



THE REALTOR® RESOURCE FOR **NMAR** NEWS & INFO

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*Building Our Future  
A Year of Pandemic  
No Consideration Means No Contract*

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Photo courtesy Bill Manns (Bill & Cody)

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## 2021 NMAR Officers

Danny Wm Vigil, C2EX - President  
Damon Maddox, AHWD GRI GREEN MRP - President Elect  
Hubert H. Hill II, CRS GRI - First Vice President  
Wes Graham, CRB CRS GRI C2EX - Treasurer

M. Steven Anaya, RCE - Chief Executive Officer  
Ambyrly Maestas - Membership Administrator  
Diane Moehlenbrink, CAE, RCE - Communications Director  
Barbara Montoya - Member Services Director  
Colleen Mooney - Marketing Director  
David Oakeley - Governmental Affairs Director  
Mellanie Trujillo - Accounts Manager



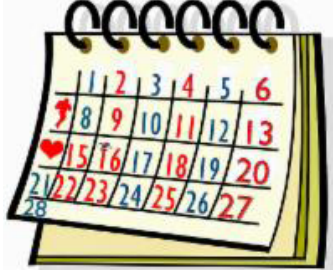
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## Mark Your Calendar!



### April

- 2 Good Friday, NMAR closed
- 8 Professional Education - 10:00 am  
Member Services - 2:00 pm
- 20 Benevolent Fund Directors -  
11:00 am  
Stanley H. Mathis Trustees -  
1:30 pm
- 21 NM MLS Board Meeting - virtual  
NAR 360 - Facebook Live
- 26 Growth & Involvement Session 1 -  
9:00 am virtual
- 28-29 *Strategic Planning Retreat*
- 30 Legislative Committee - 10:00 am  
RPAC Trustees - 1:00 pm

### May

- 3-14 NAR Legislative Meetings, virtual
- 15 NMAR Officer Applications Due
- 18 Credentials/Leadership Committee - 1:30 pm
- 19 Forms Committee  
NM MLS Board Meeting - virtual
- 20 Budget & Finance
- 31 Memorial Day, NMAR closed

### June

- 1 ROTY Nominations Due
- 9 Bylaws Committee
- 11 ROTY Selection Committee Lunch
- 15 Growth & Involvement Session 2 -  
1:00 pm virtual
- 20-23 NAR Presidents Circle, Marco  
Island, Florida
- 23 NM MLS Board Meeting - virtual
- 29 Executive Committee

Second quarter NMAR Committee meetings will be held virtually unless otherwise indicated; committee meeting dates and times are subject to change. Check with committee staff liaison if you have questions.

# Help Lead Your Association Into the Future

Applications for 2022 NMAR officer positions are currently being accepted. Openings are available for the following positions. Terms begin January 1, 2022.

## First Vice President

one-year term; automatically moves up to President Elect for 2023 and President for 2024

## District Vice Presidents

two-year term; one from each of the following Districts: Northwest, Southeast

## Individual Director

two-year term; represents Individual Members of NMAR (those REALTORS® who are not members of a Local Board) on the NMAR Board of Directors

Application forms and duties of offices are available at [nmrealtor.com/leadership](http://nmrealtor.com/leadership).

If you have any questions about the application process, please contact [info@nmrealtor.com](mailto:info@nmrealtor.com) or Paul Wilson, 2021 Credentials/Leadership Committee Chair, [Paul@WilsonABO.com](mailto:Paul@WilsonABO.com).

Elections will be held at the 2021 Fall Board of Directors meeting of the New Mexico Association of REALTORS®.



Application Must Be Received by  
5:00 p.m. May 15, 2021



Participating in the Grande Open House Event is FREE for NM REALTORS®! Just set up your listing as an open house for April 10th - 11th in your MLS. [Download this PDF for more information.](#)



# FROM YOUR PRESIDENT



Danny Wm. Vigil  
2021 New Mexico  
Assn. of REALTORS®  
President

## Building Our Future One Zoom Meeting at a Time

While we have managed to carry on our real estate activities and the business of your association, the standard remains doing almost everything in a virtual setting – to which we have all adapted.

