately homes in Battery Park, homes for renovation in Glebe and more modern homes in cosmopolitan North Hobart.

The median single-family house price for a 1,700 to 2,200 square-foot home is nearly \$500,000, and demand for homes is currently high. The median rent for a similar property is approximately \$1,500 per month.

*Elizabeth pier and Hobart waterfront, Tasmania*

## New Development

It's also been reported in *The Australian* that a Chinese investor purchased 6,500 acres of prime land on the outskirts of a small seaside town, Swansea, 65 miles from Hobart. He plans to build a \$100 million tourism town with luxury resort hotels, villas, apartments, a golf course and conference center. This will open up job opportunities and be a big boost to tourism in Tasmania.

The development has received strong support from residents and the mayor of Glamorgan Spring Bay who believes that the area's population, which has an average age of nearly 65, will benefit from the attraction of younger people who will stimulate the real estate market.

It was also reported in *The Australian* that 76 of the 113 churches in Tasmania are to be auctioned soon to fund compensation for victims of child sex abuse by the Anglican [Church of England] clergy. As you can imagine, this has caused great consternation among the church's parishioners and is posing some interesting real estate challenges. Many churches are built on land donated in perpetuity by private citizens, and the fate of graveyards attached to the churches are now the subject of government review and clergy meetings.

Heritage, history, culture, religion: The social fabric of this island is up for grabs. It's a goal of the diocese that when the churches are sold, funds will be made available for new ministry in school halls, meeting rooms and private homes. 🏡





# THERE'S NO PERFECT SOFTWARE SOLUTION

THE OTHER SIDE  
OF REAL ESTATE

By Warren Dow

*Coming from a technology background, Warren Dow is now with a brokerage. Find out what he views as the disconnect between brokerage and technology and what you need to know.*

For those of you who know me, I couldn't be more excited about my switch from the software side of the industry into the brokerage world. Several months ago, I joined Peabody & Smith Realty in New Hampshire as their vice president of business development. I've worked for nearly a decade in this industry in technology consulting—building and selling my own software company.

The most interesting aspect of my new role is breaking the mindset that the software side of the industry instilled. There are a lot of assumptions about the way brokerages operate and that both agents and brokers make decisions. I'm going to break down topics each month where I've found assumptions are wrong, misguided or misleading. Here's the first:

## **Assumption: There's a perfect software solution for every brokerage.**

There's no perfect software solution, especially for a group of agents who have very different skill sets, backgrounds, comfort with technology, etc. First, it doesn't matter what you're trying to sell—there's only so much time in a day. Saving money is great, but if you can't save time for agents, admins, and brokers (or make the client's experience better), it's hard to justify the time spent to onboard a new technology. It's become clear that there's no best software solution out there.

## **The best solution is the one that agents will use.**

Sometimes, agents want the bells and whistles, other times; they want a strong base functionality. No platform can be everything to everyone. What's clear is that agents need to know *WHY* they should use that solution over another, and not *HOW*. What are the key advantages, and how will our buyers and sellers benefit? It's easy to get caught up in the how, but when your team knows why, they'll be much more engaged and use the system to its fullest.

## **Onboarding Takes Time**

Additionally, vendors that offer training in one-to-two-hour segments don't understand that agents and staff have a never-ending to-do list. Dedicating that much time in one sitting is next to impossible. And even if it is possible, it's difficult to retain that much information when agents are

also thinking about their showings, transactions, buyers, and sellers—in addition to the 50 other things they're working on. The easiest onboarding will include feature-based training, either live or on-demand videos that are five-to-fifteen minutes long, so agents and staff can implement one tool at a time.

## **Both Sides**

Looking at this from both sides of the fence, I believe brokerages and vendors need to work in tandem to seek opportunities and share ideas, and best practices. They should have a true understanding of each other's businesses. Sometimes, the solution being offered by a vendor doesn't address the actual problem the brokerage is experiencing. And, sometimes brokerages don't know they have a problem or don't know how to articulate what the problem is. Vanilla Ice said it best, "All right, stop. Collaborate and listen." Working together, we can identify the most pertinent challenges and the set of questions that need to be addressed to improve efficiencies and the consumer experience. The days of operating in a black box have passed; transparency and clear communication are the keys to our mutual success.

