

GRAFTON COUNTY COMMISSIONERS' MEETING  
3855 Dartmouth College Highway  
North Haverhill, NH 03774  
June 8th, 2021

PRESENT: Commissioners Piper, Lauer, Ahern, County Administrator Dorsett, Temporary Admin Jessica Jackson

OTHERS PRESENT: FM Nelson, Register Monahan, CA Hornick, FD Libby

Commissioner Piper called the meeting to order at 9:02 AM. Commissioner Ahern led the Pledge of Allegiance.

### **1. Grant Nelson, Farm Manager**

FM Nelson presented the attached report “**June 2021 Farm Report.**”

FM Nelson also reported that the potatoes are looking good and they will have to start spraying for insects soon.

#### *FarmDOC Discussion*

Commissioner Ahern asked how FarmDOC was progressing. FM Nelson explained that while he had been thinking about FarmDOC and thought that the County supplying milk to operations is a great idea, it's difficult to think about the process entirely on account of the lack of available labor. He also stated that he believes it is important to maintain good relations with their neighbor, Howard Hatch, as operations on the County Complex do still purchase milk from Hatchland, and the farm borrows equipment from Mr. Hatch. FM Nelson said that if it was up to him, he would continue to buy from Howard Hatch, stating that it's a tough business and Howard would be the first to tell you about the sacrifices made to establish the Hatchland market share.

Commissioner Ahern confirmed that FarmDOC says the County is not to compete with Hatchland or other local farmers and explained that he was looking to get FM Nelson's analysis on FarmDOC and would like to see some resiliency in the County Complex. There are a number of rules and regulations that may stand in the way and the County may need to take these rules to legislation so that the County can move forward with such operations. Commissioner Ahern added that all the Commissioners can do is set policy, while the County Administrator sets strategy, and Farm Manager sets tactics.

FM Nelson asked how the Commissioners would answer the question of why they still have a county farm when other county farms have been shut down. Commissioner Ahern explained that 1.) State Statute says the County can operate a Farm operation, in conjunction with the operation of a Nursing Home and a Department of Corrections, 2.) the farm provides a good, reliable, healthy food source for the Nursing Home and House of Corrections to save on food expenses, and 3.) the farm provides opportunities for inmates in the House of Corrections to come learn how to work, how to grow food, and learn responsibility. CA Dorsett added that he met with FM

Nelson last week and that they are exploring how the farm could work without inmate labor and that if the farm could take inmates out of dairy production, then they might stand a better chance of instituting an internship program through UNH, Riverbend or others. CA Dorsett also briefly met with County Forester Jim Frohm the day prior and they are planning a walkthrough to consider Christmas trees.

Commissioner Lauer agreed that the farm staffing issue needs to be solved before moving forward with FarmDOC as this program would require a skilled labor position and an inmate could not easily do this work. FM Nelson added his concern that if the farm can't find one staff member, how are they are going to find additional staff to run these new operations?

Commissioner Piper added that former Commissioner Marcia Morris was very interested in small family self-sustainable resilient farming, especially in the case of dairy, seemed to have some good ideas, and that it might be beneficial to reach out to her.

FM Nelson requested the Board to go into a non-public session.

**MOTION: \* 9:25 AM** Commissioner Ahern moved to enter into non-public session for the purposes of the dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted according to RSA 91-A: 3, II (a) Commissioner Piper seconded the motion. This motion requires a roll call vote. Commissioner Piper called the roll. Commissioner Ahern "yes"; Commissioner Piper "yes" Commissioner Piper stated that a majority of the board voted "yes" and would now go into non-public session.

\* 9:39 AM Commissioner Lauer declared the meeting back in public session.

**MOTION:** Commissioner Lauer moved to permanently seal the minutes from the just completed non-public session because they could affect the reputation of someone other than those of the Board of Commissioners. Commissioner Ahern seconded the motion. Commissioner Piper called the roll. Commissioner Ahern "yes" Commissioner Piper "yes". Commissioner Piper stated that a majority of the board voted "yes" and would now return to public session.

## **2. Kelley Monahan, Register of Deeds**

At 9:40 AM, Register Monahan presented the attached documents (**Register of Deeds June 2021 Report, Wire Fraud article, and NH Business Review article**) to the Board.

Register Monahan added that normal foreclosures are being stalled because of the governor. Register Monahan presented an **article from NH Business Review** and added that there is no inventory to continue this reported surge unless foreclosures happen, but she thinks there will be a market/inventory here in Grafton County in the next year. Commissioner Ahern added that if people can get more money for their homes, it may encourage them to sell and move. Register Monahan reported that she had processed six (6) hearings in May, and had nothing since then. She stated that people are sitting on what they have.

Register Monahan reported that she had removed the appointment requirement in her department and that her staff continues to wear masks in the office out of respect for one another. Her department is also regularly sanitizing computer work stations and the front counter.

Register Monahan also provided some updates to relevant House Bills, and reported that HB89 (the omnibus bill which was asking for FDIC standards in an effort to protect the consumer) is with the House for further deliberation. This bill essentially strips protections from the consumer. Probate was also removed from HB134, which Register Monahan stated will come back but needs to be further studied.

### **3. Minutes Approval**

**MOTION: 9:55 AM** Commissioner Lauer moved to approve the minutes as amended from the 5/24 hearing and 6/1 Commissioners' Meeting. Commissioner Ahern second the motion. This motion requires a roll call vote. Commissioner Piper called the roll. Commissioner Ahern "yes"; Commissioner Lauer "yes"; Commissioner Piper "yes" Commissioner Piper stated that a majority of the board voted "yes" and the **MOTION CARRIED**.

### **4. Marcie Hornick, County Attorney**

County Attorney Hornick joined the meeting at 9:56 AM and provided the following updates for her department:

- Her department is back in the office and fully populated. At one of the many meetings she had with her staff, everyone talked about coming back being an adjustment, but that it is great to see their co-workers in person again. CA Hornick is exploring the possibility of having employees work four (4) 10-hour days so that they can have longer weekends over the summer.
- Today (6/8) is jury selection and cases are starting to move through the system. Currently, for misdemeanor appeals, they are operating by "staggered jury entry". This provides the opportunity to question from the court room individually. By July, CA Hornick believes the courts should be back to normal.
- In-person arraignments start in August. This is great because it allows both parties to be present at the same time instead of trying to do it remotely.
- Her department had tried out the experimental program of "prosecutor on-duty day" on both May 18th and 28th. CA Hornick reminded the board that this provides an opportunity for prosecutors to come meet face-to-face. Her department had seen a great response to this program and was able to resolve 38 new cases on these two days.
- CA Hornick stated that Meth is a big problem in the County.
- Legislation is trying to address some important issues like mental health and substance abuse.
- CA Hornick stated that she had done a staff lunch previously and she would like to have permission to do this again. It would require about two (2) hours of office closure. The Commissioners supported this request and thought it was a great idea.
- The County Attorney's office had migrated to Office 365 via PBK. CA Hornick said this was a great fix.

Commissioner Lauer asked if any of CA Hornick's staff members were having issues with childcare. CA Hornick reported that the issue had come up when she told her staff they needed to return to the office and that some of her hourly employees do have this issue. CA Hornick was aware that Sherri Sargent of Haverhill Parks & Rec was potentially working on a way to provide transportation to and from the Grafton County campus for their childcare programs/summer camp. Commissioner Piper pointed out that this was an initiative of County Administrator Dorsett to help our employees with this challenging issue of childcare. She asked for some clarification on childcare as she thought schools had been reopened. CA Hornick stated that some schools had reopened, and many were still doing a hybrid program. Commissioner Lauer added that summer camps have reduced admissions due to the pandemic.

## **5. Check Register signing 10:11 AM**

## **6. Next Meeting Location**

CA Dorsett confirmed that the next Commissioners' Meeting would be held at the UNH Coop Extension Conference Room, and that the Commissioners' meeting the week following may be at the Courthouse. The Commissioners wanted to see if someone from the UNH Ext could be present at the next meeting for an update.

