

A publication of Michigan Realtors®

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keeping UP with
FAIR HOUSING

PLUS

Lead-Based Paint Disclosures
President's Report Capitol Report

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2021 Major Investors



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COVER STORY

Features

- 06 **Lead-Based Paint Disclosures
– A Refresher**
Clear understanding is an agent's only safeguard
by Gail A. Anderson, Esq.
- 08 **Are You Ready for Fair Housing Month?**
Never take fair housing for granted
by Becky Gean, Esq.
- 11 **2021 Michigan RPAC Major Investors**

Departments

- 02 **President's Report**
Staying on top of who we are
by James Iodice
- 04 **Capitol Report**
The value of staying at it until the job is done
by Brad Ward, Esq.

03.22

{ MARCH | TWO THOUSAND & TWENTY TWO | VOLUME TWENTY ONE | NUMBER TWO }



Staying On Top Of Who We Are

The Michigan Realtors® Achieve conference is a wrap, and we had a great online turnout. I had the absolute honor of swearing in the new Michigan Realtors® Board members, as well as my fellow officers, President-Elect Natalie Rowe and Treasurer Sandi Smith. If you did not have a chance to attend our Virtual Achieve, there is a playback option on the events page at www.mirealtors.com. Out of respect for attendees' busy schedules, we sought to pack a great deal of important information on best leadership practices into a very limited timeframe. Based on overwhelmingly positive feedback, it sounds like another successful event for Michigan Realtors®. While I sincerely hope we are finally turning the corner and leaving online events in the virtual dust, it is a testament to our staff and the many volunteer leaders that we can pull off a great virtual event like Achieve on such short notice.

Thinking back on my remarks at the Michigan Realtors® Convention this past fall, I explained the tenets of TaeKwon-Do. These are courtesy, integrity, perseverance, self-control and indomitable spirit. However, they are not just applicable to Taekwon-Do, they transcend any single artform and can raise any undertaking in which they are applied. As we move into spring and the market ramps even higher, I urge you to reflect upon these tenets and explore how they can benefit you in your practice. Patience and professionalism will set you apart -- and win the day and the respect of your fellow Realtors®.

As Realtors® we must strive to **continually improve** and **educate ourselves** and our clients.

Of course, subscribing to any set of powerful principles is only good as the actions applied. As Realtors® we must strive to continually improve and educate ourselves and our clients. Be sure to rely upon the resources provided by your local, state and national association. Utilize those "Letter of the Law" and "From the Mailbag" videos

in your sales meetings. Tune into the Government Affairs Videocast to stay up on our many successful policy initiatives – like the recently adopted "First-Time Homebuyer Savings Accounts Program" that our own Brad Ward talks about in this issue. Preach professionalism in your marketplaces and then walk the walk.

In addition to your local and state resources, NAR has an amazing program called C2EX, which stands for Commitment to Excellence. We have many Realtor® members that have earned the C2EX certification since its inception. This FREE NAR program is set so that you can go at your own pace. It will even highlight areas of concern, or you can dig in deeper in aspects you find more interesting. Set yourself apart and make a goal to get your C2EX certification this year.

NAR also has many Fair Housing resources available. The At Home with Diversity certification is an excellent opportunity for Realtors® who want to learn more about how diversity and inclusion to make themselves better professionals. As Realtors®, we must constantly work to further our commitment to Fair Housing and remember that, although Fair Housing Month comes around once a year, we should always be thinking about its proper practice. The trainings offered by NAR and Michigan Realtors® are valuable learning opportunities. With the right training and the right mindset, we can raise the bar for our industry.

Efforts to raise the bar are underway across the nation. Last month, NAR launched their national advertising campaign – "That's Who We R." This campaign highlights what sets Realtors® apart from other licensees. The main message of 2022 is that "the Difference is Real." These advertisements span across all forms of media (television, radio, streaming, social media, etc.) and show how Realtors® help consumers and how they're committed to a higher standard of service than other non-member licensees. As Realtors®, we often step up and go "all in" to solve our clients' needs, advocate for our industry and provide for our communities.

