

UNDERSTANDING THE BROKER'S RIGHTS UNDER THE EXCLUSIVE RIGHT TO SELL AGREEMENT

# NEW YORK STATE REALTOR®

THE OFFICIAL PUBLICATION OF THE NEW YORK STATE ASSOCIATION OF REALTORS®

MAY/JUNE 2016

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New York State Association of REALTORS®, Inc.

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# NEW YORK STATE REALTOR®

NEW YORK STATE ASSOCIATION OF REALTORS®, INC.



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# President's *message*



Linda Lugo  
2016 NYSAR President

Our commercial colleagues know that if our government decides to revoke the IRS 1031 Like-Kind exchange, it would have a negative effect on commercial real estate sales. And on the residential side, we all know that if our government decides that homeowners can no longer deduct their mortgage interest and property taxes on income tax returns, it would create barriers to homeownership.

Each March your NYSAR Leadership Team travels to Washington, DC to speak to our United States Senators and members of the House about important issues such as these and the preservation of private property rights. During our two-day trip this year we met with 14 Congressional leaders from New York to discuss the importance of keeping the 1031 Like-Kind Exchange, mortgage interest deduction and property tax deduction. These are vital components to real estate ownership.

While meeting with our legislators we pointed out the need to extend tax relief for mortgage debt forgiveness beyond the December 2016 expiration date. This protects underwater homeowners from incurring a large tax bill on phantom income in connection with a workout or a short-sale. Unfortunately, New York still has a large number of properties in foreclosure across the state, making an extension vital to distressed homeowners who are trying to responsibly address their situation.

Next year, we need to get the reauthorization of the National Flood Insurance Program. The extension of the NFIP brought stability to housing markets where flood insurance is required for a mortgage. Without this program, home sales in flood zones would grind to a halt. The horrific

damage across New York State caused by Hurricane Irene and Superstorm Sandy is still fresh in our minds. We also need for FEMA to provide more accurate flood maps, and wider options for affordable insurance.

While you may not think about threats to our business on a regular basis, please be aware that they do exist and your state association is hard at work to protect our interests and those of homeowners. But, we can't do it alone. Here's how you can help protect your livelihood and homeownership:

1. Reach out to your member of Congress and let them know that these issues are important.

2. Respond to Calls for Action. With only a few clicks of a mouse you can tell your member of Congress about the importance of these and similar issues.

3. Get involved with the New York State Association of REALTORS® to make your voice heard.

4. Invest in RPAC. The REALTORS® Political Action Committee helps us to stay in the forefront with our legislators. It is an investment that will help preserve your future.

I encourage you to read the state and federal issue updates in this issue, starting on page 12. Becoming educated about the issues is the first step to being an effective advocate for your industry.

In closing, I want to offer a constant reminder that we want you to stay safe in your business. Keep your eyes open and be aware of your surroundings while out in the field. Safety first! ●

A handwritten signature in cursive script that reads "Linda Lugo".

**"If it's your dream and your life  
and your business, you need to be  
responsible for protecting it." - Sonja Foust**

## From the *CEO's desk*



Duncan MacKenzie  
NYSAR Chief  
Executive Officer

Illegal discrimination in housing has no place in a free and open society like we enjoy in New York and across the United States.

In April we celebrated the 48th anniversary of the federal Fair Housing Act. Yet, nearly five decades since the act's inception we are still making strides to ensure fair access to housing for all who are financially qualified.

The evolution of protecting individuals from discrimination for non-financial reasons advanced recently when the New York State Board of Real Estate approved a request from Gov. Andrew Cuomo to expand state fair housing protections on the basis of gender identity. As professionals who help bring buyers and sellers together, REALTORS® see on a daily basis the fulfilment that comes with homeownership. In fact REALTORS® incorporated gender identity as a protected class in our Code of Ethics in 2014.

Despite great improvement over the last half century, the sad truth remains that housing discrimination still exists. REALTOR® anti-discrimination efforts include advocating for greater transparency in the process of approving cooperative housing purchases.

Today, co-op boards can deny the sale of a co-op that has been agreed to by the seller and the purchaser and may do so without giving a reason for denial. Even more troubling is the fact that a co-op board has no obligation to act within a specific timeframe. The board's inaction over time can cause a purchaser to lose their financing. NYSAR

has proposed a change to current state and New York City laws requiring co-op boards to respond to applications under a reasonable schedule, which would reduce the potential for discrimination to occur.

NYSAR is also vigilant in ensuring that state enforcement efforts are fair and grounded in law. Recently, NYSAR alerted our membership that an erroneous report from the New York State Department of State (DOS), which listed "Arrest Record," "Conviction Record" and "Predisposing Genetic Characteristics" as protected classes with respect to housing discrimination. There are no current laws, rules or regulations making "Arrest Record," "Conviction Record" and "Predisposing Genetic Characteristics" protected classes. NYSAR contacted the DOS immediately to resolve the matter, which they did in a clarifying email.

New York State's REALTORS® vigorously support the ideal that no one should be discriminated against based on race, color, national origin, disability or familial status as well as the additional protected classes under New York State Law including sexual orientation, military status, age or being a victim of domestic violence.

As advocates for fair housing, REALTORS® believe in building strong, diverse communities where all are welcome. ●

A handwritten signature in black ink, appearing to read "Duncan MacKenzie".