Virtual meetings have even provided a few pluses – more participation and better use of our volunteers' time. While I was unable to install Board officers in-person, I was able to participate in virtual installations – thank you to all who stepped up to help lead their organizations during 2021.

I know we are all looking forward to the day we can meet in person for committee meetings and even continuing education classes, but until then, NMAR has managed to operate successfully despite the restrictions COVID-19 has placed on our activities.

Nearly every NMAR committee was able to meet virtually during January and begin their work for 2021. We had a big crowd for Ashley's Legal Update class and even our installation and Board of Directors meeting went smoothly. We were pleased to welcome and get updates from NAR General Counsel Katie Johnson and Region XI Vice President Scott Matthias at our meeting.



Hats off to both our Forms and Legislative Committees which had a busy first quarter finalizing several new and

revised forms and monitoring the New Mexico Legislative Session.

Your Executive and Budget Committees and the Building PAG have also been busy. Work is being finalized on creation of an LLC to own and manage your association home in Santa Fe and we are thrilled to report our building is fully leased!



Other good news – the Growth and Involvement Committee made a decision to offer virtual sessions to begin this year's class program. Fourteen members will get together via Zoom April 26 to kick off this year's program and Discover their "Why" with Dr. Gary Sanchez.

Your leadership is committed to Building Our Future Together. We joined Board leaders March 16 for an update on the 2021 Core Standards Requirements and are looking forward to the ideas and activities Boards – and NMAR – are planning to meet these criteria. NMAR's Strategic Planning Committee will be meeting soon to put together a three-year strategic plan for your association. Strategic planning plays a crucial role in providing a blueprint for association activities and initiatives. The proposed plan and a budget to go with it will be presented to the NMAR Board of Directors for approval in September.

One Zoom meeting at a time is getting business done. Until we get the green light (or turquoise designation) for larger gatherings, I'll see you via technology.

A handwritten signature in blue ink, which appears to be "Danny Wm. Vigil".



## Not Your Usual Installation

From her home in Missouri, past NAR President Elizabeth Mendenhall joined New Mexico REALTORS® to install 2021 NMAR officers and directors and President Danny Wm. Vigil. James Russ virtually passed the gavel to the new president and Carrie Montoya Pegg presented Danny with his state president's pin.

The installation "banquet" consisted of carry-out with NMAR staff.

Not your usual installation festivities, but technology allowed NMAR to host an event out of the ordinary and one no one will quickly forget.





M. Steven Anaya, NMAR  
Chief Executive Officer

## A Year of A Pandemic The Impact on Real Estate and the Economic Outlook

Three months into 2021, New Mexico's real estate industry appears to be on a rosy path. However, there is some concern about how New Mexico's economy and job outlook will keep pace with home price increases. At some point, even low mortgage rates are not going to keep all potential buyers in the market. Lack of inventory remains a major concern in many areas, and drives up prices of existing homes.

The latest reports NMAR (February 2021) has received show a little more than 3% increase in year-to-date sales and a 15% increase in median price from the February 2020 median.

### NAR Research Data provides a look at the national and New Mexico economies and real estate markets in 2020.

- New Mexico saw a 7.6% loss in employment in 2020. That's approximately 60,000 jobs. While not the high-

est unemployment rate in the nation, New Mexico fared worse than our neighbors Arizona (-2.8%), Texas (13.3%), Colorado (-5.4%), and Utah (+0.6%), which was one of two states to see a slight increase in employment during 2020.

