



# AREA

ASSOCIATED REALTY OF THE AMERICAS

MAY 2020

*California's South Lake Tahoe! Getting a break from being inside - sending healthy wishes to all!  
Courtesy of Trinkie Watson*

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ASSOCIATED REALTY OF THE AMERICAS

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*"All the news that fits."*

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*Our members are 100% committed to excellence in our real estate profession. Our mission encompasses: Sharing BEST Practices with our colleagues; treating all referrals with the utmost of care, honesty and integrity; and being involved in organized real estate for the betterment of our profession."*

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## Comments from Gail Hartnett

Hi Gang!

WOW! We have come a long way baby! Having our monthly meet ups on ZOOM ~ who would've thunk? So awesome to "see" everyone on our April call. Eighty of us...thank you Carl for your update on our Cleveland 2020~2021 Retreat...**Vince** and **Leslie**, we sure appreciated having you on the call and giving us up to date information on what's happening at NAR ~ Thank you for your leadership! **Dennis**, **Seth** and **Ken** your input was better seeing your faces...Gotta love ZOOM! Meeting at the bar twice a month ~ how fun is that??? Sure am glad I'm a member of AREA, now more than ever.

By the way ~ this is the last month to get your nomination in for the **Annual National Heritage Award** given as a way to promote individual members. Please read the column provided by **Miriam Dunn** and **Andrea McKey** and see how taking some time to consider the benefits to all, particularly you, to consider making your submission. **Andy Twisdale** has asked us to ponder the question: After the Pandemic? Andy suggests that this become an on- going discussion, while being a part of our continuing efforts to remain on the cutting edge of real estate marketing and sales, planning and execution. And, thank you so very much, **Gary Nelson** for providing us the detailed information research on "Opportunity Zones" important stuff that will be so very valuable down the line. His third and final installment follows.

Is there a topic you'd like to share or learn more about ~ guarantee we have an expert within our awesome membership. Let us know. In the meantime ~ Stay healthy ~ Stay safe ~ Stay positive and Stay home!

Hugs from Boise,

Gail



# AFTER THE PANDEMIC...

## An On-Going Conversation with Andy Twisdale



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The 1998 and 2013 Realtor of the Year and elected President of the Hilton Head Area Association of Realtors in both 2000 and 2006. He served on the Board of Directors of the Hilton Head Area Association of REALTORS from 1995 to 2009 and currently serves as a RPAC Board of Trustee for the South Carolina Realtors Association, 2010 to present. Andy's hometown is Enfield, North Carolina and he attended East Carolina University. He has lived on Hilton Head Island for over 40 years and

in Hilton Head Plantation since 1988. He is married to Gail Twisdale, recently retired as a Literacy Specialist with the Hilton Head International Baccalaureate Elementary School, the 2001 Teacher of the Year and a 2004 Sue West Teacher of the Year award recipient.

On April 6th, I had the pleasure of listening to information presented at the Commercial Side of AREA conference, and would like to offer my thanks to all for their insight and willingness to share their expertise.

On Hilton Head I belong to a group called the GIC, (Greater Island Council). We work to be informed on issues so we can be strong and knowledgeable advocates for our community and region, and have created the **Pandemic Pivot Project Team**, (PPPT) Chair by Ms. Denis Spenser. I am happy to share with the AREA group via email, what the beginning of our responses to this Pandemic has been. These thoughts and articles were developed by Denise Spencer, our Chairwoman of the Team. Below you will find her stated objective, and attached will

be a document put together by Denise, of 34 "Big Thinkers" and their ideas or thoughts pertaining to how the "Coronavirus Will Change The World Permanently".

The **Pandemic Pivot Project Team** (PPPT) recognizes that the Covid-19 Pandemic of 2020 is having a profound effect on all aspects of life, here in the Low country and beyond. As people are "sheltering in place," and non-essential businesses are shuttered, the creativity of many is astounding. Delivery systems and logistics are being developed to do business differently, and investments are being made which may well sustain these systems after the pandemic is over. In the future, telemedicine, education, grocery/restaurant delivery systems, meetings/conferences, US manufacturing, philanthropy and much more, may not look exactly the same due to the investments in, new experience with, and even cost savings that result from these innovations. How should we be planning for the future given these new realities? How should these factor into the current visioning and planning being undertaken by government, business and organizations moving forward? The PPPT hopes to explore these issues and partner with others to do the same.