**"New York State's REALTORS® vigorously support the ideal that no one should be discriminated against based on race, color, national origin, disability or familial status as well as the additional protected classes under New York State Law including sexual orientation, military status, age or being a victim of domestic violence."**

# New York *news briefs*

## Graduates of the NYS REALTOR® Institute Recognized



Newly minted GRI designees Lisa Lilley of Horseheads (Signature Properties) left, Alexandra Tsiatis of Little Neck (Douglas Elliman), Susan Kelley of Glens Falls (Coldwell Banker Prime Properties), Melania Darling of Philmont (Berkshire Hathaway Home Services, Blake), Jill Sackler of Merrick (Charles Rutenberg Realty) and Laura Copersino of Whitestone (Douglas Elliman) celebrate achieving the designation.

New York State REALTORS® who recently earned their Graduate, REALTOR® Institute (GRI) designations were recognized at the Desmond Hotel and Conference Center, in Albany, NY. Jim Pugliese, chair of NYSAR's Faculty Development Sub-Committee, emceed the graduation ceremony. To earn the GRI designation, REALTORS® must successfully complete a rigorous 90-hour program, which includes national core curricula as well as the study of state-specific and local-interest continuing education syllabuses.

## NYSAR prepares local board/association leaders to work with the media

During April, NYSAR provided spokesperson training to more than 40 current and future local board/association leaders who by virtue of their office will serve as spokespersons.

This training, provided as a free service to local boards/associations, covered the basics of radio, television and print interviews, REALTOR® public relations case studies, and an overview of online reputation management. This year's program provided attendees the opportunity to participate in mock television interviews, which were recorded and critiqued to assist each member in improving their skills.

NYSAR thanks the following boards/associations for hosting Spokesperson Training sessions this year: Greater Binghamton, Greater Capital, Hudson Gateway, and Jefferson-Lewis.

## Apply for a NYSREEF scholarship by July 31

Any individual, who has at least one year of experience in real estate sales, is licensed and practicing in New York State, and holds primary REALTOR® membership in New York State is eligible for one of the National Association of REALTORS® designation program scholarships offered by the New York State Real Estate Education Foundation (NYSREEF). Scholarship awards are not based on need. Applicants should show positive motivation toward real estate education and proven interest in furthering their real estate career.

Scholarships are awarded twice a year; in February and in October. Applications for October awards are due by July 31. Individuals are eligible to receive only one scholarship per year. Each application must be supported by two letters of recommendation and must include a letter from the applicant describing their need, how the scholarship will benefit them and their future goals relating to the use of the scholarship.

For more information, visit [www.nysreef.org](http://www.nysreef.org).

## Look to NYSAR Member Perks for your dental insurance

NYSAR is pleased to announce that enrollment for dental and vision insurance is now available year-round. Through NYSAR Member Perks partner USI Affinity, you can access competitive, flexible coverage from MetLife. As one of the largest dental insurance providers in the country, MetLife is well positioned to offer NYSAR members a range of dental options, affordable rates and a large network of participating dentists. Key benefits of the NYSAR Dental Plan include:

- Three plan choices to suit your needs and budget.
- Competitively priced coverage with group rates.
- Comprehensive, nationwide network of dentists.
- Freedom to choose your dentist.
- Coverage for orthodontia.

Plus, you can also purchase vision coverage as a rider to your dental policy or as a standalone policy.

For full plan details and rates, visit [MyREALTORinsurance.com/NYSAR](http://MyREALTORinsurance.com/NYSAR) or call 888.834.3713 to speak with a benefits' counselor.

## Participate in NYSAR's Housing Opportunities Month this June

The NYSAR Housing Opportunities Foundation will be conducting its seventh annual housing opportunities month fundraiser this June to raise awareness about affordable housing needs in New York State and the foundation's mission of assisting first-time homebuyers in achieving the American dream of homeownership. Keep an eye out for communications from NYSAR on how you can participate.

The foundation is a 501(c) (3) charitable organization with the goal of assisting moderate-to-low income individuals and families in becoming homeowners utilizing a variety of means including public-private partnerships, education, counseling and financial assistance to both individuals and organizations whose activities facilitate homeownership. Visit [NYSARHousingFoundation.com](http://NYSARHousingFoundation.com) for information on our programs and services.

## Sign up for NYSAR committee service in 2017

If real estate is your livelihood and you're passionate about your business, NYSAR encourages you to get involved and help guide the future of your state association. Give your time, talent and expertise by assisting the association as it strives to meet the needs of its more than 50,000 members. Don't sit back and leave it up to someone else. This is your association; make your voice heard!

Committee service gives you the opportunity to network with your peers from across the state as you work together to accomplish the association's goals. It will also give you a much deeper understanding of our industry's issues, the value of being a REALTOR® and can prepare you for a role in leadership.

You may select up to six of the more than 25 NYSAR committees available in 2017 – three termed/closed committees and three open committees/forums/working groups. With everything ranging from Communications and Marketing to Legislative Policy and Professional Standards, you will be able to select a committee that suits your interests.

All members are invited to be active committee members; there are no restrictions based on age, industry experience or any other qualifier you might believe applies.

Volunteers are asked to be sure they will be able to attend the association's 2017 business meetings, which are Feb. 4-9 in Albany and Sept. 22-27 in Verona before committing to serve. Please note that committee sign up will be available online only between July 1 and July 31.

For information and to sign up, visit [www.nysar.com](http://www.nysar.com).

## Warren County Association of REALTORS® changes name to Southern Adirondack REALTORS®

The Warren County Association of REALTORS® has changed its name to Southern Adirondack REALTORS®. The change better reflects their growing membership geography and MLS service areas, which includes all of Warren County and portions of Washington, Saratoga and Essex counties. For more information, visit [www.southernadironackrealtors.org](http://www.southernadironackrealtors.org).