*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. Warren sits on the Board of Advisors for several real estate technology startups, including VoicesterPro and LetsButterfly. ▶*



# HOW TO GIVE BUYERS AND SELLERS A COMPETITIVE ADVANTAGE

By Tracey Velt,  
publisher

## Closing Transaction Sides In-house

Some 65 percent of brokers surveyed say closings/GCI is the most important factor when evaluating a product's return on investment (65%). Buyside is able to show client's ROI based on added closings. On average, Buyside clients see a 42 times ROI.

## Northwood Realty Services, Pennsylvania

### 39 offices

Around the country, inventory is tight. "We want to give our sellers and buyers a competitive advantage. Buyside allows us to premarket to buyers that a house that fits their needs is coming on the market," says Tom Hosack, president, and CEO of Northwood Realty Service in Pittsburgh, Pennsylvania.

He says that agents can register what their buyers are looking for, so when the brokerage gets a listing, agents can match buyers with sellers for an in-house transaction.

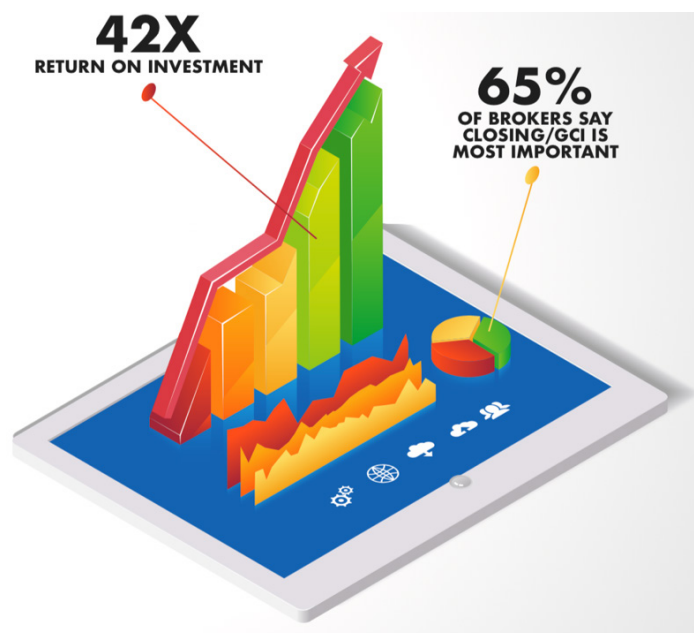
### Real-time Buyers

"On a listing presentation, our agents like that they have the ability to tell the seller that they have real buyers who want to buy. They can even show them a graph of what buyers are looking for as it pertains to bedrooms, bathrooms, and price," says Hosack.

This is especially important in this low-inventory market. Gone are the days of weekly sales meetings announcing listings coming to market soon. Instead, with Buyside, agents can see at a glance what matches their buyer's criteria. "It's great for our buyers to know what's coming on the market before it actually hits the market. That way they can stay competitive with the offers," he says. "These tech tools are a modern version of what used to happen at sales meetings."

### Building a Buyer Database

Hosack says Buyside imports their buyers' requirements into the system, listing everything from which school districts they may want to price, number of bedrooms and more. So, when agents go to a listing presentation, they can show potential sellers the demand for the product. "Pricing is all about supply and demand. In the past, we didn't know the demand. Now we do," he says.



## Getting Both Sides of the Transaction

For Hosack, the buyer matching is important because it allows him to sell more transactions in-house. Since using Buyside, he's listed over 252 properties.

"Even more important than buyer matching is the ability to predict demand. It's a market changer when you can sit with a seller and talk about what the demand looks like," he says. The report is dynamic, so you run the report before the listing presentation and then go live with the seller showing how prices and demand are changing. "It's a powerful tool in the listing process and it's something different to offer. When we work with a seller and can tell them that we have real buyers who want a home similar to their home, it's great. But, we want the home sold no matter what for the highest and best deal. If we can help the buyers find a house early, it's a huge bonus." ▲



## A STUDY IN GENERATING NEW LISTINGS

How three brokerage firms are harnessing their data to create and win new listing opportunities.

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