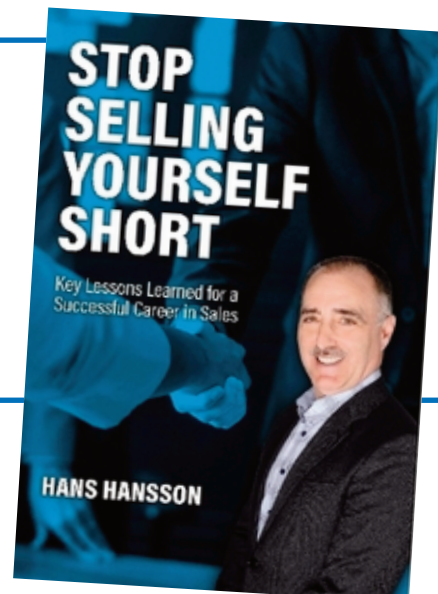
Within the AREA group there is so much experience; not just in Real Estate, Advocacy and Leadership, but in being part of life-decisions made by thousands of property owners. Therefore, I'd like to propose and would ask for some volunteers from the AREA group, to share one or two articles with us each month on what we'd look like on the other side of the pandemic.

#WEAREALLINTHISTOGETHER

## STOP SELLING YOURSELF SHORT

Hans Hansson's new, highly recommended, book for newcomers and everyone else. "Great read!" "Perfect for new agents!"

[PURCHASE YOUR COPY HERE](#)





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BY MIRIAM DUNN & ANDREA MCKEY  
NOMINATING COMMITTEE

## NATIONAL HERITAGE AWARD

# Your last chance to make your nomination for 2020!

Dear Fellow AREA Family Members:

Let's Face it. Hard to get much free publicity during this pandemic that is not on the unwanted side. So, we have a solution!

The National Heritage Award is an opportunity for you to identify, within your community, an historical site such as a residence, church, or any unique property for this very special recognition. In return, you will distinguish yourself from every other real estate professional in your area through the free publicity directed at you that occurs with securing such an award, because it will be covered by the local news (press, radio, television) and, of course social media.

Send your suggestion directly to Carl. Within the next month we will decide on a winner or winners, as the case may be, and then let the cascade of free publicity begin!

Thanks and best wishes, Andrea and Miriam

**National Heritage Award:  
Entering it's 5th year!**





# Perspective

A COMMENTARY FROM  
GEORGE AND BECKY HARVEY



George and Becky Harvey

*George began his real estate career in Telluride in 1984 during the savings and loan crisis when it was hitting its peak. Then Black Monday which occurred on October 19, 1987 saw the stock market crash 20%. When it dropped 22.6% a few days later, it was the single largest one day percentage drop in history of the DJIA. That crash sparked fears of extended economic instability around the world. Then there was the tech bust or Dot-com bubble in the late nineties, the 9/11 attacks on the World Trade Centers in New York, and more recently the mortgage melt down that mostly caused the Great Recession from late 2007 which technically ended in June 2009. What we all know is that every one of these economic downturns was followed by a recovery. We will get through this Covid-19 pandemic. Yes, the pain and suffering will be great... globally, But we will get through it; and, as before, come out the better for it by being positive, proactive, generous and loving, with all, during the process.*



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## WHAT IS COST SEGREGATION?

Cost Segregation is an application by which commercial property owners can accelerate depreciation and reduce the amount of taxes owed. This savings generates substantial cash flow that owners often use to reinvest in the business, purchase more property, apply to their principal payment, or spend on themselves.