## **7. Social Service Programs and Funding**

### *A. Friendship House Mortgage Subordination*

At 10:17 AM, FD Libby joined the meeting in order to discuss the social service funding discussions.

FD Libby explained that AHEAD, Inc. owns the property that the Friendship House is on and that they are refinancing the mortgage. In order for the NH Business Finance Authority to grant the funding, they need to be put first on the lien. The Town of Bethlehem and Grafton County are the current lienholders, so the NHBFA would need to be added as first. Commissioner Ahern was concerned that signing this agreement would put the County in potential financial jeopardy, as if for some reason the Friendship House was foreclosed on, the County could be held liable for the \$500K grant money. Commissioner Ahern stated that as long as Grafton County is not on the hook for \$500K, he would be amenable to signing the subordination, but he wants to know more about the risks the County may be incurring. Commissioner Lauer agreed that she does not know enough to know what the county would be obligated for and would like more information.

### *B. Burch House Reallocation*

Commissioner Piper explained that the proposed Commissioners' Budget had allocated \$8500 to the Support Center at Burch House. On a separate line in the budget, they also fund Tri County Cap Program's homeless shelter. FD Libby received an email from Meg at Voices Against Violence reporting that the Burch House is no longer offering service to victims of domestic violence, and that WISE had picked up this service. VAV was asking for this \$8500 funding to be divided between VAV in Plymouth and WISE in Lebanon as a result of this change. Commissioner Piper had spoken with Matt Duclose at the Burch House and confirmed that they



currently serve mothers and children who are homeless, and a small amount of domestic violence survivors.

Commissioner Lauer stated that the most the Board can do is recommend to Executive Committee that they reallocate the funds. The first issue is: should they fund the Burch House. The second issue is: if the County does not fund them, should they allocate these funds to two different agencies? Commissioner Lauer did not support reallocation, because every social services agency has had increased workloads.

FD Libby added that the Burch House did not reach out when they stopped these services back in October and should have been more transparent in their application, which is specifically for domestic abuse survivors. She thinks there should be some communication stating that they would be happy to fund the Burch House homeless program, but that it would have been preferable to receive notice of their program changes. The application is based on domestic violence advocacy and shelter. The Commissioners discussed the possibility of requesting an updated application, which would need to be completed before the following Friday so the Commissioners could make a recommendation and present the facts to the Executive Committee based on the Burch House's response.

Commissioner Lauer also put forth the idea of cutting \$8500 to Burch House altogether, but giving an additional \$5000 to their homeless program because she did not want to see homeless services and domestic violence services go to \$10K from \$18K. She pointed out that Plymouth gets \$25K+. Commissioner Ahern stated he was all right with either option as long as the Commissioners were not proposing to spend any more money than what was already proposed in the budget. Commissioner Lauer added that she did not want her constituents to suffer because of a misleading application. Commissioner Piper stated that if they are considering the \$8500 for Burch House, the Burch House is no longer providing the service they were funded for. This causes concern with other agencies that are doing this work. CA Dorsett added that portion of what the Burch House does is still being done: Homelessness caused due to domestic violence.

CA Dorsett stated that the Board could request a new letter with updated services the Burch House are requesting to fund. Commissioner Piper added that some residents of the Burch House's shelter could be victims of domestic violence, but she was told by Mr. Duclose that they are not providing "Advocacy." Commissioner Ahern stated that there is a process the Board has asked everyone to go through in order to request funds. The Board is trying to level fund everyone, and now two outfits want increased funding. He can't blame them because they think they see some extra money there. FD Libby stated that the question is whether or not the Board agrees to fund \$8500 to Burch House. Commissioner Piper explained that Mr. Duclose told her that Burch House wanted to open up to more people than just domestic violence victims. Commissioner Lauer stated that if the Burch House had come to the Board and said upfront "we are a homeless shelter," the Board funds homeless shelters.

CA Dorsett added that this could all be due to a miscommunication, and that maybe the Burch House is still providing some of the services in their application, just for more than just domestic violence victims. It's unclear. Commissioner Ahern stated that the Burch House put the Board in this position, three days before their presentation to the delegation.

Commissioner Lauer stated that there seems to be agreement that the application was misleading. Commissioner Piper added that the Burch House may be in transition, which is why the application details may have fallen through the cracks. She did not see any reason to cut their funding as they are still providing a homeless program to victims of domestic violence. Commissioner Lauer recommended the Board fund Burch House and expect an updated application. \$8,500 is still not nearly as much as what some other organizations get. The Commissioners supported maintaining the funding.

### *C. CADY & VCD*

The Board had received an email from CADY & VCD which proposed an alternative funding relationship: if the County provided the \$25K funding which was cut from the proposed Commissioners' budget, CADY and VCD would continue to provide their data and information as regards juvenile diversion. Commissioner Ahern repeated that the Board had made a decision to not fund them and that they may be able to get this data from the state. FD Libby reiterated the Board's funding goals for social services which were to 1.) assist the elderly, and 2.) reduce entry to the DOC, which does not house youth. In terms of their goals, the Board does not fund social services youth programs. Commissioner Lauer added that she was happy with the Board's initial decision and would not change her view, but believed the Executive Committee might overturn the decision. Commissioner Ahern stated that he was not going to change his position either. Commissioner Piper explained that they had narrowed the target of social service funding, and that the Board would not be changing their position on this matter.

### *D. GCRD Funding*

FD Libby explained that funding for the Grafton County Regional Economic Development Council (now just Grafton County Regional Development) had been in place since 1997. The funding was originally seed money, then over the years turned into money for the loan officer. The funding was originally \$25K but was increased to \$50K to offset the cost of the loan officer. Now GCRD uses funding as overall agency funding, not for a specific purpose.

Commissioner Piper explained that the GCRD provides services to many businesses, some of them well-performing, and she is not sure why such a business would need taxpayer money. Commissioner Piper had asked Anne Duncan-Cooley about this, requesting financial reports on behalf of the Board. Mrs. Cooley offered to send letters about project outcomes. Commissioner Piper had also asked how many businesses GCRD has helped this year, and what would happen if they lost funding. Mrs. Cooley had replied that Grafton County money is "key."

Commissioner Piper stated that taxpayer funding for economic development seemed to be outside of the purview of county functions, especially because the GRDC funding is a substantial dollar amount. FD Libby stated that she thinks the Board has changed; economic development used to be very important to the Board's values. Commissioner Piper commented that now the BOC has hired Andrew Dorsett as the new CA; he brings experience to the county for such initiatives as these. Commissioner Ahern stated that in his experience working with economic

development groups, these were done via private enterprises where they would go to the bank and borrow money, not request County funding.

Commissioner Lauer stated that the Board's decision to defund GCRDC was that "unemployment is low in Grafton county, we felt the money could go to expand opportunities at the county because businesses seem to be performing well." Commissioner Piper confirmed that a decision has not been formally made. FD Libby recommended that the Board reference whatever services they are looking for. Commissioner Lauer explained that the Board was looking to work with an agency to use the ARPA funds most efficiently. FD Libby stated that she was not comfortable at that time in saying \$50K of ARPA funds can be used to pay GCRD's fee, when GCRD is doing all of these other initiatives that are not ARPA related.

FD Libby reported that the County did receive the first \$8 million from ARPA yesterday (6/7). These funds were moved to a municipal investment pool at Bank of NH earning 0.3%, which would come through as a quarterly interest adjustment.

#### *E. Other*

Commissioner Piper stated that no new social agencies were funded this year due to the loss of revenue from Covid. The Board had agreed to cut Whole Village and the Fuel assistance program. Programs such as these had been cut last year, at the request of the Executive Committee, when the BOC had narrowed the focus for social service funding to fit the criteria of county operations. The only new application Commissioner Piper had seen is for the Alternative Life Center.

Commissioner Ahern asked if there was any update on the County having extra money at the end of fiscal year. FD Libby stated that she has not reviewed this because she hasn't closed financials for the month of May yet, but that the County was still on track. Commissioner Ahern asked if she thought there might be an extra \$10K available in the maintenance budget which could be allocated to fuel polishing equipment and that he was not sure of the process for approving purchases before the end of the current fiscal year. Commissioner Lauer stated that she would support this purchase if the money is there. FD Libby to meet with Supt. Oakes to confirm.