## NYSAR to sponsor 15th annual REALTORS® Commercial Real Estate Conference

The 15th Annual New York State Commercial Real Estate Conference will be held Monday, June 13, through Wednesday, June 15, 2016, at the University Sheraton in Syracuse, NY.

The event will kick-off with a full day pre-conference CCIM session on Monday, June 13, with "High Tech Marketing," followed by an open house reception where you can meet the NYSAR officers and staff and ask questions about your membership. The following days include: updates from commercial institutes – NYS CCIM and SEC; a legislative update from NYSAR Director of Government Affairs Mike Kelly; a keynote reception with commercial real estate tech blogger Duke Long; a full-day marketing session; and several continuing education credit courses.

This event is sponsored by the members of the REALTORS® Commercial Alliance, which includes: the New York State Commercial Association of REALTORS® (NYSAR); the New York State Certified Commercial Investment Member (CCIM) Chapter; and the Society of Exchange Counselors.

For more information or a registration form for this premier event, please visit [www.nyscar.org](http://www.nyscar.org).

## REALTOR® of the Year and Community Service Award nominations due by June 15

NYSAR is seeking nominations for the 2016 REALTOR® of the Year Award. The award, which recognizes the outstanding personal leadership skills, and the industry and civic commitment of one NYSAR member, will be presented during the NYSAR Fall Business Meetings.

In addition, NYSAR will recognize up to three REALTORS® for their activities supporting their community with the Community Service Award. The deadline for nominations is June 15. Visit [NYSAR.com](http://NYSAR.com) for details.

## Apply now for the 2017 NYSAR Leadership Academy

Polish your leadership skills, raise your profile and gain valuable experience by being a part of the 2017 NYSAR Leadership Academy! This advanced leadership program provides member participants with a unique opportunity to develop their leadership skills and prepare to provide meaningful contributions to the three-tiered REALTOR® organization, their business and community, while also enriching their personal and professional lives. Any full-time NYSAR REALTOR® member in good standing, who has been in the business for at least three years as of Jan. 1, 2016, should consider applying. Visit [NYSAR.com](http://NYSAR.com) for full details and to download an application. Applications must be submitted by 5 p.m. Monday, Aug. 1, 2016.



## Two NYSAR members voted into NAR's '30 Under 30' Class of 2016

Congratulations to Judith Gabler, RealtyUSA in Delmar, and Mandy Friend Gigliotti, Keller Williams Realty in Rochester, for being voted into the National Association of REALTORS® 30 Under 30 Class of 2016. According to the award criteria, they exemplify the ingenuity, dedication and prowess that are raising the bar in real estate today. ●

# Inside the *numbers*

**63**

The percentage of baby boomers that would like to buy a single-family detached home, according to a recent study of the housing preferences of the boomer generation by the National Association of Home Builders.

**88**

The percentage of growth in homeownership rates that will be attributed to minorities from 2020 to 2030, according to the Urban Institute. Hispanics are expected to drive most of that growth.

**46**

The percentage of homeowners with a mortgage that believe they will see their equity increase in 2016, according to a study by the lender loanDepot. The majority expect to see a gain by as much as 10 percent.

**1**

The number, out of four homebuyers, that say they want to buy a home because their rent is too high, according to a recent survey by the brokerage Redfin. This number is rising, up from one in eight last August.

**75**

The percentage of renters that want to buy a single-family home, according to the Housing Opportunities and Market Experience (HOME) survey from the National Association of REALTORS®.

**\$30 trillion**

The amount of money expected to be passed from baby boomers to millennials over the next decades, fueling a housing boom, according to a report from National Mortgage News. ●

## Upcoming NYSAR radio *show schedule*

NYSAR Radio is a free, Internet-based live call-in show hosted by NYSAR's Director of Legal Services Anthony Gatto, Esq. You can call him at 518-436-9727 with your real estate-related legal questions and have them answered live on the air. Even if you don't have a question, you'll benefit from listening to the answers to your colleagues' questions. Visit NYSAR.com for the link to the Internet broadcast.

**June 21**

Mythbusters

**July 19**

Disclosures Other Than Agency

**August 16**

Environmental Issues

**September 20**

Commission Issues



*All shows start at 10 a.m. All dates and topics subject to change.*

*Missed a show? You can download the podcast from NYSAR.com. ●*



# Understanding the broker's rights under the Exclusive Right to Sell Agreement is important for all licensees

By S. Anthony Gatto, Esq.  
NYSAR General Counsel  
and Liz Celeone, Esq.  
NYSAR Associate Counsel

**T**he Exclusive Right to Sell Agreement (ERTS) is a document used by brokers throughout New York State. Brokers and their associated licensees utilize the ERTS in securing the exclusive listing and marketing of a property for an agreed upon period of time with the owner(s) of said property.

Understanding the ERTS and the rights, liabilities and obligations associated with it is important for all licensees.

According to the Real Property Law §443(1)(e): "Listing agreement means a contract between an owner or owners of residential real property and an agent, by which the agent has been

*continued on page 10*



“Agency is consensual in nature and may be unilaterally terminated by the consumer. At any time during the term of the listing, the owner(s) can terminate the agency relationship.”

*continued from page 9*

authorized to sell or lease the residential real property or to find or obtain a buyer or lessee therefor.” Also according to RPL §443(1)(d): “Listing agent means a person who has entered into a listing agreement to act as an agent of the seller or landlord for compensation.”