- Upper end houses have seen the strongest growth in number of sales with double-digit home price appreciation common at nearly every level. Home prices in New Mexico are appreciating faster than the U.S. average (based on FHFA Price Index for repeat sales.) Latest figures from FHFA show national appreciation at 4.7% and New Mexico's appreciation at 5.5%.
- Nationally inventory has been reduced to a two-month supply. New Mexico is experiencing similar inventory problems in many areas and saw a 5% decrease in housing permits during 2020. February 2021 reports from MLSs around the state showed a 61 average days-on-market for sales. That's 17 days less than February 2020. And pending listings are down over 140 units from February 2020.
- Foreclosure rates remain low due to the eviction moratorium. 10% of New Mexico's 18+ population is not caught up on mortgage payments (U.S. is 9%) and 23% of New Mexican's 18+ are not caught up on rent (21% U.S.). NAR continues to monitor this issue and work toward equitable solutions to multi-family unit owners, who are also feeling the pressure of no rental income.
- The near ban on travel, work from home, and do all your shopping on-line norms of 2020 resulted in



- major down turns in hotel, office leasing, and retail commercial sectors.
- Logistics facilities (industrial sector) were a clear winner from the surge in digital commerce.

#### Monthly Average Days on Market

	2018	2019	2020	2021
January	75	80	75	60
February	86	84	78	61
March	78	79	68	

#### Monthly Pending Listings

	2018	2019	2020	2021
January	1,684	1,663	2,037	2,005
February	2,446	1,762	2,137	1,994
March	2,868	2,190	1,995	

NMAR has seen an increase in membership the past year (up about 400 members from last year to 7,100 in mid-March 2021), as people, many who have been laid off due to a less than robust economy in many other sectors, have decided to join the real estate profession. New Mexico REALTORS® are busy selling the inventory that's available. Members have reported multiple offers and from all indications, as long as there is inventory to sell and New Mexico's job market begins to show improvement, 2021 year-end numbers will set another annual record.

#### NAR Economists predict:

- 2021 home sales should reach 2006 levels of



6,500,000. New Mexico has only been keeping state-wide statistics since 2008, but 2021 is on track to be the best year for sales (with the exception of 2018, an off-the-chart year for New Mexico real estate).

- Home prices are predicted to continue their upward trend, but at a slower pace in 2021 – from 7% increase in 2020 to a 3% increase this year.
- Mortgage rates will rise slightly but remain below 3.5%.
- Work from Home will boost flexibility in the office market and is expected to moderate during 2021 with more employees back in office settings at least on a part-time basis.

So what does all this mean to you?

COVID-Safe practices are still the norm – virtual tours, masks, a limited number of folks at showings. These practices have become routine and are expected to continue at least through 2021 when hopefully vaccinations and herd immunity reduce the spread concerns the pandemic has raised. In most areas of our state REALTORS® are welcoming a return to the ability to hold open houses (check with your MLS for guidelines) and other normalcies. REALTORS® adapt. That's who we R.

## It's On to Something New

NMAR Communications Director Diane Moehlenbrink is retiring!

Diane has worked for REALTOR® associations in three states and has been at NMAR since November 2005. Her institutional knowledge and organizational skills will be



missed by staff and members, but we wish her well as a "lady of leisure." She has mentioned using the skills she's learned from working with REALTORS® to training her cats to do tricks on command – probably an easier task than herding members!

Diane's last day will be April 30.





Ashley Strauss-Martin  
NMAR General Counsel

## When it Comes to the Law - No Consideration Means No Contract

How many of you buyer brokers have seen this (or something like it) in the LO/SO remarks of the MLS? “Seller will consider all offers on April 15, 2021 at 5:00 pm.”

And in response, you tell your buyer – “we have to get your offer in by April 15, 2021 at 5:00 p.m.”

The buyers, thinking they have time, don’t immediately make an offer. But then, on April 13th, the listing goes into **Pending**. And you – the buyer’s broker – are left scrambling to explain to your buyer how this happened. You call the MLS, the Board, the NMREC – outraged! Isn’t this a violation of MLS Policy, the Code of Ethics, and/or Broker Duties? Not necessarily and THIS is how that happened.