At 11:51 AM, FD Libby returned to answer the Commissioners' earlier mortgage subordination questions for the Friendship House and confirmed that in the circumstance of a foreclosure, the only money that would have to be paid back is anything the County receives from the loan. The County would never have to pay CDFA money back. Given this information, the Commissioners signed the subordination agreement.

**MOTION: \* 11:53 AM** Commissioner Lauer moved to enter into non-public session for the purposes of the dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted according to RSA 91-A: 3, II (a) Commissioner Ahern seconded the motion. This motion requires a roll call vote. Commissioner Piper called

the roll. Commissioner Ahern “yes”; Commissioner Piper “yes” Commissioner Piper stated that a majority of the board voted “yes” and would now go into non-public session.

\* 12:03 AM Commissioner Piper declared the meeting back in public session.

**MOTION:** Commissioner Lauer moved to permanently seal the minutes from the just completed non-public session because they could affect the reputation of someone other than those of the Board of Commissioners. Commissioner Ahern seconded the motion. Commissioner Piper called the roll. Commissioner Ahern “yes” Commissioner Piper “yes”. Commissioner Piper stated that a majority of the board voted “yes” and would now return to public session.

## **8. Other Business**

The Commissioners signed the Micro Enterprise through CDBG paperwork.

**MOTION:** \* 12:06 PM Commissioner Lauer moved to enter into non-public session for the purposes of the dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted according to RSA 91-A: 3, II (a) Commissioner Ahern seconded the motion. This motion requires a roll call vote. Commissioner Piper called the roll. Commissioner Ahern “yes”; Commissioner Piper “yes” Commissioner Piper stated that a majority of the board voted “yes” and would now go into non-public session.

\* 12:57 PM Commissioner Lauer declared the meeting back in public session.

**MOTION:** Commissioner Lauer moved to permanently seal the minutes from the just completed non-public session because they could affect the reputation of someone other than those of the Board of Commissioners. Commissioner Piper seconded the motion. Commissioner Piper called the roll. Commissioner Ahern “yes” Commissioner Piper “yes”. Commissioner Piper stated that a majority of the board voted “yes” and would now return to public session.

Commissioner Lauer attended a State County Finance Meeting and reported that nothing major had come up. Commissioner Ahern reported that his “Just Omer” program hasn’t happened for a few weeks, but that he should be doing another one this week. Commissioner Piper noted that she is going to contact local select boards to see if they want her to come in to talk about the budget and that she is working through some challenges as the President of NHAC.

Commissioner Ahern asked if there was any new guidance on ARPA. CA Dorsett stated we are planning and working on a list of projects to bring to the Board in order to utilize some of the ARPA funds, but that it is too early to know if a portion should be set aside to work with municipalities. CA Dorsett reported that he communicated with several newspapers and discussed the potential of a farm story to help the public know what to expect from the farm

stand. CA Dorsett is trying to get more information out to the press and looking to develop more relationships with press organizations across the county.

**MOTION:** \* 1:06 PM Commissioner Lauer moved to enter into non-public session for the purposes of the dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted according to RSA 91-A: 3, II (a) Commissioner Ahern seconded the motion. This motion requires a roll call vote. Commissioner Piper called the roll. Commissioner Ahern “yes”; Commissioner Piper “yes” Commissioner Piper stated that a majority of the board voted “yes” and would now go into non-public session.

\* 1:10 PM Commissioner Lauer declared the meeting back in public session.

**MOTION:** Commissioner Lauer moved to permanently seal the minutes from the just completed non-public session because they could affect the reputation of someone other than those of the Board of Commissioners. Commissioner Ahern seconded the motion. Commissioner Piper called the roll. Commissioner Ahern “yes” Commissioner Piper “yes”. Commissioner Piper stated that a majority of the board voted “yes” and would now return to public session.

At 1:11 PM, with no further business, the meeting adjourned.

Respectfully Submitted,

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Omer C. Ahern, Jr.  
Clerk

## June 2021 Farm Report

1. We are milking 75 cows averaging 76 pounds per cow per day. Components averaged 4.14% butterfat and 3.18% protein for the month of May. We are currently shipping 11,200 pounds every other day. The pay price for May was \$19.31 per hundred weight.
2. The search for a new farm employee continues.
3. Crop work is going well. Silage corn was planted May 12-14. First cut of hay crop silage May 18-24. Potatoes were hilled on June 2nd. The cover crop trail was seeded on June 3rd. We baled 1,220 small square bales on Bancroft yesterday. 50 more bales for today if the weather permits.
4. The new hens are laying around 8 dozen eggs daily.
5. Should have some piglets soon. We have 2 sows and 2 gilts that will be farrowing in the next couple weeks. 3 older sows have been sold.
6. This Friday, June 11th, Heather Bryant and I will be talking to a local reporter about the cover crop trial on the vegetable field. This should be a good opportunity to inform the public about the farm stand operations for later this summer and fall.

Respectfully Submitted,

Grant Nelson

Farm Manager

**Grafton County Registry of Deeds  
Kelley J. Monahan Register  
Report to Commissioners  
June 8, 2021**

**May Revenue**

County Revenue 5/2009	\$ 81,485.33	State Revenue 5/2009	\$ 428,311.68
County Revenue 5/2010	\$ 73,723.38	State Revenue 5/2010	\$ 471,019.20
County Revenue 5/2011	\$ 67,760.52	State Revenue 5/2011	\$ 476,699.52
County Revenue 5/2012	\$ 86,544.78	State Revenue 5/2012	\$ 526,609.92
County Revenue 5/2013	\$ 89,545.78	State Revenue 5/2013	\$ 676,503.36
County Revenue 5/2014	\$ 69,213.64	State Revenue 5/2014	\$ 555,029.76
County Revenue 5/2015	\$ 85,183.90	State Revenue 5/2015	\$ 872,047.68
County Revenue 5/2016	\$ 79,686.90	State Revenue 5/2016	\$ 718,749.12
County Revenue 5/2017	\$ 85,288.55	State Revenue 5/2017	\$ 864,213.13
County Revenue 5/2018	\$177,993.46	State Revenue 5/2018	\$1,527,437.76
County Revenue 5/2019	\$102,322.23	State Revenue 5/2019	\$1,053,716.80
County Revenue 5/2020	\$ 92,715.68	State Revenue 5/2020	\$ 926,646.72
County Revenue 5/2021	\$133,380.88	State Revenue 5/2021	\$1,574,169.60

**Foreclosures**

2009 68 year to date  
2010 100 year to date  
2011 93 year to date  
2012 85 year to date  
2013 72 year to date  
2014 76 year to date  
2015 48 year to date  
2016 43 year to date  
2017 33 year to date  
2018 17 year to date  
2019 32 year to date (+280 in one day time share foreclosures)  
2020 19 year to date  
2021 9 year to date

1. We have removed the appointment requirement for the public using the Research Room computer stations. We hope that people will be respectful of each other and the staff and limit their time and use proper precautions. We will still sanitize each computer station after public use.
2. The House Judiciary amendments to SB89 were removed by the Senate Judiciary and will proceed to Committee of Conference to work out the differences.
3. The section on Probate was removed from SB134.

Respectfully submitted,

Kelley J. Monahan

## NH's frenetic real estate market can evoke memories of past busts, but this time seems unlikely



The hot and humming residential property market has the potential to awaken memories of the boom- and- bust cycles that triggered severe recessions in 1990 and 2008. However, most market mavens expect the current cycle of frenzied homebuying and rising house prices to end with the market cooling rather than crashing. Or as T.S. Eliot put it, "Not with a bang but a whimper."

The past recessions sprang from very different conditions in both property and capital markets than those prevailing today. In short, those boom- and- bust cycles were marked by loose lending, frenzied buying, speculative investment, financial chicanery and aggressive development that together drove the value and supply of residential and commercial property beyond what economic fundamentals could support.