There are also regulations that are applicable to brokers taking a listing. One such regulation appears in 19 NYCRR §175.24 titled “Exclusive listings—residential property.” Under 175.24(b), all ERTS must be in writing and contain a required disclosure, “In all commission agreements obtained by a broker which provide for an exclusive listing of residential property, the broker shall have attached to the listing or printed on the listing and signed or initialed by the homeowner or the homeowner’s agent the following explanation in type size of not less than six point:

**EXPLANATION:**

*An “exclusive right to sell” listing means that if you, the owner of the property, find a buyer for your house, or if another broker finds a buyer, you must pay the agreed commission to the present broker. An “exclusive agency” listing means that if you, the owner of the property, find a buyer, you will not have to pay a commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.*

175.24(c) also requires that “if an exclusive listing of residential property is obtained by a broker who is a member of a multiple listing service, the listing agreement shall provide that the homeowner shall have the option of having all negotiated offers to purchase the listed residential property submitted either through the listing broker or submitted through the selling broker.”

There are also regulations prohibiting certain activities related to a listing agreement. The use of an automatic renewal is prohibited by 19 NYCRR §175.15: “No real estate broker shall be a party to an exclusive listing contract which shall contain an automatic continuation of the period of such listing beyond the fixed termination date set forth therein.” Net listing agreements

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are prohibited by 19 NYCRR §175.19(b) which states, “No real estate broker shall make or enter into a ‘net listing’ contract for the sale of real property or any interest therein.” (A net listing is where the listing agreement calls for the property to be sold at a certain price and any monies received in excess of that price would go to the broker as a commission.)

Understanding the underlying legal basis for a listing agreement is also important. When a broker enters into an ERTS, there are actually two separate agreements between the broker and the owner(s). First, there is the listing agreement. The listing agreement is a contract between the parties setting forth the rights and obligations of both parties. Simultaneous with the listing agreement, there is also an agency relationship between the broker and owner(s). This means that for an active ERTS, the broker has two agreements with the owner(s) and each agreement is governed by different laws.

RPL §443(3)(a) requires that: “A listing agent shall provide the disclosure form set forth in subdivision four of this section to a seller or landlord prior to entering into a listing agreement with the seller or landlord and shall obtain a signed acknowledgment from the seller or landlord, except as provided in paragraph e of this subdivision.” When a broker places a property on the MLS, the authority to market the property is created by the agency relationship and the scope of marketing the property by the listing agreement. According to 19 NYCRR §175.10: “A real estate broker shall never offer a property for sale or lease without the authorization of the owner.” The authorization is given by the owner(s) to the listing broker by way of agency. Without the owner(s) agreeing to the broker acting as the seller’s agent, the broker would otherwise be prohibited from advertising the property.

Agency is consensual in nature and may be unilaterally terminated by the consumer. At any time during the term of the listing, the owner(s) can terminate the agency relationship. The seller can do this verbally or in writing (writing would be preferred so the broker has proof) and the broker must immediately cease in all marketing of the property and withdraw the listing from the MLS. No exceptions! Brokers are prohibited from refusing to

terminate the agency relationship. The owner(s) may terminate the seller agency at any time and without reason. This, however, does not negate the owner(s) obligation for commissions, fees, etc. called for in the listing agreement in the event the owner(s) choose to cancel the broker’s marketing of the property. Unlike agency relationships, listing agreements can only be terminated bilaterally. The only manner in which the seller can be relieved of their contractual obligations under the listing agreement is through an unconditional release. The unconditional release must be signed by both the broker and the owner(s).

Unlike an unconditional release, a conditional release may require the owner(s) to pay some fee or extend the time under which a commission will be paid if the property is sold. This can also be done in the listing agreement. Some listing agreements contain paragraphs requiring the owner(s) to pay a marketing fee in the event they terminate the broker’s agency relationship or authority to market the property. In such cases, the owner(s) would have to pay a fee for all marketing the broker has done for the listing. The broker should be sure to only charge for services rendered. Brokers should not include a flat fee in the listing agreement as a penalty. In the case of New York State Department of State (DOS) v Russell Dickson (1416 DOS 07) this matter was addressed to the detriment of the broker.

Dickson was a broker and had an owner sign a listing agreement with Dickson Realty and a “termination of listing agreement” where the owner(s) agreed to pay Dickson a \$3,000 flat fee if they terminated the services of the broker and/or withdrew the property from the market during the term of the listing agreement. The decision pointed out that it is well known in New York law that, with respect to brokerage agreements, “...the right of the principal to terminate [the broker’s] authority is absolute and unrestricted, except only that he may not do it in bad faith, and as a mere device to escape the payment of the broker’s commissions.” Furthermore, “Brokers’ fees must represent charges for actual services...the issue is, was the payment in fact exacted as a special premium of

the type condemned, or was it received in payment of some legitimate service?”

In this case, the owners wanted to cancel the listing agreement, but Dickson made it clear that he would not release the owners unless they paid him \$3,000. The DOS found that the owner’s actions were not done in bad faith or as a device to escape paying a broker’s commission. There were allegations against the brokerage for not providing brokerage services under the name appearing on the listing agreement. The DOS found that Dickson breached his fiduciary duties of good faith, obedience, reasonable care and skill to the owners and demonstrated untrustworthiness. In the decision, the DOS stated that Dickson attempted to extort money from the owners by refusing to release them from their listing agreement unless they paid him \$3,000, which amounted to an unearned commission. Since Dickson demanded an unearned commission from the owners, under color of a “termination fee,” Dickson was required to release the owners from paying a commission or termination fee arising from the subject transaction. As was cited in the decision, “One can hardly fathom a more effective means of removing the incentive for engaging in devious conduct... than a penalty which insures that the malefactor is denied the fruits of his misdeed.” *Kostika v. Cuomo*, 41 NY2d 673, 394 NYS2d 863, 865 (1977). Dickson was fined \$3,000 for his actions.