This campaign brings those authentic stories to life and highlights the value proposition that Realtors® bring to their clients. Let's keep raising the bar! ●

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The Tenacious “Rocket” Richard

When I was a kid, my mother bought me a set of books called Value Tales. Geared towards young readers, the series featured important figures throughout history, -- Abraham Lincoln, Marie Curie, Harriet Tubman, Louis Pasteur, etc. They told their life's story each with a corresponding value about what made them great -- truth, perseverance, leadership. Each biography had an imaginary friend that taught them the main lesson and stayed with them throughout their life's journey.

My favorite book in the series was *The Value of Tenacity: The Story of Maurice “The Rocket” Richard*. The book told the story of “Rocket” Richard and his rise to greatness in the National Hockey League, all the while accompanied by his imaginary friend; a hockey stick named Slapper. “Rocket” repeatedly faced setbacks and injuries, but his tenacity kept him going; putting in the work until he achieved his dream of being a professional hockey player and eventually winning eight Stanley Cups with the Montreal Canadiens.

“Rocket” repeatedly faced setbacks and injuries, but **his tenacity kept him going**; putting in the work **until he achieved his dream**...

I've thought about this story often over the last few years as we've worked on the legislation creating a Michigan First-time Homebuyer Savings Account (FHSA). A bill that was vetoed by Governor Snyder because he disliked tax incentives. A bill that needed to wait while state government wrestled with a global pandemic and our association's priority turned to getting Realtors® back to work as soon as possible. It's also a bill that improved over time with different perspectives but faced criticism from the Michigan Department of Treasury that no one will use it.

I'm very happy to say that as of February 9, 2022, First-Time Homebuyers Savings Accounts are now law in Michigan. With forthcoming guidance from Treasury, individuals and families will be able to open these accounts and begin receiving a Michigan income tax deduction this year. It is a culmination of a lot of work

and the association should be proud of the hard work; the candidate interviews, the meetings with legislators, and the calls for action over the years have paid off.

To give you refresher on the new law, individuals can open and designate a savings or brokerage account as a First-time Homebuyer Savings Account. You can open the account in the name of yourself or a beneficiary, and the account holder receives an annual Michigan income tax deduction for money invested into the account on an annual basis - \$5000 for an individual, \$10,000 if married filing jointly, capped at \$50,000 in deductions over the life of the account. The life of the account is 20 years, and the interest grows tax free, so long as it is used for a first-time home purchase in the State of Michigan. I should also note that the definition of first-time homeowner is someone that has not owned a home within the previous three years, so it allows people to get back into the market if they got out for any reason.

The new law also includes a 5-year sunset on the annual deductions. Sunsets are common with tax incentive programs because they allow the department and the legislature to review their success. In this case, success will be judged on how many people are utilizing the FHSA program. Remember, Treasury believes that no one will use the program. Ideally, FHSA is a success, and the sunset is eliminated. On the off chance the sunset takes effect, those accounts opened within the 5-year window will still be allowed to grow tax free and complete their purpose of purchasing a first-time home.

This is a first of its kind program in Michigan. A savings account specifically designated for the purchase of a home. Buying a home isn't easy and saving can be difficult. This incentive program can provide that financial literacy and support smart savings with a goal in mind. It is also a great talent retention tool to give young Michiganders a leg up to put down roots and call this state home.

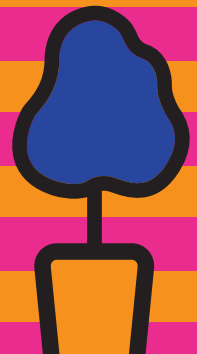
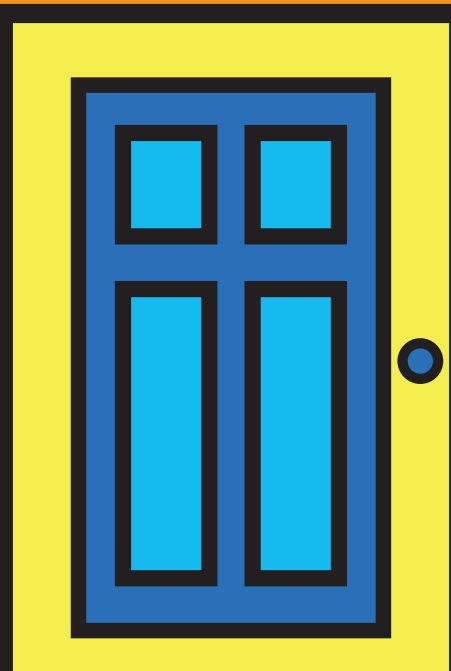
Throughout the year, you will be receiving messages and materials from Michigan Realtors® to help promote this program to your clients. Our organization will be the ambassadors for FHSA's. And, just like Rocket Richard proved his naysayers wrong, this will be a successful program helping many new Michigan homeowners.