The current rise in home prices is driven by a severe imbalance between robust demand and short supply of homes coupled with historically low interest rates and imbalance not confined to New Hampshire. Nationally, between 1.1 million and 1.2 million housing units are needed annually to keep pace with demand, yet they have not topped 1 million since 2007, leaving an estimated shortfall of 3.8 million units.

In New Hampshire, single- family building permits peaked at about 500 a month in 2005, then declined steadily to below 150 in 2010 before rebounding above 200 in 2020. Multifamily permits peaked at 200 a month in 2005, fell to 50 in 2010 and returned to 200 in 2020.

Data compiled by the New Hampshire Association of Realtors indicates that, since 2017, inventory has diminished, while the pace of sales has quickened and the price of homes has risen.

Ten years ago, in the wake of the Great Recession, there were 14,500 homes on the market in New Hampshire. Despite the economic recovery, by 2018 the number of homes for sale had fallen to less than half that and slipped again to 5,663 in 2019.

These trends — short supply and strong demand — accelerated in the second quarter of 2020, following the declaration of a national emergency in March and the rebound of the stock market in April.

In 2020, single- family home sales in New Hampshire jumped from 2,741 in the first quarter to 4,055 in the second, followed by 5,976 in the third and 5,583 in the fourth, to close the year 5.6% ahead of 2019, the largest year- over- year increase since 2016.

Year over year, the median single- family home sales price rose in all four quarters of 2020, easily topping those of the year before. Prices rose month by month, dipping only in May and December, while climbing from \$289,000 in January to \$349,900 in December. The pace has not slackened this year. The median sales price reached \$350,000 in January and jumped \$18,000 in April to \$382,000.

Meanwhile, inventory has continued to shrink, from 3,005 homes for sale in the first quarter to 1,383 in the fourth, a year- over- year decrease of 61%.

The media has been filled with reports of buyers making cash offers, sight unseen, and waiving contingencies in what some call an "auction market." Sales have closed above listed prices since July. And David Cummings of the New Hampshire Association of Realtors said that inventory, usually measured by months' supply, is now counted in weeks.

### Timely federal aid

But runaway home prices alone do not carry the risk of a failed market. Instead, the risks lie in the economic conditions behind the veil of rising house prices.

State Banking Commissioner Jerry Little, as the original head of the Governor's Office of Emergency Relief and Recovery, oversaw much of the distribution of federal funds appropriated by the CARES Act in New Hampshire, he said that the timely infusion of financial assistance — the enhanced unemployment benefits, Payroll Protection Program loans and other help for small businesses, as well as stimulus checks — stemmed the economic downturn and forestalled a deep recession.

Little was echoed by Gregg Tewksbury, president and CEO of New Hampshire Mutual Bancorp. "The unprecedented federal fiscal support pumped cash into the system," he said. That support, he continued, enabled firms to develop sustainable business models that without it would not have made it."

Unemployment, which peaked at 16.1% in April 2020, has fallen every month since, halving to 8.1% by July and again to 4.2% in November and reaching 2.8% in April 2021. That is only two-tenths of a percent lower than the 2.6% the state reported in February 2020, before the pandemic hit.

And despite the pandemic- induced downturn, bankruptcy filings dropped 40% between 2019 and 2020 to 1,054, the fewest in 32 years. Yearover- year filings have averaged 75 a month, compared to 459 in 2010, amid the Great Recession.

Mortgage delinquency rates closely track unemployment rates and both have declined in tandem. In May, Mortgage Bankers Association reported that delinquent mortgages, especially those 90 days past due, have fallen from 8.22% in the second quarter of 2020 to 6.38% in the first quarter of 2021 — the steepest drop in the shortest time ever. And 30- and 60- day delinquencies are at their lowest level since 1979.

"A year ago, we had about 1,000 borrowers in forbearance, and now we have a handful left," said Tewksbury. "Past- due loans are at record lows, at 0.2% of the mortgage portfolio."

In addition, the Mortgage Bankers Association reported that the number of homeowners both forgoing and seeking forbearance have declined for the past 11 weeks — a sign that, to some extent, pressures weighing on mortgage holders have been masked by forbearance program and foreclosure moratoriums.

Nevertheless, national property data firm ATTOM Data Solutions projects that when borrowers exhaust their forbearance, foreclosures in New Hampshire could rise again, from fewer than 400 in September 2020 to more than 1,600 in September 2021.



But household balance sheets are healthy. The St. Louis Federal Reserve Bank, which tracks household debt payments as a percentage of household income, reported that in 2020 it dropped to 8.69%, the lowest in two decades. In New Hampshire, the median debt-to-income ratio — monthly debt payments divided by monthly income — was 1.75 in 2020, above the national average of 1.51.

Likewise, real estate data analytics firm Core-Logic reported that in 2020 rising prices boosted U.S. home equity by \$1.5 trillion, an annual increase of 16%, or by an average of \$26,300 per homeowner — the steepest increase since 2013. At the same time, the number of mortgage holders with negative equity dropped 21%, to 2.8% of mortgaged properties.

In New Hampshire home equity rose by an average of \$36,000, while homeowners with negative equity slid to 2.5% of mortgaged properties. Rising home equity, together with declining delinquencies, provides a cushion to homeowners that should spare some from foreclosure when they emerge from forbearance.

### 'Very well positioned'

These indicators reflect the stricter lending practices introduced by lawmakers and regulators after the financial debacle of 2008 and subsequent Great Recession.

The Dodd-Frank Wall Street Reform Act and Consumer Protection Act of 2010 stiffened regulation of financial services. The legislation restricted the issuance of NINJA loans (no income, no job, no asset), "liar loans" (which required little or no documentation) and jumbo loans, which exceeded the financing limits of the Federal Housing Finance Agency. In addition, the number of loans with risky gimmicks, like teaser rates and balloon payments, has diminished.

Tewksbury confessed to initial misgivings about tighter regulation, but lauded what he called the "the ability-to-pay provisions" requiring lenders to ensure the creditworthiness of borrowers by returning to prudent lending practices.

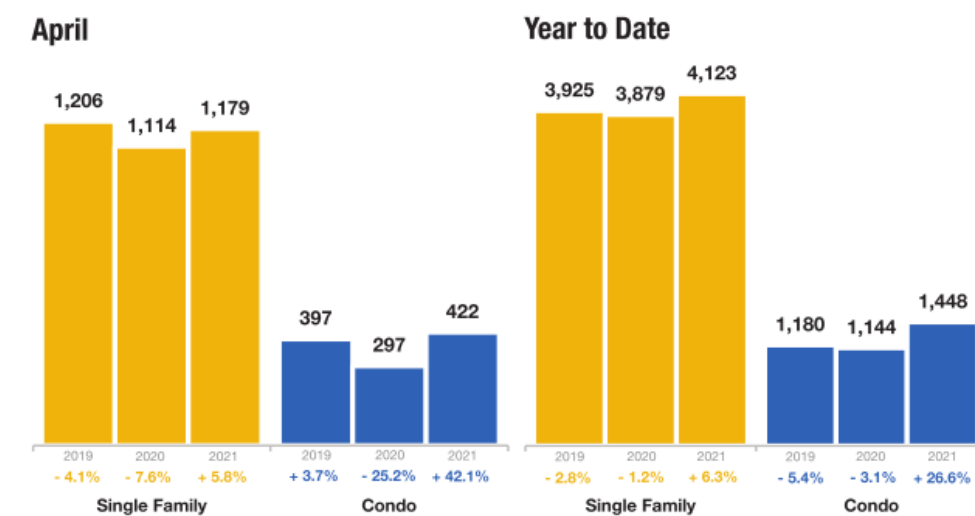
"It created a level playing field and protected both lenders and borrowers by introducing stricter underwriting standards," he said.

"I have never seen banks in a stronger condition," he added. "We're very well positioned to weather a storm, if it comes."

While liquidity was a concern before the pandemic, he said much of the federal stimulus funding "flows from consumers and businesses and lands in the banks." "We're flush with liquidity," Tewksbury said.