## HOW DOES COST SEGREGATION WORK?

Cost Segregation Services, Inc. (CSSI®), an experienced and qualified company, performs the engineering-based cost segregation study on your property. The study accelerates the depreciation of your building/renovation components into shorter depreciation categories such as 5-, 7-, 15-year rather than conventional 27.5- and 39.5-year schedules.

These 5-, 7-, 15-Year items now qualify for expensing in the first year under Bonus Depreciation Rules. Five and 7-year items might include decorative building elements, electrical for dedicated computer equipment, and carpet. Fifteen year items might include site utilities, landscaping and paving.

This engineering-based cost segregation study results in a much higher depreciation expense and significantly reduced taxable income for the property owner. Best of all, the U.S. tax code states cost segregation can be applied to categories of buildings purchased or built since 1986, including renovations, and there is no need to amend your tax returns.

For further information, direct from the pros, please contact Vice-President David Deshotels, [deshotelsd@cossegserve.com](mailto:deshotelsd@cossegserve.com); or Na'Varo Johnson, [expertmgmtpros@gmail.com](mailto:expertmgmtpros@gmail.com).

# SPOTLIGHT: Lake Tahoe

## *On the lighter side with Trinkie*

*Featuring Tahoe's Trinkie Watson and her wit and wisdom.  
Some Random Thoughts this first week of May:*



- **Lockdown:** Lions in Kruger National Park are now sleeping on the sides of the roads as there are no human predators to interrupt their days.
- **Pollution:** Amazing clearing of skies as we hunker down and ease the planet of our daily invasions. Yikes! We are so spoiled. Will be interesting to see if we collectively figure out how to mitigate our conveniences with health for all.
- **Image:** That cute blond hairstyle on the photo above looks nothing like what I see on ZOOM these days. First stop: Michelle at the hair parlor.
- **Entertainment:** So much stuff is invading our email and Facebook, but here are 3 that caught my eye:  
**US Navy Band – Jersey Boys:**  
<https://www.youtube.com/watch?v=IXIHv1-YPxM>  
**Beautiful Dancing Horse:**  
<https://www.youtube.com/watch?v=zKQgTiqhPbw>  
(same – photography fuzzy but worth the watch)  
**AmazingDancer:**  
<https://www.instagram.com/tv/B-cbrAilGyf/>
- **Jeans:** Yes, that again. How are they fitting this week?  
Really annoying question, sorry.
- **Pundit:** Recent SF Chronicle, Willie Brown: "Better to be 6 feet apart than 6 feet under".  
Regardless of your political persuasion, he is classic!

Love to All, Trinkie



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# 2020 is in full swing. Are you prepared? Well ... We are!!!



While predictions are never certain, it's wise to consider how these shifts could affect your business. Prepared for an influx of inventory, ready for the changing demographics or have you considered what may happen if the talks of an impending recession are true? RealtyHive has the tools you need to get more exposure on your property and sell more listings - no matter what the decade may bring.

## Who is RealtyHive?

RealtyHive is creating frictionless disruption in the global real estate industry by working with agents, brokers, and private property sellers to increase the exposure of for-sale properties through enhanced digital marketing and hybrid time-limited events. The best part? Agents, brokers, or sellers only pay when the property sells.

## How they can help!

RealtyHive is excited to offer new, innovative services to AREA members. In addition to customized advertising programs for real estate listings, Brokers utilize the RealtyHive platform to offer new tools to their agents

who are looking for price reduction alternatives, expired listing tools, market expansion options and much more. RealtyHive has satisfied clients selling all types of real estate, with an average of 8-10x more direct listing views than typical national advertising competitors.

Whether you're caring for existing clients or earning new ones, RealtyHive's marketing programs can help you to create a more customer-centric business. To learn more about the tailored marketing programs offered by RealtyHive and how they can help you achieve your goals, please visit [area.realtyhive.com](http://area.realtyhive.com) or call 866-624-9484.



# Opportunity Zones (Part 3)



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An Opportunity Zone is a lower-income Census tract that has been designated as an Opportunity Zone by the US. Department of the Treasury.