To begin, I am assuming that the listing broker was being honest when he/she entered that information in the MLS remarks - that the sellers, at the time that statement was entered into the MLS, did express their intent (hopefully, in writing) to reserve review of offers until April 15th at 5:00 p.m. Further, I’m assuming that the seller did not, prior to moments before accepting the offer, make their change of mind known to the listing broker. If these are accurate assumptions, that listing broker [likely] did not violate MLS Policy, the Code of Ethics, and/or his/her Broker Duties in making that representation in the MLS.

The basic elements required for an agreement to be a legally enforceable contract are:

- mutual assent expressed by a valid offer,
- [communication of] acceptance and adequate consideration.

Legality and capacity are also of import, but we are going to assume those elements for purposes of this discussion. In the above scenario, let’s say that seller has made an offer – to not consider offers until April 15th at 5:00 pm. First, it is unlikely that the buyer communicated his/her acceptance

of that offer to the seller. But more importantly, the buyer has likely not given anything in the form of consideration for the seller to reserve review of offers until a certain date/time. Without consideration, there can be no contract for the seller to reserve review of offers until a certain date/time and therefore, the seller can change his/her mind **at any time**.

Also of importance, brokers in New Mexico generally work [in the buy/sell context] as transaction brokers – NOT AGENTS - so even if the first issue was not an issue, the seller’s transaction broker cannot make any statements that bind the seller. In other words, even if consideration had been given by the buyer, (which in almost all cases, it has not) the agreement would have to be between the seller and buyer and not based on the listing broker’s representations of what the seller will or will not do. There may be an exception to this if the listing broker was working as an agent for the seller - but again, most brokers working with buyers and sellers are not working as agents.

What’s the take-way here? ***It incumbent on the buyer’s broker to explain to his/her buyer that even though this representation has been in the MLS by the listing broker, the seller is NOT obligated to reserve review of offers until the date specified, and that the seller could accept an offer at any time.***

Remember, most of the time when consumers get upset it is because they didn’t understand how things work. This rings especially true for the purchase agreement (because consumers don’t typically read it), but it’s true in this scenario as well. If the buyer broker explains the meaning of this representation, then if the seller accepts another offer prior to that deadline, the buyer may be upset, but not as upset, because the buyer understood that’s how it may work. It also means the buyer is more likely to get his/her offer in sooner rather than later, and not miss out on the property.



In conclusion, most MLSs do not have a rule prohibiting such a remark being made in the MLS or requiring that some cautionary language be added if such a remark is made. However, that does not mean that a listing broker could not add such cautionary language to their comment.

**BE AWARE:** unless the seller has entered into an agreement with a buyer and received consideration from that buyer to postpone review of offers until a specified date/time, the seller may consider offers **at ANY time** and may accept an offer prior to the date/time expressed above.

## Reminder – the IRS Requires Reporting of Cooperative Commissions

The Internal Revenue Service (“IRS”) requires that listing brokers who pay a cooperative commission in excess of \$600 to an individual who is not an employee to report that income to the IRS. Beginning with the 2020 tax year, the IRS will require non-employee compensation to be reported on the new Form 1099-NEC instead of on Form 1099-MISC.

### IRS Requirements

In general, you must report payments if the payment meets the following four conditions:

1. It is made to someone who is not your employee;
2. It is made for services in the course of your trade or business;
3. It is made to an individual; and
4. It totals at least \$600 for the year.

The listing brokerage should complete Box 1- Non-employee Compensation on Form 1099-NEC, give Copy B of the form to the individual who received the compensation, and file Copy A with the IRS. “Non-employee compensation” includes fees, commissions, prizes, and awards, and so would include cooperative commissions and referral fees paid by real estate professionals because these payments are made during the course of their trade or business to non-employees.

These filing requirements exist even if the listing broker is not directly paying the cooperative commission to the other broker. So, if the cooperative commission is paid by the title company to the other broker, the listing broker may still need to file a 1099-NEC. This is because the funds constituting the cooperative commission are drawn from

the listing broker’s portion of the commission and so the payment is technically made by the listing broker.