A broker is under no obligation to release an owner from an ERTS merely because the owner(s) requests it. The broker and owner(s) have unilaterally entered into a contractual agreement obligating both parties to fulfill the requirements set forth in the agreement. As the broker’s fiduciary duties to the owner(s) do not apply to the broker’s rights under the listing agreement, an owner is unable to direct the broker to release them from the listing agreement because of the agency relationship.

Licenses who understand how the ERTS functions are better able to clearly explain the ERTS to potential clients while protecting the broker’s rights. Furthermore, an advanced understanding of the ERTS will help to minimize the risk of potential liability to the broker. ●

# NYSAR leadership team tackles federal issues

By Michael Kelly  
NYSAR Director of Government Affairs

**E**ach year NYSAR's leadership team makes its way to our nation's capital to lobby New York's Congressional delegation on key real estate matters. Some years we march on Capitol Hill with one or two action items that we push to get done such as flood insurance reform. Other years we're trying to prevent certain things from coming to fruition such as banks entering the real estate marketplace. This year was a little bit different as our main priority was to lay the groundwork for future battles and educate Congress on the importance of our key legislative priorities.

Political dynamics always play a role in the proceedings of government and this year was no different. Currently Congress is closely watching the presidential race and is reluctant to take up major legislation as it awaits the outcome of November's elections. Additionally, the entire House of Representatives is up for re-election this year with many House members involved in primary races as well. Lastly, several of the issues

that we have faced in the past have been extended until 2017 or beyond and are not immediately pressing for Congress to take action on.

In March, NYSAR President Linda Lugo, Secretary-Treasurer C.J. DelVecchio and Legislative Steering Committee Chair Moses Seuram were in our nation's capital to meet with our Congressional delegation. Over a two-day period the NYSAR leadership team met with the offices of 14 members of the U.S. House of Representatives to discuss our key legislative priorities at the federal level.

In late 2015, Congress passed and the president signed into law a bill that extended or made permanent a large number of temporary tax provisions, several of which had real estate implications. Some political pundits thought this feeling of bi-partisanship would roll into 2016 and lead to serious discussion of comprehensive individual and corporate tax reform. Well, in typical Washington, D.C. fashion, that type of positive thinking faded

quickly as Congress began its work in January and gridlock set in. But this might not necessarily be a bad thing from the REALTORS® perspective and I'll explain why.

Pressure to do an overhaul of our tax code has been building for years with support from both parties and in both houses of Congress. But while political pundits and many in the public decry Congressional inaction, I am often more scared of what Congress could do to the tax code and the negative impact it could have on real estate. When Congress has considered overall tax reform in the past, some lawmakers have expressed support for a "clean slate" approach where all government programs are on the table for consideration to be reduced or eliminated. This includes several hallmark real estate tax provisions including the mortgage interest deduction and the deductibility of local property taxes. There is broad support for the mortgage interest deduction in Congress, yet, some federal lawmakers have sought to trim the deduction by eliminating the



NYSAR Secretary/Treasurer CJ Del Vecchio, left, President Linda Lugo and NYSAR Legislative Steering Committee Chair Moses Seuram discuss key issues with Congresswoman Elise Stefanik, who represents New York's 21st District, during leadership team's visit to Washington, D.C.



Representative Tom Reed (NY-23), second from right, visits with NYSAR Legislative Steering Committee Chair Moses Seuram, left, President Linda Lugo and Secretary/Treasurer CJ Del Vecchio.

deduction of second homes or narrow the scope of eligible Americans.

Early tax reform discussions have also led some to begin discussing the elimination of deductions of property taxes. For high-tax states like New York, New Jersey, Connecticut, New Hampshire and Illinois this would be devastating. But some lawmakers in Washington make the argument that the nation should not be paying to reduce the pain felt by residents in high-cost states. Rather these states should reduce their spending and taxing. While I understand this logic, there are many tax provisions that benefit one state, region, or segment of our economy over others. For example, I can assure you the lawmaker from Nebraska has an affinity for farming-related tax provisions, much like how their counterpart from New York feels about real estate deductions.

I know you will find this shocking: Sometimes in politics, facts are interchanged with mistruths and mischaracterizations. While many in Congress don't truly understand what a 1031 exchange is, nor the benefits it brings, some are proponents of its elimination. Opponents of this tax provision have characterized it as corporate welfare, as a tax benefit or a loophole only available to the extremely wealthy. This couldn't be further from the truth. IRS provision 1031 doesn't allow anyone to avoid paying taxes, rather, it simply delays the payment of those taxes as long as the seller of the investment property

reinvests sale proceeds into another investment vehicle. REALTORS® across the country work with clients looking to sell one real estate investment for another investment of "like-kind" value or greater, and they are often modest in their price and scope. This tax provision is a critical component in the commercial real estate marketplace that encourages economic re-investment in our communities and must be protected.