- Opportunity Zones were created in the 2017 tax overhaul.
- In early 2018, governors got to nominate 25% of the tracts in their states that met the low-income criteria for Opportunity Zones; Treasury approved the tracts.

- Those who invest capital gains in

long-term investments in Opportunity Zones can qualify for significant tax benefits.

Last month Gary began by laying the ground work of how Opportunity Zones work, this month he expands on that discussion.

## What Is “Substantial Improvement”?

“Property is substantially improved if during any 30-month period following acquisition of such property there are additions to basis that equal the adjusted basis as of the beginning of such 30-month period.”

- In short, an Opportunity Fund generally has to spend as much money fixing up a property that was not in original use as the Fund spent acquiring it. This rule, if interpreted in just that way, would make rehab projects very unlikely.
- October 2018 guidance: The Opportunity Fund may distinguish between what it paid for the STRUCTURES on the land and what it paid for the LAND. The fund must spend only the equivalent of the value of the buildings on substantial improvement.

## What Is “Original Use” for OZ Property?

The term is used, but not defined, in statute.

- October 2018: Land can never have original use.
- April 2019 guidance: Original use for tangible property (including land) begins when the property is placed in service for purposes of depreciation or amortization.
- Also, buildings that have been vacant for several years may be repurposed under original use rules, not substantial improvement rules.
- There’s was some disagreement about whether 5 years—as proposed in the second round of guidance—was too little, too much

or just right. Treasury shortened the time period to 3 years in the final guidance.

## What about Undeveloped Land?

- Undeveloped land does not need to be substantially improved, but April 2019 guidance warns against buying with intent “not to improve the land by more than an insubstantial amount within 30 months of purchase.”
- Also, the land must be used in a trade/business. IRS is explicitly interested in preventing land banking and has asked for comments on how to deploy anti-abuse provisions to prevent that practice.

## Time crunch

Investors generally have just 180 days from when they realize capital gains to invest them in Opportunity Funds.

Opportunity Funds must have 90 percent of their money in acceptable Opportunity Zone assets. Funds are assessed every six months and penalized if the rule is not met.

These time pressures made investment, project development and planning very difficult. This is where guidance comes in...

## Safe Harbor To facilitate a reasonable time period for projects:

- October 2018: Guidance provided a 31-month safe harbor for capital used for an Opportunity Zone business to acquire, construct and/or improve tangible property. This cash is considered reasonable working capital for the Opportunity Zone business test. Must have: • A written plan for developing the property • A written development schedule • Adherence to the plan and schedule
- April 2019: Guidance expanded coverage of the safe harbor to expenditures related to development of a trade/business, including payroll, inventory and rent.
- April 2019: The 31-month safe harbor may be extended for delays beyond the OZ business’ control, such as government permitting delays.
- April 2019: Multiple, overlapping 31-month safe harbors are permitted for the same overall project (e.g. one for underground work, one for above-ground work).
- Potential anti-abuse question: How many would be too many?
- Dec. 2019: Final round of guidance addresses and clarifies some of these issues.

## Investment Timing

- Opportunity Funds are meant to invest quickly, and the statute calls



for funds to be assessed at the mid- and end-points of their tax years to verify that 90% of their assets are qualified OZ property or business interests.

- The April 2019 guidance specifies that the testing should exclude investments received in the prior 6 months. Those assets must be held in cash, cash equivalent or debt instruments of 18 months or less.
- The October 2018 guidance specifies that to determine the value of an asset, the Opportunity Fund should use the value on its financial statement. If it doesn't have one, it should use the cost to the Fund to acquire the asset.

Leased Property (1) • The proposed regulations in the April 2019 guidance make it clear that Opportunity Funds may invest in businesses operating on leased land or invest in leased tangible property. • Leased tangible property may count as qualified OZ business property for purposes of the 90% asset test at the fund level and 70% asset test at the business level. • Lease must start after Dec. 31, 2017. • Lease must be market rate. • This was addressed in the final guidance (with regard to leases by state, local and tribal entities) and will be covered during the panel. • Substantially all the leased property is in an OZ during substantially all the lease period (more of an issue for equipment).