Property owners do not need to complete a 1099-NEC for the commissions they pay to real estate professionals because this activity is not part of their trade or business. For More Information on the 1099-NEC [click here](#).

### Reporting Deadlines and Other Information

All 1099-NEC forms must have been sent to payment recipients and filed with the IRS by [February 1, 2021](#) to avoid penalties.

In order to complete the 1099-NEC, a taxpayer needs to obtain certain information from the recipient, such as a social security number or an employer identification number. Brokers should obtain this information by giving Form W-9 to every broker to whom it pays cooperative commissions (or causes to be paid) and request that the cooperating brokers return a completed Form W-9 to the taxpayer. This form will give the taxpayer sufficient information to complete the 1099-NEC and will also inform the taxpayer about whether the cooperating broker is an individual or a corporation.

Remember, if the cooperative commission is paid to a corporation, the taxpayer does not need to file a Form 1099-NEC. However, the taxpayer should still obtain the W-9 from the cooperating broker even if it is a corporation, in order to demonstrate that it verified the corporate status of the cooperating broker.

For More Information on Form W-9 [click here](#).

*Legal Update provides a limited and general discussion of some, but not all, aspects of issues that is intended but not guaranteed to be accurate as of the date published. This information may become outdated and it is the responsibility of the user to determine if it is current. No summary of the law is a substitute for legal advice with respect to a particular matter. No attorney-client relationship is intended or implied. If legal advice is required, the services of a competent attorney should be obtained. NMAR members are cautioned against engaging in the unauthorized practice of law by advising a consumer of legal rights and obligations or by applying the law to particular facts and circumstances. © 2021 New Mexico Association of REALTORS®*



# GOVERNMENTAL AFFAIRS



David Oakeley  
NMAR Governmental  
Affairs Director

## Grassroots Advocacy WORKS!

The New Mexico Association of REALTORS® has many tools when it comes to supporting or opposing legislation that is introduced in the New Mexico Legislature.

There is the Legislative Committee that reviews all introduced bills and determines their impact on the real estate business. There are the State Political Coordinators—fellow REALTORS®—who are assigned to legislators and who call on them when needed. There is the legislative team consisting of NMAR staff (CEO, staff attorney, and GAD) and contract lobbyists.

NMAR also has a voice at the New Mexico Legislature due to contributions to lawmakers from the REALTORS® Political Action Committee of New Mexico (RPAC-NM), funded by voluntary contributions from NMAR's members. A contribution to an elected official does not guarantee they will vote for or against a bill, it sometimes simply opens the door to a conversation.

***But it is you, the over 7,000 REALTORS® in New Mexico who really can make a difference.*** That is because you are their constituents, and you are their neighbors. When you reach out to them, they listen.

In this past session we asked NMAR members to respond

to a “Call for Action” and contact their Representative in the House on a bill that would have created a transfer tax, an issue NMAR opposes. In only 24 hours, nearly 800 REALTORS® contacted their Representative. A Call for Action is a powerful tool, and NMAR uses them sparingly, especially to the whole legislative body, so that they are effective. The bill died in committee.

What makes a Call for Action so effective is that when you click on the message it goes only to elected official in your district.

NMAR had some select Calls for Action at the committee level (messages went only to committee members), and also contacted REALTORS® in some legislative districts asking them to send a personal message to their elected official.

NMAR is a powerful, respected group in New Mexico for all the reasons spelled out. But again, it is still about the members who participate at the grassroots level.

Invest in RPAC



## RPAC Hall of Fame Class of 2020



RPAC has announced their 2020 Hall of Fame Class and New Mexico has two inductee.:

Wes Graham of the Clovis/Portales Association has reached the \$75K Level of the RPAC Hall of Fame and Tom Whatley of Las Cruces has reached the \$25K Level.



Congratulations on an amazing accomplishment and thank you for your continued support of RPAC!