Please follow along for breaking news through our social media and E-news publications. Additionally, be the first to receive legislative Call for Action alerts on your mobile device by texting the word “REALTOR” to 30644. ●

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Learn more and apply: mirealtors.com/Education-Events/Scholarships

Lead-Based Paint Disclosures – A Refresher

BY GAIL A. ANDERSON, ESQ

Presumably, all Realtors® are aware that federal law requires certain lead-based paint disclosures be made on sales of homes built prior to 1978. What some Realtors® may not know is that under these federal regulations, it is the responsibility of real estate agents to explain these requirements. (EPA and HUD initially defined “agents” to be listing agents. The rules now cover all agents except for buyer’s agents paid entirely by the buyer.) Realtors® may also not be aware that these federal disclosure requirements are very specific as to the nature and timing of the disclosure.

While we will discuss the federal lead-based paint requirements in more detail below, briefly, the law has four major components: (1) buyer must be given the lead hazard information pamphlet put out by the EPA, (2) purchase agreement must include federal Lead Warning Statement, (3) seller must permit buyers a 10-day opportunity to conduct an inspection and (4) seller must disclose all known lead-based paint conditions. All of this must take place before there is a binding purchase contract in place. Courts have enforced these requirements very strictly. There are a number of cases in which courts have found a real estate agent liable for what was a minor mistake, even where the agent was acting with the best of intentions.

For example, in a Connecticut case, buyers who had purchased a home from an estate filed a lawsuit under the federal lead-based paint law against both the personal representative of the estate and the listing agent. At the time the home was listed, due to the age of the home and the fact that it still had the original windowsills, the listing agent had suggested that the seller have a lead-based paint inspection conducted.

The seller followed that advice.

The inspection report revealed positive lead-based paint results. At the time the purchase contract was signed, the buyers were told that there was lead-based paint present in the home and that a lead-based paint inspection report existed. However, the buyer did not actually receive a copy of the inspection report until closing. It turned out that while the listing agent had made repeated requests for a copy of the report from the personal representative, she had not actually received the report until three days before the closing.

In this case, the listing agent had done almost everything right. She had given the buyers a copy of the federal pamphlet. She had told the buyers that there was lead-based paint present in the home and that an inspection report existed. She had done both of these things before the buyer signed the purchase agreement. Unfortunately, the listing agent had not given the buyers a copy of the inspection report until closing. As the Court pointed out, federal law expressly requires delivery of the report before the purchase agreement is signed. Because that had not occurred, the Court found that the listing agent had knowingly violated the federal law and, therefore, could be liable for treble damages.

A Massachusetts case also involved a listing agent who had done almost everything right. In that case, the listing agent had made certain that the seller disclosed the presence of lead-based paint, had included the mandatory Lead Warning Statement in the purchase agreement and had provided the buyer with ten (10) days to conduct a lead-based paint inspection. However, the evidence indicated that the listing agent had not faxed the entire federal pamphlet

to the buyers but had only sent the certification page that the buyers were required to sign. If this were shown to be true, the Court held, the listing agent could be held liable under the federal lead-based paint disclosure laws. Again, substantial compliance and the listing agent’s apparent good faith effort to comply with the law was not enough.

In yet another case, the agent had the landlord complete the lead-based paint disclosure form and provided a copy of that form to the tenant. However, the landlord had neglected to sign the completed disclosure form. The Court held that providing the tenant with an unsigned disclosure form did not comply with the federal law.