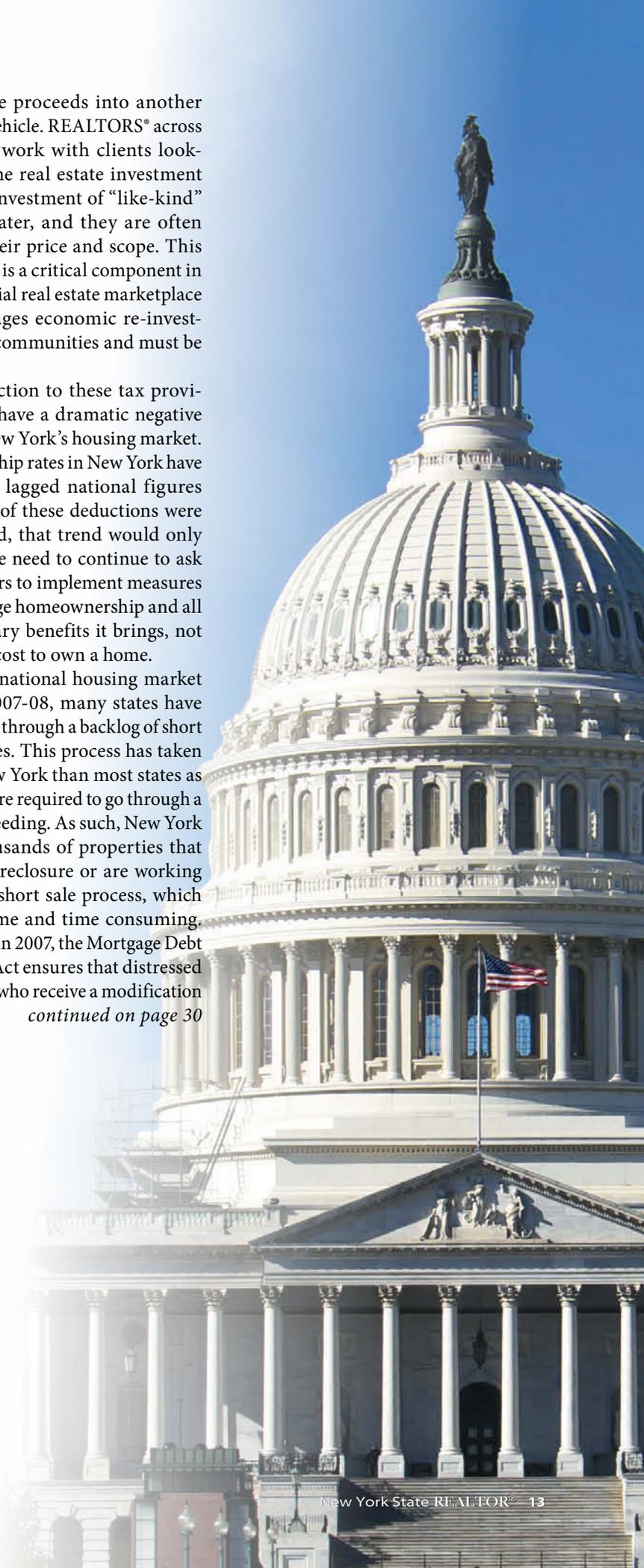
Any reduction to these tax provisions would have a dramatic negative impact on New York's housing market. Homeownership rates in New York have traditionally lagged national figures and if either of these deductions were compromised, that trend would only get worse. We need to continue to ask our lawmakers to implement measures that encourage homeownership and all of the ancillary benefits it brings, not increase the cost to own a home.

Since the national housing market decline in 2007-08, many states have been working through a backlog of short sale properties. This process has taken longer in New York than most states as foreclosures are required to go through a judicial proceeding. As such, New York still has thousands of properties that are still in foreclosure or are working through the short sale process, which is cumbersome and time consuming. First enacted in 2007, the Mortgage Debt Forgiveness Act ensures that distressed homeowners who receive a modification

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*NYSAR Legislative Steering Committee Chair Moses Seuram, left, President Linda Lugo and Secretary/Treasurer CJ Del Vecchio deliver information about key REALTOR® issues to Congressman Chris Gibson (NY-19).*





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- Responding to Calls for Action.
- Participating in the annual REALTOR® Lobby Day.



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\*Contributions are not deductible for income tax purposes. Contributions to RPAC are voluntary and are used for political purposes. You may contribute more or less than the suggested amount. You may refuse to contribute without reprisal and the National Association of REALTORS®, the New York State Association of REALTORS® or any of its local boards or associations will not favor or disfavor any member because of the amount contributed. 70% of each contribution is used by your state PAC to support state and local political candidates. Until your NYSAR PAC reaches its PAC goal, 30% is sent to National RPAC to support federal candidates and is charged against your limits under 2 U.S.C. 441a; after NYSAR PAC reaches its RPAC goal, it may elect to retain your entire contribution for use in supporting state and local candidates.

# NYSAR's Government Affairs team keeps REALTOR® bills moving forward

By Jared Burns

NYSAR Government Affairs Associate

**J**ust like our REALTOR® members constantly stay on top of the housing market conditions, NYSAR's Government Affairs staff members have their eyes and ears on many legislative and regulatory proposals simultaneously to ensure that the best interests of the industry and homeowners are served.

NYSAR prioritizes our legislative agenda and responds to issues affecting our industry. NYSAR provides every state legislator with a list of our priorities at the beginning of each year, giving clear reasons for why we support or oppose certain

measures on behalf of REALTORS®. And as we head further into the legislative session, progress is being made on key issues.

One of NYSAR's top issues this year is advocating for a statewide First-Time Homebuyer Savings Account program (A.4427), which has been sponsored and introduced in the state Assembly by Assemblymember Phil Ramos (Suffolk). The bill continues to gain momentum and support from REALTORS®, legislators and the public. As we seek a sponsor in the state Senate, interest in the Assembly continues to grow with new bill sponsors being added.