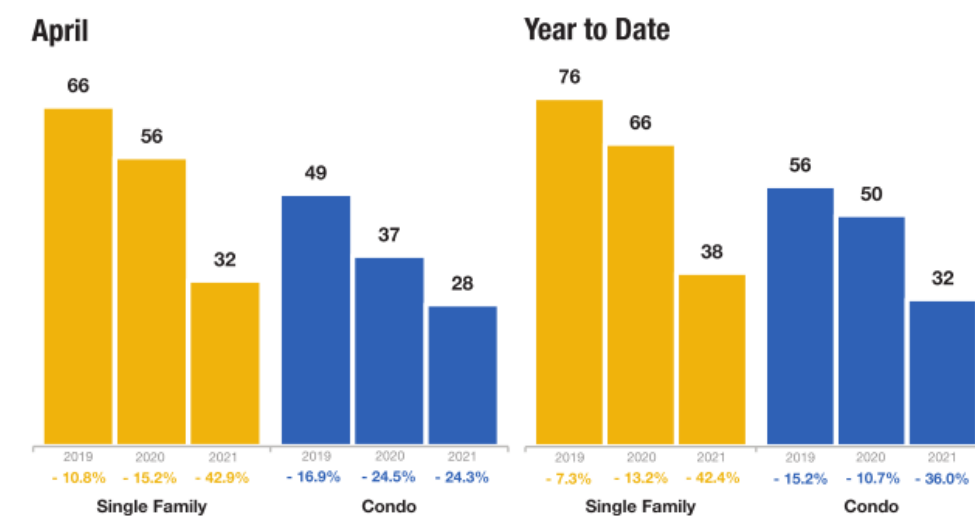
## NH Closed Sales

A count of the actual sales that closed in a given month.



## NH Days on Market

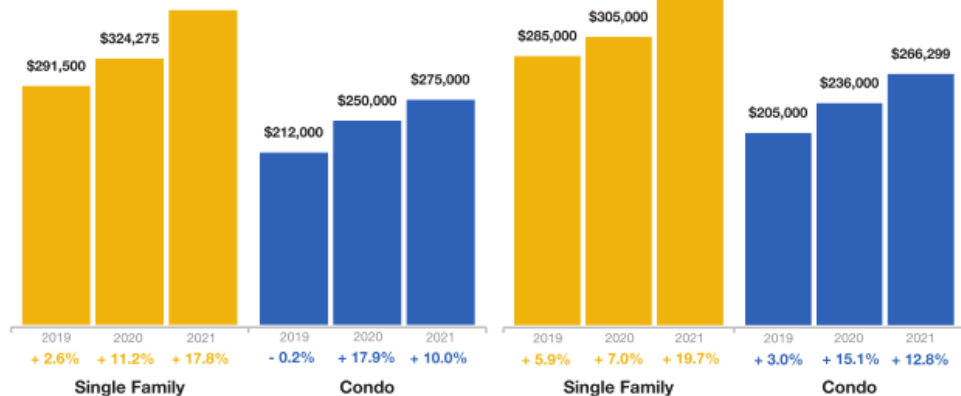
Average number of days between when a property is listed and when an offer is accepted in a given month.



## NH Median Sales Price

Point at which half of the sales sold for more and half sold for less, not accounting for seller concessions, in a given month.

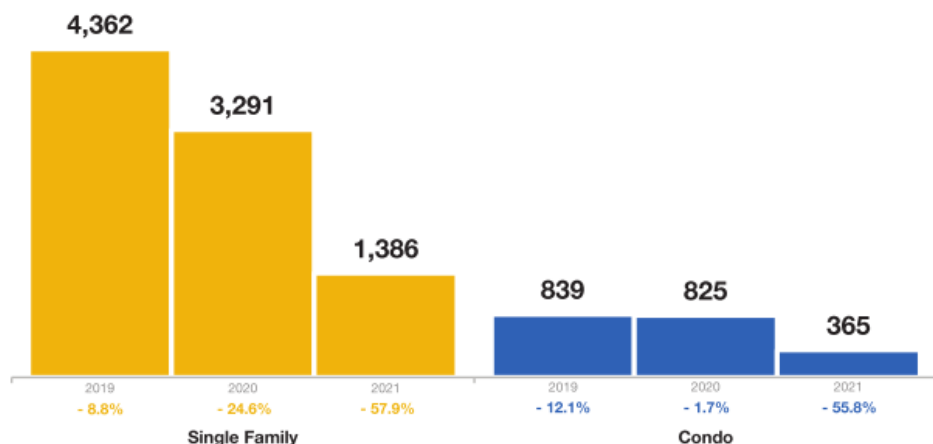




# NH Inventory of Homes for Sale

The number of properties available for sale in active status at the end of a given month.

## April



Source: New Hampshire REALTORS®, Inc.

Deposits have increased significantly and the capital position is robust, he said, recalling that, "with the initial uncertainty, we increased reserves and anticipated some losses when the federal support dries up, but today I feel very differently than I did a year ago."

Among the three major factors driving the housing market — supply, demand and mortgage rates — an increase in rates is most likely to affect the trend of brisk sales at rising prices in the near term.

As mortgage rates slid to record lows in October, they have gained momentum since. They inched up from their record low of 2.65% to around 3% in April and are expected to increase fitfully and modestly for the rest of this year.

Higher rates will cool demand, likely slowing the pace of home sales and price increases. And supply constraints will persist.

Without a steep spike in foreclosures, the inventory of existing homes will remain tight. Price appreciation may prompt some homeowners to sell, while dissuading others from becoming buyers. With 48 million millennials turning 30 this year, demand for housing is unlikely to slacken significantly for some time.

Before the pandemic, economist Russ Thibeault of Applied Economic Research estimated New Hampshire was short at least 20,000 housing units, especially affordable units, and that shortfall has only grown more severe.

The New Hampshire Legislature did take a step toward addressing the shortfall this session in passing House Bill 154, which authorizes municipalities to offer preferential property tax treatment to affordable housing development in designated areas. However, a more expansive package of measures to incentivize and facilitate housing construction introduced last year remains stalled.

Absent an unforeseen black swan event, the New Hampshire housing market seems to be in far better shape than it was after the 2008 financial crisis and in the recession of the early '90s, which led to the closing in one day of seven of New Hampshire's largest banks. Those banks all failed because of a profusion of bad real estate loans.

Today, however, the concerns are different.

Until the inventory deficit is overcome, the lack of housing, both for sale and rent, at reasonable costs will continue to weigh on the capacity of the economy to grow.

**Since 2017, housing inventory has diminished, while the pace of sales and price of homes have risen.**

From: [https:// read.nhbr.com/ nh- business- review;see-2021/06/04:c-3803252](https://read.nhbr.com/nh-business-review;see-2021/06/04:c-3803252)

# WIRE FRAUD

Special Report



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## A word from our sponsor

Dear Readers,

As the world continues to share, search and interact online, the threat of data breaches continues to rise. Unfortunately, active security threats against companies of all sizes and sectors are not uncommon. At SoftPro, we are committed to helping our partners conduct business in a way which protects both them and their customers' data from an attack.

During a recent episode of our Saved You a Seat webinar series, we hosted a panel discussion on data security and wire fraud. That informative session included SoftPro's Director of Regulatory Compliance **Leslie Wyatt**; Knight Barry Title Chief Operating Officer **Craig Haskins**; and Premier Data Services, Inc. Chief Technology Officer **Jay Roberts**.

Our executive-level panel provided advice and best practices concerning data security and wire fraud, including tips on maintaining data security with remote employees, protecting consumers from wire fraud, and tips on password requirements and multi-factor authentication.

We also are proud to sponsor October Research LLC's Wire Fraud special report. We trust it will arm you with vital information which can help protect your company and customers.

Unfortunately, there are bad actors who are working 24/7 to disrupt our livelihoods. As such, protecting against wire fraud and data breaches is a continual process requiring all hands on deck.

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## Educating partners, consumers about wire fraud risk

You may have the best security, the best policies and procedures in place, and still be involved in a transaction impacted by wire fraud.