Leased Property (2) • Per the April 2019 guidance: • There is no original use requirement for leased tangible property. • There is no substantial improvement requirement for it, either. • Lessor can be related to the Opportunity Fund or the OZ business, but there are restrictions that generate pros and cons. • Leased tangible property may be valued in accordance with GAAP or on a calculation of the "present value" of the lease payments. • Opportunity Funds must use same approach for all leased property.

#### Real Estate

- Owning and managing rental real estate qualifies as operating a trade/business for qualified OZ business purposes. Triple-net leases generally do not, as there is no active business conduct involved. If there is active conduct, beyond the lease, it might work, per the final guidance. • If a piece of property straddles an Opportunity Zone It is possible to treat the whole property as OZ property. This was addressed in the April guidance and again in the December final guidance.

#### OTHER APRIL 2019 GUIDANCE:

#### Interim Gains

The April 2019 guidance clarified that: • Opportunity Funds have 12 months to reinvest interim gains without the proceeds counted as a bad asset under the 90% test. • The Fund's gain gets allocated to the investors (if the Fund is not a corporation) and is taxable as income for investors. If the fund is a corporation, the corporation pays the tax.

#### Miscellaneous Guidance

- October 2018: • Taxpayers use form 8949 to let Treasury know they are investing in an Opportunity Fund and deferring payment of capital gains taxes on that money. • Opportunity Funds use form 8996 to set up funds and report annually. The form is filed with the fund's taxes. It has since been revised. • April 2019: • Investments in Opportunity Funds cannot be services. • IRC Section 1231 gains: 180-day Opportunity Fund investment clock begins on the last day of the taxable year. • Final guidance gave the option of starting the clock earlier, at the gain date. • Giving your OF shares to someone will create a tax event (inclusion of deferred gain.) Passing along your shares upon death through your estate will not. • Final guidance addresses the impact of transferring OF funds upon divorce.

Some thoughts... • Interim gains are taxable. This seems to push funds toward investing in land-based projects, which will not move in less than 10 years, over operating businesses, though interest in operating businesses grows among some investors. • It's unclear what investors should do with potential Opportunity Zone business property (e.g. equipment) that does not need "substantial improvement" that costs as much as the guidance says it should. • Investors reap their most significant tax benefits when assets (or shares) are sold after 10 years. That means Funds have to invest in assets that will be sold later, not ones they will hold forever. • Hence, it's easier to invest in an office or industrial park than to build an HQ for a company that wants to own it in perpetuity. • That said, Funds can invest in new-build projects or new-property expansions/subsidiaries and get bought out by at an agreed-upon future time.

*We thank Gary for this wonderful addition to our newsletter which contained with so much valuable information. Editor.*

## Staci's Corner

2020 President  
Santa Barbara Association  
of REALTORS®



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In the world of COVID-19 everything is constantly changing. In real estate, REALTORS® are adapting to serve the needs of their clients. We have adapted to new ways of doing things – how we learn, how we advertise, and how we conduct meetings, while incorporating technology which has been available for years – such as digital signing and virtual staging. Consumers are used to shopping online for just about anything. Are you ready to buy or sell a home virtually?

A real estate transaction can be done virtually from start to finish, with only a few minor exceptions – the need for sellers to sign a grant deed, and buyers getting a loan will need a notary (California isn't there yet with online notary services). Everything else – from listing, advertising, virtual walk-throughs and open houses, and all document signing – are being done virtually.

If you are a seller needing to sell during the stay in place order, be prepared for additional COVID-19 disclosures (to be signed by buyers as well), and for possible requests from your agent for you participate in a Zoom showing, or to provide your wifi and password for a Facetime showing. If you are a buyer, you will likely start your search online and have your first (and perhaps all) visits virtually. If any visits to the property are absolutely necessary, be prepared to follow the guidelines your agent provides, such as limiting the number of people allowed at a time (two) and additional sanitary measures.