It is obviously very important that Realtors® have a clear understanding of all of the federal requirements as it relates to lead-based paint.

FEDERAL INFORMATION PAMPHLET

The federal government has put together a pamphlet entitled “Protect Your Family from Lead in Your Home.” Realtors® should familiarize themselves with the contents and provide a copy to every buyer of a pre-1978 built home. Nearly 90% of the homes in this country built prior to 1978 contain lead-based paint. As explained in the pamphlet, lead-based paint is not generally a hazard if it is in good condition (i.e., not peeling, chipping or cracking) and is not on an impact or friction surface like a windowsill. Whenever two painted surfaces rub together, or when a painted surface is sanded, it can create lead dust which is, of course, very dangerous when ingested. Finally, the handbook makes clear that lead-based paint is especially dangerous to children under the age of six. Sellers of pre-1978 homes are

obligated to provide a buyer with a copy of this pamphlet and listing agents are required to tell their sellerclients about this obligation.

PURCHASE AGREEMENT REQUIREMENTS

Purchase agreements should contain both the federally mandated Lead Warning Statement and a lead-based paint inspection contingency clause (which may give the buyer the option of waiving such an inspection).

The Lead Warning Statement, which cannot be altered, is as follows:

- Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

A typical lead-based paint inspection clause provision reads as follows:

- Buyer shall have _____ days after the date of this Agreement to conduct an inspection of the property for the presence of lead-based paint and/or lead-based paint hazards. (Federal regulations require a 10-day period or other mutually

agreed upon period of time.) If Buyer is not satisfied with the results of this inspection, upon notice from Buyer to Seller within this period, this Agreement shall terminate and any deposit shall be refunded to Buyer.

- Buyer hereby waives his/her opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

LEAD-BASED PAINT DISCLOSURE FORM

Federal law also provides that the seller must disclose the presence of known lead-based paint/lead-based paint hazards (or indicate that the seller has no knowledge). The seller must provide a list of available records pertaining to lead-based paint or a statement that no such records exist. The lead-based paint disclosure form should also include:

- A certification from the purchaser confirming receipt of the disclosure information.
- A certification from the real estate agent that he/she has advised the sellers of their obligations regarding lead-based paint disclosures.

DISCLOSURES MUST BE PRE-CONTRACT

Unlike with the Michigan seller's disclosure statement, there is no mechanism for fixing late compliance with lead-based paint disclosure requirements. Both disclosure laws require disclosure *before* the buyer is

...federal (lead-based paint) disclosure requirements are **very specific** as to the nature and timing of the disclosure.

under contract to purchase (or lease) a home. Under the seller's disclosure act, if the form is not provided before the purchase contract is signed, the contract is not binding until 72-120 hours after the form is provided. If the buyer closes the transaction without ever receiving a seller's disclosure form, the requirement is waived and the buyer has no remedy. This is not true in the case of lead-based paint disclosure requirements. If the lead-based paint requirements are not timely met, the buyer may have a cause of action whether the disclosures are made later or not at all. The buyers do not waive their rights by proceeding to close.

REMEDIES

Violations of the federal law can result in civil and criminal penalties and potential treble damages in a private civil suit. Failure to comply with the lead-based paint disclosure requirements does not affect the validity of the purchase contract. Agents are required to keep disclosure records a minimum of three (3) years. ●



Are you **READY** for **FAIR HOUSING MONTH?**

It's almost April, which means that Fair Housing Month is just around the corner. We celebrate Fair Housing in April to commemorate the signing of the Fair Housing Act on April 11, 1968. This year will mark 54 years since the Act's passage. Of course, Realtors® do not need a special month to celebrate Fair Housing, but this time always provides us with a special opportunity to reflect on Fair Housing and what it means to our industry.

As we celebrate the progress that's been made since the passage of Fair Housing laws, we must also recognize the work that still needs to be done. Discrimination in housing is still ever present in many communities across the United States. In 2019, *Newsday* published an expose that revealed widespread discrimination against minority homebuyers in Long Island, New York, one of the nation's most segregated suburbs.¹ The three-year investigation showed that the behaviors exhibited by some real estate agents helped to reinforce those racial divides in the community.