“Everyone loses if there is wire fraud,” said **Chris Gulotta**, a founding partner, Gulotta Grabiner Law Group PLLC. “Plaintiff’s lawyers immediately take a ‘sue everybody’ posture. Even if you can show that you didn’t initiate the email and that it didn’t come from your server. Even if you can show that you sent out a wire fraud warning and disclaimer that the borrower/client signed up front, acknowledging your processes, that you transmit wire instructions only via encrypted means, instructed all parties to call and verify — even if you can show that you’ve documented in your database the initial phone call with the borrower warning of the wire fraud risks in real estate transactions — that’s all great, you’ve done your part, but it’s all about the weakest link and when a consumer’s money goes missing, everyone loses.”

He noted the title and settlement industry is often at a disadvantage in the transaction in that they have the least leverage in the process. Consumers have a closer relationship with their lender and real estate professional and it’s difficult to force your upstream referral sources,

industry partners or your clients to stick to trusted mechanisms to mitigate risk. Yet, we as real estate industry professionals will be held by courts and regulators to much higher standards.

**Bruce Phillips**, senior vice president and chief information security officer of WEST, a Williston Financial Group company, agreed it was critical to educate every party to the transaction.

“We absolutely need to educate the real estate agent, absolutely need to educate the escrow officers,” he said. “We need to educate the loan officers. They should have a very good understanding of what’s at stake. That way we are all telling the consumer the same thing. If your loan officer, your escrow officer and your real estate agent are all telling you the same thing, you are probably going to listen to them.”

**Tom Cronkright**, CEO of CertifID, said it’s important to help the real estate agents and lenders understand this is a risk they can help mitigate and manage alongside the title and escrow companies.

“Done properly, this is one of the biggest points of distinction that title companies can provide from a value perspective to their agents,”

Cronkright said. “There is an opportunity to arm their agents with the collateral and knowledge that can be used to engage buyers and sellers early in the transaction cycle and create a point of differentiation that makes the agent look great.”

They can share that they work with a title company that takes wire fraud seriously and has implemented steps to keep them safe.

“Being honest and authentic goes a long way with real estate agents. Read them into the risk of wire fraud and the negative affect it can have on everyone involved in a transaction,” he said. “Then show them the tangible steps you as the title company have taken to lower the risk and educate them on what they and their customers can do to further lower the risk.”

## Education is key

**Ryan Cabrita**, information security officer, Gulotta Grabiner Law Group PLLC, said training everyone in the industry is critical, because it’s the people with their boots on the ground who can really impact change.

“In the end, the typical person who is going to be sending wire instructions on behalf of your company, who is working at the file level in the trenches every day, is not the operations manager who has the time and inclination to be more mindful of risk,” Cabrita said. “It’s the day-to-day employees that are working the files — the paralegals, clearance officers, closers, administrative assistants — who are encountering, firsthand, most of the cyber fraud

attempts. They are the ones that need to be equipped with the most knowledge and a sense of compliance urgency to successfully thwart these attacks from the onset.”

There are many ways to reach out to partners. One of the most common is offering continuing education courses.

“We have continuing education courses that we offer to the real estate community a couple times a year,” said **Mary Popplewell**, precloser, Hodge & Temple PC. “We don’t have one specifically on wire fraud, but we do have one called ‘All about the money,’ where they talk about how money travels through the closing. They do talk about CertifID and wire fraud in that as part of an educational course. It’s not the main event of that educational course, but it does pertain to the travel of wire and funds throughout a closing and how money changes hands.”

**Richard Reass**, founder, Rynoh Live, had some other ideas as well, including webinars, newsletters, and lunch and learns.

“

**Every time you are dealing with a Realtor, it’s an opportunity to share information with them.**

**Richard Reass,  
Founder,  
Rynoh Live**

“Every time you are dealing with a Realtor, it’s an opportunity to share information with them,” he said.

Reass said he used to teach at the local Realtor’s association, teaching CE classes to new Realtors two or three times a month.

“I was very active in the Realtors association,” Reass said. “Almost all of the real estate associations have affiliate members. You become a member and become active in the Realtor’s association like you do with ALTA or your state land title association.

That way, you interact and are in front of them at least once or twice a month and you get to use that opportunity.”

## Key things to tell partners

There are several key things to reiterate to partners when you are educating them.

Among those things is that the wire instructions never change, and neither do the payoff instructions. Phillips said any time there is a change in wire instructions, that calls for extra due diligence.

Another thing to remind partners is to never forward the wire instructions.

“Every communication we share with a lender where we share wire instructions, we also share information about CertifID with them and let them know that the buyers are going to be receiving their own wire instructions from us and they should not share them,” Poplewell said.

She said the firm has been cc'd on emails where the lender has shared wire instructions in an unprotected email to the buyer, which is a huge risk.

Gulotta recounted cases where real estate

professionals, thinking they were being helpful, forwarded a spoofed email that contained the false wire instructions to the consumer. When wire fraud was discovered, courts held the real estate professional responsible for 80 percent of the damages because they, unlike the consumer, are charged with identifying fraudster tactics in our industry.

“They were just being helpful, and because they were the sophisticated real estate professional according to the court, unlike the innocent consumer, they were liable for trying to be helpful,” he said.

## Helping buyers understand the risk

Equally as important and perhaps more challenging, is educating the consumer about the risks. Phillips noted this is because they have less experience with the process and don't know what to expect.

“They don't know how the process goes,” he said. “They don't know that it's really rare for an escrow account to change. They are just trying to follow as best they can the instructions that multiple people are giving them while they are going through this transaction.”





He said if all the parties to the transaction can communicate one thing, it is to wait to wire money until you talk to the escrow officer on a known good number.

“All the other stuff they are going to forget,” Phillips said. “They are going to forget that they are a target; they are going to forget that no one ever changes an escrow account. They just want to get the transaction done. If they understand that one thing, ‘Never wire money until you verify the instructions,’ that’s the best thing they can do.”

He shared perspective he received from **Aaron Cole**, a consumer who almost lost his life savings. WEST was able to help him, and Cole spent time sharing the consumer’s perspective with the industry. Phillip said the thing that stuck out most was that they need a short, clear message to share with consumers, getting into their reality so they understand that the risk of

wire fraud is real.

Cronkright agreed it was critical to protect against wire fraud and provided the following steps for educating consumers:

- Educate buyers about the risk of wire fraud at the start of the transaction.
- Clearly communicate expectations around how and when the buyer will transfer closing proceeds (i.e., certified check or wire transfer).
- Securely send wiring instructions to the buyer prior to sharing the final Closing Disclosure or settlement statement and obtain written proof of receipt and agreement to follow such instructions.
- Notify the buyer that wiring instructions will never change.
- Continually alert the buyer of the risk of wire fraud throughout the transaction.
- Request that the buyer provide notice of the transfer of funds through an independently verified phone number.

## Putting processes in place to curb fraud

Being aware of the fraud that is out there is one aspect of fighting against wire fraud. It also is key to put processes and procedures in place to help thwart fraud in its tracks.

### Educating your staff

The processes and procedures all begin with educating your employees, making sure they understand what is at risk and how to spot red flags.

“It’s time to be proactive and transparent about the issue of wire fraud and the impact it has on the lives of victims,” said **Tom Cronkright**, CEO, CertifID. “Whether or not the employee knows it, nearly all wire fraud scams start with some sort of phishing email or digital solicitation — and people are being solicited all the time. Phishing emails, social media posts, online targeted ads, they are all solicitations for things that could

turn into criminal activity or a breach of some computer system. Title company owners and managers should highlight these tactics and provide examples so that employees and referral partners are more educated and aware of what to watch out for. This will lead to higher levels of engagement and that leads to a lower risk profile.”

This includes sharing what the email monitoring system is catching, running proactive phishing tests to see how susceptible they are to clicking on random links and giving up information, he said.

Cronkright noted he has been pulled deep behind the curtain of wire fraud and business email compromise (BEC) in recent months and is convinced this type of fraud will continue to increase as cyber perpetrators continue to refine their craft and real estate transactions will remain

a top target.