Under NYSAR's proposal, the program would help potential first-time buyers in New York save money in an account while allowing those individuals and couples to take a state income tax deduction each year on the amount saved. Individuals could save up to \$5,000 every year, while a couple could put up to \$10,000 into the account. This would assist a large segment of New Yorkers, who want to purchase their first home, but cannot afford that initial hurdle of a down payment and closing costs. The First-Time Home Buyer Savings Account program would help those future home

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owners save more money to buy their first home more quickly.

NYSAR is also progressing in its fight for greater transparency in the purchase process of cooperative housing units. Our state co-op bill, which would require a reasonable time period for the approval or denial of a co-op application with a reason stated for that denial, has been introduced in the state Senate by Senators Kemp Hannon (Nassau) and James Sanders (Queens). We are also teaming up with New York City Council member Jumaane Williams, chair of the Committee on Housing and Buildings, to introduce co-op transparency legislation in the New York City Council, while continuing our fight at the state level.

After a series of meetings in the state Assembly, NYSAR's bill requiring two hours of agency-related coursework in a licensee's initial two-year term (A.9474) gained a key sponsor and has been introduced by Assemblymember Helene Weinstein, chair of the Judiciary Committee. We are currently in the process of seeking a sponsor for the bill in the state Senate.

Additionally, NYSAR serves as the conduit between the National Association of REALTORS® and local boards and associations, keeping you informed about legislation being discussed in Washington, D.C., such as flood insurance, federal tax deductions, property rights around federal and private bodies of water, and easing of condominium financing regulations.

REALTORS® have a strong voice in our state and federal government. Through the support and investment of our members, NYSAR continues to have a significant impact on policies that impact the housing industry by providing expertise and feedback on potentially harmful or helpful legislation and regulations. NYSAR will continue to keep you informed on its progress and any new initiatives in its goal to protect property rights and advocate for home buyers and sellers in New York State. The latest updates can be found in the Government Affairs section of NYSAR.com. ●

# A day in the life of NYSAR's Government Affairs Department

By Michael Kelly

NYSAR Director of Government Affairs

One of the best things about my job is getting the opportunity to speak with members at local board events, whether it's at an RPAC event or a meeting of their board of directors. At these events sometimes I'm asked: "What's it like to be a lobbyist?" or "What are the day-to-day activities of the Government Affairs Department like?" I'll respond here by clarifying it's not as glamorous as the media and some television shows like Netflix's "House of Cards" portrays. Don't get me wrong, I love my job and it's always exciting, especially with New York politics. But our day-to-day activities aren't full of glitz and glamour, and our lobbying efforts don't take place in a smoke-filled, shady backroom.

Tracking the activities of the Legislature, state agencies and the executive branch is a fulltime job that is part of each and every day in our department. Every morning our staff reviews legislation introduced in the Assembly and Senate to determine whether or not it has a direct or tangential impact on our members or the real estate market. In total, we review more than 10,000 pieces of legislation each year. We don't have a vested interest in most of these bills, but we closely watch approximately 1,500 of them and from that group about 20 to 30 make our annual legislative priority list.

A typical day when the Legislature is in town will include attending a committee meeting in either house. We will also often have direct, one-on-one meetings with lawmakers and/or staff regarding a bill they are sponsoring or opposing. This is our opportunity to educate lawmakers about an issue or raise an unforeseen problem with a bill they may be carrying. Lawmakers are trying to "do the right" thing to address a

constituent issue or solve a problem when they introduce a bill. But very often, they are unaware of the consequences or impact this legislation may have in real world scenarios. Specifically, legislators are frequently surprised to hear how we believe the bill will impact the housing market, our members and the clients they represent.

Over the years we've also built strong relationships with legislative staff in both houses. Because of this, we often receive requests for opinions on legislation that is moving through the committee process and/or may be headed for a vote. This is a great opportunity to once again explain our position in support or opposition, or simply relay that we don't have a position on that proposal.

Much of what we do, with the assistance of NYSAR's Legal Department, is related to adhering to state and federal lobbying, campaign finance and election laws. Did you know NYSAR currently oversees the activities of three separate political committees that are registered with the New York State Board of Elections? By far the most widely known is the REALTORS® Political Action Committee, which is funded by REALTOR® member, local board and corporate investments and used to support lawmakers that are supportive of our industry at the federal, state and local levels of government. The REALTORS® Advocacy Committee is our political committee that we use to conduct "issue-based" campaigns in support or opposition to a legislative proposal or ballot initiative. This committee is financially supported by NYSAR's and NAR's Issues Mobilization Funds. Its efforts have included campaigns in support of New York's Tax Cap law, the Adirondack Works campaign in

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New York State Association of REALTORS®, Inc.

# Succeeding in a limited inventory market

By Ciara Hassenpflug  
NYSAR Communications Coordinator

**M**any areas of the country are currently experiencing a declining inventory of homes available for sale, and New York State is no different. In a market such as this, it's important for REALTORS® to understand the challenges that their hopeful buyers are facing, and also how to handle their seller clients who might be overwhelmed with offers. However, in order for your clients to be a part of the home buying and selling process, you need to first find and cultivate those clients.