The investigation team used paired-testing in which nearly 100 agents were matched with two undercover testers posing as homebuyers inquiring about brokerage services. The interactions between agents and "buyers" were recorded, and the results were startling. The paired testers had similar financial profiles as well as similar requests for housing, but they were often treated differently based on race. Hidden recordings revealed that agents often used coded language to steer white testers toward neighborhoods with a higher concentration of white homeowners, while often directing black buyers to areas with more diversity and little white representation. According to the report, "in fully 40 percent of the tests, evidence suggested that brokers subjected minority testers to disparate treatment when compared with white testers with inequalities rising to almost half the time for black potential buyer."²



There's much to learn from the Newsday investigation. First, perhaps, is that we are not as far removed from housing discrimination as we'd like to believe. Many brokerages provide comprehensive Fair Housing training, but, in many cases, there persists a lack of awareness of implicit bias and how it can easily seep into interactions with clients and customers. Many of the agents featured in the expose were likely not intentionally discriminating against minority buyers but, intentional or not, their behavior was discriminatory. Agents often think that they are helping their clients by directing them to where the agent believes the client will feel "most comfortable." These actions, while usually well-intentioned, are in violation of Fair Housing law. For this reason, agents must not make assumptions about what the client wants, nor offer services based on their own perceptions. The notion of offering equal, consistent, exceptional customer service should be paramount in every brokerage.

The Newsday expose serves as a cautionary tale. The investigation took place in Long Island, New York, but could have easily taken place in Anywhere, Michigan. The findings, albeit alarming, helped to shine a spotlight on the reality of inequity in the homebuying process for many Americans. The investigation has acted as a catalyst for positive changes in the real estate industry. The National Association of Realtors® (NAR), as well as Michigan Realtors® and many other state associations, have worked diligently over the past two years to strengthen their relationships with local Fair Housing Centers and to overhaul their Fair Housing resources and education offerings.

Realtor® members are encouraged to take advantage of these new educational opportunities. A significant component of effecting positive change in the real estate industry begins with fostering a culture of inclusiveness within the brokerage; education is a good place to start. One of the best ways to take meaningful steps toward Fair Housing compliance is to be a steward of your own education. Consider the following training opportunities that are currently available...

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AT HOME WITH DIVERSITY TRAINING

This impactful training is designed to teach Realtors® how to: 1) Understand diversity in local markets and how it impacts the industry, 2) Earn the confidence of potential buyers and sellers, regardless of protected class status and 3) Build a business plan that minimizes risk and allows the business to adapt and evolve to an ever-changing market. This course is available as a virtual self-study module or via a virtual or in-person classroom setting. Students who complete the course can apply for a special "At Home with Diversity" (AHWD) certification which conveys that the individual is a real estate professional who has been trained to provide equal services to a diverse pool of clients. For more information about obtaining the AHWD certification, visit www.nar.realtor/at-home-with-diversity.

LEADING WITH DIVERSITY WORKSHOP

This three-hour workshop is designed specifically for Association leadership. The program is meant to help local associations develop a diversity action plan and provides students with an in-depth look at how diversity will strengthen the association. Both the Leading with Diversity Workshop and the At Home with Diversity training can be funded via a Diversity and Inclusion Grant which is available through NAR. For more information about obtaining a grant to support one these trainings, visit www.realtorparty.realtor/community-outreach/diversity/grant-applications.

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FAIR HAVEN: *A Fair Housing Simulation*

Fair Haven is a one-of-a-kind Fair Housing simulation training developed specially for Realtors®. Trainees will enter a virtual world where they are given the task of closing a real estate deal while identifying and preventing housing discrimination along the way. This is a powerful training that uses the lure of storytelling to provide a new method of learning. After completing the modules, participants will receive customized feedback that can be applied to real-world transactions. Visit fairhaven.realtor to begin the journey through Fair Haven.