“It’s a fool’s errand to think that the creation of static processes and procedures will keep a company safe long term. Unlike a title company that is tasked with managing hundreds of tasks in any given day, cyber criminals focus on one thing — fraud. They are investing more heavily in technology, social engineering assets and ways to move funds between bank accounts in compressed time frames to increase their success rates. Title companies must evolve their best practices to keep pace with this growing threat or we will continue to see the wire fraud losses spike year-over-year,” he said. “This starts from the top of all companies and must become part of the culture that reaches all employees and referral partners.”

This also includes the continual education of staff on new fraud trends and what to watch out for as well as the ability for them to raise their hand if something does not seem right.

“You have to empower the people to raise their hand if they suspect something is off, even though it might not turn out to be fraud,” Cronkright said. “If it means the wire went out a day later, or there was a little interest that you had to add out of your own pocket to cover a payoff, that is the cost of doing business right now. Better to add a few more dollars of interest or pay some late payment fee than try to chase down a wire that ends up in a crypto wallet.”

**Bruce Phillips**, senior vice president and chief information security officer, WEST, a Williston Financial Group company, agreed, noting that often, if people question something and

something doesn’t seem right, more than likely it isn’t.

## Notification policies

Ensuring everyone involved in the transaction understands policies surrounding wires early, and perhaps often, also is important. Having a system in place to send those disclosures out at key points in the transaction will remind everyone of what the expectations are and to be vigilant if they are notified they are changing.

**Mary Popplewell**, precloser, Hodge & Temple PC, said her firm notifies buyers anywhere from one to three or four times prior to closing how they are going to receive wire instructions.

“You have to educate everybody in the transaction as soon as the file opens,” said **Ryan Cabrita**, information security

officer, Gulotta, Grabiner Law Group PLLC. “An anti-fraud disclosure needs to be sent out to all parties in a transaction. That is going to alert everyone of what is going on in the industry and how to successfully identify and thwart fraud.”

Another key time to send out the disclosure is at the

time of scheduling. Cabrita said fraudsters know the most dangerous point in the transaction, and the time they can strike, is between scheduling and closing because that is when the funds are starting to be disbursed, that is when funding documents need to go out and everything has to happen, especially for purchase transactions.

“When we send the wire instructions, we send them a template that has more information about CertifID and some additional pdfs about it

“

**It’s a fool’s errand to think that the creation of static processes and procedures will keep a company safe long term.**

**Tom Cronkright,  
CEO,  
CertifID.**

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and if anyone calls our office, we have a verbal discussion about it as well,” Popplewell said. “We try to be extremely thorough and reshare information over and over again so that there is no miscommunication about how people are going to be receiving their wire instructions and what they are expected to do once they receive them.”

In addition to warning about the risk of fraud, and what your wiring procedures are, it’s important these notices explain what to expect if, say, the closer you are working with is out of the office.

Cabrita said its important to say up front that if the closer is not available, here’s the person who they should be working with, along with their number and email address. This lets everyone else know that no one will be contacting them out of the blue saying, “Your closer is out of the office. They told me to provide you with our wire instructions.”

Phillips recommended that when you send this document to the consumer, have it notarized and do not accept any changes.

“If there is a change, receive another notarized document, or have them come into your office and sign and make the change,” he said, noting fraudsters are good at coming up with convincing stories about why something needs to change and why they can’t be there.

## **Check, doublecheck, triple check (speed and convenience are our worst enemy)**

Because fraudsters have a significant ability to hack and impersonate any party to the real estate transaction, it is important to confirm and verify wire instructions by talking to a known person. Cabrita said it was important upfront to get good contact information for all parties to the transaction and refer back and call the person at the number you have on file. The extra call and few minutes it takes can significantly help reduce risk.

“If you pick up the phone and verify the instructions off of a known, good number, you will stop 100 percent of the wire frauds,” Phillips said. “That is all it takes, calling on a known, good number. Every time that anyone involved in any transaction on any side, whether it be the consumer doing it, the escrow officer doing it, the mortgage company doing it, any time they pick up the phone and ask the question, that stops it in its tracks.”

Phillips noted in today’s culture, that can be a hard thing to get employees to do because we are so used to electronic communication.

“Email and text messaging are the two things that attackers really love, and those are the two things that basically facilitate the fraud every time,” he said.

## **Additional precautions**

There are other procedures that can help avoid wire fraud. **Richard Reass**, founder, Rynoh Live, said when he had a title company, they had a whitelist for where to wire funds for mortgage payoffs.

“We had a list in the software that said, ‘Ok, if you are going to payoff Bank of America, this is the account and routing number for Bank of America,’” he said. “It was the same thing with all your major lenders, so you know when you have a payoff statement, this is where it needed to go.”

He said this helped quickly identify if someone was sending fraudulent wire instructions, because the instructions never changed for each bank.

“To me it was the quickest way to catch anything that would come in and make sure that when you are ordering your payoffs, this is where you get your payoffs from,” Reass said. “Then the only ones you have to be concerned about is any time you have a new payoff destination. Then you have to be rigorous in verifying where you are sending the payoff is actually the right place.”



# Responding rapidly to an incident

It's not just key to know what the threats are, educate your staff, and ensure your partners and consumers are aware of your processes and procedures. It is also important to have a plan for after you discover wire fraud.

"You are only as strong as your weakest link," said **Ryan Cabrita**, information security officer, Gulotta Grabiner Law Group PLLC. "If you have great policies and procedures in place, that is great, but does your staff know how to follow them? In other words, training staff is key, making sure not only that they know and sign off on the policies and procedures, but that you are actively speaking with them to know exactly what is expected.

Staff has to feel comfortable coming to management immediately after they think they might have been spoofed and then management has to immediately contact their bank to try to have the beneficiary bank hold the funds."

**Tom Cronkright**, CEO, CertifID, agreed.

"The title company needs to run that drill in advance — who is running point? What are the steps that they are going to take to notify the banks and authorities of the issue? — and have that well documented before. I've been a victim of wire fraud and when it hits you it feels like a getting hit with a two-by-four across the head. It immediately turns your best day into your worst day and all those emotions and fear can create a state of paralysis in moments when you need to be thinking and moving strategically to get your money back."

He noted that many times after a company discovers wire fraud, they try to figure it out themselves at first, losing valuable time if they don't have a proven process in place.

"Eight out of 10 recoveries that we are involved in, the company has tried for at least 48 hours unsuccessfully [before] they made it to our door," Cronkright said, noting if they had practiced their plan, their response would have been more automatic and likely more successful.

"That's the challenge," Cronkright said. "I think people can be allured into the idea that because it is written down, it will

automatically work when needed.

Because I have this procedure, then I will be able to respond rapidly to an incident. Yes, you have to have it written down, but more importantly you have to test whether the procedure works in practice. Running the drill and refining the action steps until you receive confirmation that it works is the key to a

successful wire fraud recovery."

## What should be included?

There are several good guides out there to help you create your response plan. Two of them are the ALTA Rapid Response Plan for Wire Fraud Incidents and When Minutes Matter: A step-by-step guide to wire fraud recovery by CertifID.

The steps these guides share include reporting the fraudulent wire transfers to the sending and

“

**Staff has to feel comfortable coming to management immediately after they think they might have been spoofed and then management has to immediately contact their bank to try to have the beneficiary bank hold the funds.**

**Ryan Cabrita,  
Information Security Officer,  
Gulotta Grabiner Law Group PLLC**



receiving banks, requesting the sending bank send a recall to the receiving bank because of fraud.

Companies also should file a complaint with the FBI's Internet Crime Complaint Center, being prepared to provide all the pertinent information including the victim's contact information, the transaction information and any relevant information about the email itself. The guides also say you should contact local authorities and file a police report.

In addition to all of that, companies should consider contacting both their insurance carriers and outside legal counsel. CertifID said legal counsel can help you file pleadings and request an injunctive order, naming every bank that received the funds to prevent them from transferring the funds out of their accounts.

When you do inform the parties to the transaction, including the buyer, seller, real estate agent, broker, attorney, underwriter, notary and anyone else, ALTA suggested using known, trusted phone numbers for verbal verification.