Stay Safe,  
Staci



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## Legal Update

with Dennis Badagliacco past Chair of the Legal Advisory  
Committee of the NAR

### 1.0 Force Majeure & Covid-19

1.1 Some contracts contain a written provision that excuses a party from performing one or more of its obligations under the contract in the event an unforeseeable event or circumstance beyond the party's control arise, making such party's performance under the contract impossible, inadvisable, commercially impracticable, or illegal. Common force majeure events include, but are not limited to: natural disasters (such as earthquakes, hurricanes, and fires), epidemics and pandemics, terrorist acts, war, government action, and even union activities such a strike.

1.2 Some contracts do not have a specific force majeure clause in the contract. Some states can provide relief in this area. It may, however, take litigation to prove the point.

1.3 DO NOT ASSUME A CONTRACT MAY BE CANCELLED. Consult with an attorney if your client or the other party wants out of a contract. Realtors cannot give legal advice as to whether or not a client can terminate a contract.

2.0 California has released several forms to help guide parties through the Coronavirus and Contract process. These forms are posted in ZIPLogic forms. The forms may need to be modified for your state. The forms are, however, a great resource.

### 3.0 Insurance and Coronavirus:

3.1 The owner of the French Laundry and Bistro Restaurants (5 Star Restaurants) has disaster insurance with Hartford. He paid a higher premium to get a policy without exclusions. When his restaurants were forced to close and he had to lay off his 300 employees, he filed a claim. Hartford denied the claim. A legal action has been filed. Stay tuned...

.The litigation may be expensive, but the owner has the resources.

3.2 If you have a claim, consider filing the claim and turning the case over to your attorney. Attorneys generally get more for their clients than regular people.



# SELLER PREPARATION MEANS A SMOOTHER INSPECTION PROCESS

## THE INSPECTION-READY HOME

Taking some important steps to prepare their property for inspection can help sellers avoid some basic problems that might otherwise affect a clean inspection report. Even if the home has been well maintained overall, there are some common problems that should be addressed. Since a home in good condition can command a better price, they will benefit as well.

## OUTDOORS

Prior to the inspection, repair damaged masonry on steps and walkways, and seal cracks in the driveway. Recaulk around exterior doors and windows, check flashing, and replace any missing or damaged shingles. Peeling or chipped paint should be addressed and either repaired or repainted.

## INDOORS

Fix leaky faucets and fixtures, and repair grout around tubs and sinks. An electrician should inspect receptacles and switches and make any needed replacements or repairs. Replace cracked or broken window glass and loosen any windows that are painted shut. Have the fireplace and chimney cleaned and checked by a professional.

Arrange service appointments for the heating and cooling systems so that any issues can be addressed before the home inspection. If the home has battery-operated smoke and carbon monoxide detectors, put in fresh batteries and install additional units if any are missing. Hard-wired detectors should be tested as well.

## INSPECTION DAY

On the day of the inspection, a few simple steps will facilitate the inspection process. First, sellers should allow sufficient time for the inspection. A professional home inspection will take two and a half to three hours on average, longer if the home is very large. Sellers should



not be present for the inspection. The potential buyer will usually want to be there if they requested the inspection.

The owner will need to provide keys to any locked areas and allow access to the attic, crawl space, garage, and yard. Be sure that the home inspector has access to components such as electrical panels, the main water shutoff and gas meter. Move objects from around the water heater, furnace, and central air conditioning unit so the inspector can reach them

unimpeded. In winter, clear walkways of snow and ice for safe access to the home.

If the home is still occupied, owners should store small valuables and medications out of sight and in a secure location for peace of mind. One option is for them to simply take these items along when they leave during the inspection. Pets should be taken out of the home or contained in a crate for their own safety and that of the home inspector. Dogs in particular can be disruptive, and some may become distressed by having an unfamiliar person in their "territory."

Taking these steps can go a long way to preventing or addressing problems that could negatively affect the inspection. An inspection-ready home presents itself best for evaluation and makes the entire process go more smoothly.

## PILLARTOPOST

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