Contributions to RPAC are not deductible for federal income tax purposes. Contributions are voluntary and are used for political purposes. Any amounts indicated are merely guidelines and you may contribute more or less than the suggested amounts. The National Association of REALTORS® and its state and local associations will not favor or disadvantage any member because of the amount contributed or a decision not to contribute. You may refuse to contribute without reprisal. Your contribution is split between National RPAC and the RPAC-NM. Contact NMAR for information about the percentages of your contribution provided to National RPAC and to RPAC-NM. The National RPAC portion is used to support federal candidates and is charged against your limits under 52 U.S.C. 30116.

## Boards Honored for 2020 RPAC Fundraising Efforts

RPAC-NM announced 2020 award winners at NMAR's virtual January meeting. Congratulations to everyone who helped NMAR collect \$194,974 in RPAC contributions last year.

The highest honor - the Strive for Excellence Award - recognized boards for exceptional fundraising and participation efforts.

Congratulations to the Carlsbad, San Juan County, and Deming/Luna County Boards for their outstanding efforts!





## 2021 Member Board Presidents



Joy Ainsworth  
CARLSBAD



Gayla Brumfield  
CLOVIS/PORTALES



Caly Azar  
CARNM



Heather Wood  
DEMING//LUNA CO.



Belinda Franco  
GREATER ABO.



Peggy Stevenson  
LAS CRUCES



Jessica Sena  
LAS VEGAS



Shawn Oswalt  
OTERO COUNTY



Ramona Kilpatrick  
ROSWELL



Bob Moroney  
RUIDOSO/LINCOLN CO.



Stephanie Buffington  
SAN JUAN COUNTY



Roger Carson  
SANTA FE



Robin Thomas  
SILVER CITY



Brian Stenum  
TAOS COUNTY

## NMAR Growth & Involvement Program

After a number of schedule changes, the 2020 Growth and Involvement Program has gone to a part virtual/part in-person format and is now officially the 2021 Growth and Involvement Class. The following NMAR Members have been selected as class participants and will have their first virtual session April 26th.

Troy Briggs – Ruidoso/Lincoln County  
Daniel Huberman – Santa Fe  
Nancy Kennedy – Greater Albuquerque  
Ramona Kilpatrick – Roswell  
Mindy Longmire – Roswell  
Jenn Cody Martin – Greater Albuquerque  
Susan McKee – Roswell  
Carrie Montoya-Pegg – Greater Albuquerque  
Monica Partridge – Santa Fe  
Josh Price – Greater Albuquerque  
Jake Roberts – Otero County  
Emmary Simpson – Las Cruces  
Amparo Usrey – Gallup  
Danny Wm. Vigil – Greater Albuquerque

## NAR IS ACCEPTING 2022 COMMITTEE APPLICATIONS

Help shape the direction of your National Association of REALTORS®. Now through May 7, members may submit their applications in order to be considered for a committee leadership or member position.



[Click Here for NAR Committee Application Process Info](#)

## Follow NMAR



# REALTORS® Support Their Communities

The Roswell and Ruidoso/Lincoln County Associations of REALTORS® presented checks to their local First Responders with monies raised from NMAR's July Legal Update class.



MOST NMREC approved ethics CE classes (required for license renewal) meet the NAR requirement. The NAR 2.5 hour class does NOT meet the 4 hour requirement for license renewal. Check with your Board (or [Barbara@nmrealtor.com](mailto:Barbara@nmrealtor.com)) if you have questions.



NAR 2021 President Charlie Oppler (top row, third from left) joins the Deming/Luna County Board of REALTORS® for a virtual meeting.

The connection? Charlie worked with Micki Shillito in New Jersey and he gladly accepted her invitation to join the Board at their March meeting.

## Congratulations to 2020 Board REALTORS® of the Year



Joe Farr  
CARNM



Audra Kennis  
DEMING/LUNA



Jeanette Raver  
GREATER ABO.



Leland Todd Taylor  
ROSWELL



Julie Blair  
SAN JUAN CO.



Penny DeHerra  
TAOS COUNTY

Show your REALTOR® Pride AND  
support the NMAR Benevolent Fund!

Purchase Your Pin Now.