"If you're unsure about what to say, here's an example: 'There appears to have been [attempted] wire fraud associated with this transaction. We recommend that you review your email security and update passwords and

take any other appropriate security measures immediately for the remainder of this transaction, all communication will occur using known, trusted telephone numbers,'" ALTA stated.

CertifID provided some additional insights into the recovery process, noting first that while you may get a good understanding of where your money is and the likelihood of it being recovered, the return of those funds may take a long time.

They also said title and settlement companies should be prepared to indemnify the bank before the bank will return the funds. This indemnity agreement will come from the bank that returns the funds, not the bank the settlement company used to send the money.

CertifID also reminded industry members they should not trust anyone who proactively reaches out about the fraud.

"Cyber criminals know when money is sent," it wrote. "One of their tactics, to create more time to move the money overseas, is to call or email the person being defrauded and pose as a bank representative working to recover the funds. You cannot trust any inbound communication without independently verifying the person's identity and credentials on your own. It is likely a fraudster trying to put someone's mind at ease while taking advantage of precious recovery time."

# Fraudsters taking advantage of pandemic, market conditions

Fraudsters have taken advantage of market conditions and the pandemic to find new ways to hone their techniques and messages as they perpetrate wire fraud. Whether it's using COVID-19 as a reason for a change in circumstance, or knowing that the increase in refinance transactions mean more money can be had by intercepting mortgage payoffs, fraudsters have found ways to adapt to the current environment.

## Phishing emails more convincing

As perpetrators of wire fraud have become more familiar with real estate transactions and more patient to get a bigger payday, their emails have become more convincing.

“Rather than trolling for a random wire, they will typically gain access to someone’s email account,” said **Tom Cronkright**, CEO of CertifID. “It could be the title agent, real estate agent. It could be the mortgage lender. It could be the buyer or seller, it does not matter. Since the beginning of this year, we’ve seen tangible signs of fraudsters being more patient and willing to wait for the email that relates to either final numbers or wiring instructions before they engage. Armed with more information and engaging just at the right moment is leading to higher hit rates both in terms of the number and value of diverted wire fraud transfers.”

**Ryan Cabrita**, information security officer, Gulotta Grabiner Law Group PLLC, noted one way they do that is inserting themselves into the email communication chain through simple network monitoring tools.

“We typically see several people in a transaction on an email chain (buyers, sellers, their attorneys, title companies, real estate brokers, etc.), and that email chain going from the opening of the

file to the right through the closing,” he said. “In these fraud scenarios, at some point, the fraudster intercepts the email chain and they now know how to sit and wait for the most opportune time to insert themselves. Eventually, when they see its time to strike (typically in between scheduling of a closing and closing), they will spoof the person that would be sending the wire instructions. They already have the whole email chain (with the history, discussions, etc.) and they’ll reply to all and remove the person they spoofed from that email.

“In other words, the email looks to be coming from the trusted party. The email looks legitimate, and because all prior communication is there, the typical individual, including the borrowers, buyers, and sellers, are less likely to question it,” Cabrita said.

**Mary Popplewell**, precloser, Hodge & Temple PC, said even some buyers who have already sent a wire using CertifID instructions for their earnest money could be caught off guard by the scam emails that say, “Due to COVID protocol, we have changed our wire instructions and need you to send your final cash to close now.”

“People don’t notice it is not coming from us, they forget that they received wire instructions via CertifID, they forget our instructions never change,” she said. “I think they catch people off guard a few days before the closing and that is the trend we’ve been seeing. They make an excuse or a reason why they would be using new instructions and then try to catch them off guard. Luckily, we’ve had smart buyers who notice this seems odd.”

## Mortgage payoffs at risk

Fraudsters have found one area of the transaction they can attack to get a large payday is the mortgage payoff.

“The challenge with mortgage payoffs is a lot of times the lender doesn’t have a mechanism to confirm that they received the wire or didn’t,” Cronkright said. “With the buyer, you typically learn within a few days to a week that their funds did not arrive. By contrast, you may not hear about a mortgage payoff scam for weeks or months after the wire was sent.”

Cabrita noted because it can be a bit harder to spoof a fax number than a phone number, people may be lulled into a false sense of security when receiving or sending mortgage payoff instructions.

“What we are seeing more and more are fake payoff letters that look like they are the legitimate bank payoff letters,” he said. “It looks exactly the same as a normal bank’s payoff letter. The only difference here is the wire instructions are different.”

“I’ve seen several of these coming in and I will say that the location to which you were to send the wire, and the account name that it would be sent to are completely unusual. It should trigger a red flag. But someone that is not looking out for this, rushing at month end or who doesn’t expect to see that happen could definitely fall victim to that.”

Cabrita also noted the COVID-19 pandemic has led more things to go digital, including the use of eFaxes. He said many times these eFaxes are not encrypted.

“That means that eFax is sent over plaintext mail,” he said.

“It’s as if you just sent a normal email out, rather

than using a fax. Once you use an eFax, it depletes the security. Unless you are using an encrypted eFax, which are more expensive and difficult to find.”

## Cash buyers beware

Cronkright said another alarming trend, which is indicative of the state of the market, is fraudsters’ focus on cash buyers.

He said with low inventory and multiple competing offers on properties across the U.S., there has been an uptick in cash offers.

In May, CertifID issued a wire fraud advisory on this topic, along with the U.S. Secret Service.

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**We are seeing a sharp increase in the number of home buyers being targeted for wire fraud scams and the per-victim loss amount continues to climb.**

**Stephen Dougherty,  
Global Investigative Operations  
Center (GIOC),  
U.S. Secret Service**

“We are seeing a sharp increase in the number of home buyers being targeted for wire fraud scams and the per-victim loss amount continues to climb,” said **Stephen Dougherty**, Global Investigative Operations Center (GIOC), U.S. Secret Service, said in the advisory.

“Cyber criminals are getting smarter and are focused on larger amounts to divert to fraudulent accounts. Home buyers paying cash for properties may have a higher risk of being tricked into sending funds to fraudulent accounts. Often the buyer shows up to the closing table only to learn that the funds they wired days before were not sent to the title company but instead to a fraudster masquerading as the title company in an email.”

According to the National Association of Realtors, the median price of a home in the United States now exceeds \$329,000, meaning those paying



cash are wiring significant amounts of money.

## New hook, same scam

**Bruce Phillips**, senior vice president and chief information security officer, WEST, a Williston Financial Group company, noted while there are interesting hooks that come along, these scams center around the same idea—there has been a change to the wire instructions.

“That seems to be the majority,” he said. “It’s almost the overwhelming majority. Ninety-plus percent of the time, it’s a change to instructions that have already been communicated to you.

“There are going to be variations on the hook, why there is a change and things like that, but the underlying methodology is going to be the same. Its going to be social engineering; there is a change; there is a reason for the change; there is a consequence if you don’t do this.”

He noted that the consequence could be a positive thing — getting money off the closing, being able to move into the house closer, etc.

Phillips said WEST has done research to find out about what percentage of wire instructions legitimately change.

“The number is almost small enough to say zero,” he said. “Its in the 3-4 percent range. Over a long period of time you may see 3-4 percent actually have a legitimate reason for wire instructions to change.”

Despite the miniscule amount of times wire instructions actually change, Phillips pointed out buying a house is stressful and social engineers will prey on buyer’s stressed state to catch them unaware.

## Fraud as a business

Cronkright said also is training around the fact that fraudsters are developing an entire enterprise business model about wire fraud, with C-Suites

and human resources. They also have been known to create fake title companies, going through the steps of registering their fictitious company, incorporating it, creating a website and employee identities, all to solicit funds.

Connected with this idea of fraud as a business is a shift in how they are requesting the funds. Phillips noted these social engineers can take advantage of the awareness of fraud, telling the buyer that because wiring funds is risky, the buyer should use bitcoin instead. For those who are a bit familiar with cryptocurrency, it may seem safer.

“In actuality, from my perspective, it’s the worst case,” Phillips said. “If you use bitcoin, there is no way to get it back. There is nothing I can do with it, its gone.”

Cronkright agreed, noting how fast fraudsters are moving these days. He said what use to be a 72-to-96-hour window for recovery, is now the same day or the next.



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