BIAS OVERRIDE: *Overcoming Barriers to Fair Housing*

This online workshop was created by experts at the Perception Institute to help Realtors® tackle and avoid implicit biases in real estate transactions. Implicit biases are the automatic, unconscious associations or stereotypes that our brains attach to particular groups. This training provides tools for overcoming implicit biases and managing one's mindset to foster meaningful relationships with clients and colleagues from different cultures and backgrounds. NAR recently collaborated further with the Perception Institute to create a three-hour classroom training component which will be available in April of this year. To learn more about these trainings, visit www.nar.realtor/videos/bias-override-overcoming-barriers-to-fair-housing%23trn2021.

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SOCIAL & FAIR

This course, developed by the Michigan Realtors® Legal Team, explores current state and federal Fair Housing Law, best practices for real estate advertising, emerging caselaw impacting real estate brokerages and other trending legal issues in Fair Housing. Reach out to your Michigan Realtors® Legal Team for more information or to schedule this training for your brokerage or local association.

...continued from page 9



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In addition to taking advantage of these streamlined educational opportunities, real estate brokerages are encouraged to reach out to their local Fair Housing Centers. The local Fair Housing Centers of Michigan provide an invaluable mix of services related to Fair Housing research, education, and advocacy. They offer comprehensive trainings, testing services, workshops, keynote and panel presentations and expert advice in developing resources and other materials. See the contact information for local centers below.

Fair Housing Center of Metropolitan Detroit

www.fairhousingdetroit.org
(313) 579-3247

Fair Housing Center of Southeast and Mid-Michigan

www.fhcmichigan.org
(877) 979-3247

Fair Housing Center of Southwest Michigan

www.fhcswm.org
(866) 637-0733

Fair Housing Center of West Michigan

www.fhcwm.org
(616) 451-2980

As we enter Fair Housing Month, it's important to reflect on the significance of the Fair Housing Act. Of course, celebrating Fair Housing should not be contained to a single month, but this time always serves as a special reminder of all that's been accomplished (and all that's yet to be done) to end discrimination in housing. Realtors® can make a positive impact by reaffirming their commitment to Fair Housing and taking actionable steps toward providing equal, consistent and exceptional customer service to those in pursuit of housing. Together, through education, advocacy and the implementation of meaningful policies that address Fair Housing, we can actively work to prevent housing discrimination. If you have any questions about the resources or training opportunities discussed in this article, please reach out to your Michigan Realtors® Legal Team. ●

¹ Choi, Anna. "Long Island Divided." *Newsday*, 17, Nov. 2019, <https://projects.newsday.com/long-island/real-estate-agents-investigation/>.

² Id.

RPAC HALL OF FAME



Paula Arndt
2019



Randy Caltrider
2018



Robert M. Campau
2017



Dan Coffey
2013



Chris J. Courtney
2014



Matthew Davis
2019



Heather Davis
2019



Chris Dean
2015



Ryan Eashoo
2019



Ted Edginton
2017



Stuart Elsea
2012



Carol Frick Jones
2006



Yoshiko Fujimori
2017



Karen Greenwood
2018



Carol Griffith
2018



Jamie Iodice
2020



Tammy Kerr
2020



David Ledebuhr
2019



Sara Lipnitz
2017



Bill Martin
2008



John G. McArdle
2014



Gordon McCann
2015



John Meeseman
2019



Michel M. Metzner
2017



William Milliken
2018



John North
2019



Tom Paarlberg
2020



Kim Pontius
2020



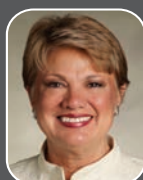
Nanci J. Rands
2012



Rick J. Reardon
2017



Gary J. Reggish
2014



Cathy Sherman Bittrick
2018



Johnna Struck
2018



Brenda Lee Szlachta
2020



Robert E. Taylor
2012



Rebecca Williamson
2019



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2019



Jeff Young
2020



Debbie Zalewski
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HALL OF FAME – LEVEL II



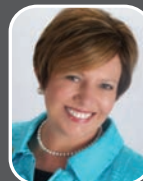
Mark Baker
2012



Dan Elsea
2010



Beth M. Foley
2012



Pat Vredevoogd Combs
2006



Furhad Waquad
2010



Dale Zahn
2015

HALL OF FAME – LEVEL III



Teri Spiro
2008

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