Kyle Kelly, licensed salesperson at Coldwell Banker M&D Good Life in Moriches, utilizes his social media accounts to help show potential buyers and sellers the amount of activity going on. "It's a powerful message when you show how quickly homes are selling due to high demand and low inventory." He said in recent months, two out of every three posts he creates yields either a buyer or seller, if not multiple leads. "It's not usually a post about a specific home that gets the best response," he said. "It is posts about the market and activity in general that starts a conversation."

Kelly also targets short sale candidates and expired listings with his mailings, specifically focusing on the ones he knows he can help, going back as far as two years. "The market has changed so much in the past two years that the listing conversation has become much more positive." He chooses not to spend money on "farming" or "every door" mailing systems, instead doing the work himself, sifting through listings one by one searching for opportunities. "When I take the time to really investigate the

listing, I find my true passion for helping them comes through when I actually get face-to-face with the prospect."

Getting that face-to-face time is something Tony D'Anzica, broker-owner at DynaMax Realty NYC, Inc., agrees with. While posting flyers and sending mass mailings, both by snail mail and email blasts, are still popular methods of attracting attention from potential clients, they might not be the most effective in today's market. "Probably the best way is to work on developing personal relationships and also to speak about your business/industry at real estate-related events. I would say this is what helps me the most."

Dana David, licensed salesperson at RealtyUSA in Williamsville, admits that acquiring new listings in this market is not easy. She said a large percentage of her business still comes from personal referrals. "I've found that if I focus my time and energy on my current clients, their referrals will follow."

Preparing the would-be buyer in advance of stepping into a limited inventory market is crucial. "Explaining our market is not easy," said David. "It is very dynamic, and sometimes hard to understand that everything you see on television is not as it seems!" She said it's incredibly important for buyers to be sure they are making offers based on the comparable sales, not necessarily the list price. "Many times, the two are very different."

For Kelly, the conversation always begins with helping them find the right mortgage professional and to get them a pre-approval in-hand. "I explain that the reason we need that pre-approval now



# limited

*Success in acquiring new listings and finding appropriate buyers is substantially increased by referrals from previous satisfied clients, no matter how limited the market may be.*



is because there is a lot of competition for the homes that are on the market. Although it may look like there are a lot of homes available, inventory is very much lacking.” He also makes sure to have a serious talk with his buyers about why homes may actually be listed just below market value to help promote a multiple offer situation and drive the price well above asking.

D’Anzica prepares a comprehensive market analysis report for his buyer clients, showing them clearly what the market is like right now. “I also ask them to be patient and to focus not so much on buying a property now, but on waiting for the right moment when the right property becomes available.” He said by not rushing his clients, he is able to build trust because they know he isn’t just interested in making a sale to collect a commission. “They can see I’m also willing to be patient and to work long and hard to make the right deal happen for them.”

This patience is something that certain segments of the buyer population can struggle with, many being too patient for their own good. Kelly said the majority of his clients are millennial, first-time homebuyers whose biggest disadvantage in this market is waiting too long to pull the trigger. He said a buyer who is downsizing or has owned a home already has been through the process and knows the urgency this market requires. Giving them as much information and education as possible will help ease their nerves and show them that you aren’t being a “pushy salesman” when expressing the need to act quickly when they do find a home they like.

Whether they are experienced or not, inevitably in a low-inventory market buyer clients will become frustrated with the process or struggle with the fact they aren’t finding a home that fits every item on their wish list. Kelly takes this opportunity to remind them that although a home is much more than an investment, it still is just that, an investment. By showing them what home values have done in the past, he is able to help them anticipate the direction of the values over the next

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few years. Once they realize the return on their investment and the financial benefits of owning over renting, he said they are usually able to understand that the home doesn't need to be perfect. "The dream home can come later, as long as they start to build equity now."

Testing the waters and feeling out the market can also help a buyer who is feeling discouraged with the process. "I like to make sure my clients are in the game," said D'Anzica. Maybe they have found a property that won't work because of an out-of-reach price point, but has features the client needs or wants. He encourages them to make an offer and see what happens. "There may be circumstances where a seller could surprise you." For instance, he said, there might be a need for a quick sale due to divorce or death, or maybe it is real estate owned or a short sale where the bank wants to unload.

D'Anzica said there's no harm in making an offer and in the meantime his clients gain experience, gain confidence, and become more comfortable with the process by learning what the market limitations are.

One avenue that some buyers turn to in a low inventory market, when they just aren't finding anything existing that suits their needs, is new construction. David said that depending on the desires of the purchaser and where they want to be, she's found building new to be a great alternative for certain price ranges. "It allows my clients the ability to know where they are going prior to selling." She explained that if they were to buy an existing home in this market, many times they would be forced to sell their home first, then go find their new property. "The transition from one home to another is complicated in this market," she said. "This is why having an experienced REALTOR® is so important."

Buyers in a low inventory market will face their fair share of hardships, but it's not an entirely easy road for sellers either. While they will surely receive a great deal of attention for their listings, they will need to deal with the sometimes tricky world of multiple offers and bidding wars.

When it comes to pricing, Kelly finds that it is best not to price the home

higher than what the market dictates, with hopes of being able to have room to negotiate down. "In this market, it is more beneficial to price the home either at, or just below market value, to attract the most amount of buyers." Homes that are in good shape and properly priced are selling in days, if not hours, said Kelly, and most of the time for a higher price because of multiple offer situations.

"If your home is getting traffic but not selling, it's time to revisit your pricing strategy, and quickly before it becomes stale bread," said Kelly.

His advice for his seller clients? "If you are in a multiple offer situation, don't get greedy!" Kelly suggests looking at each offer through a microscope, as sometimes the highest price offer isn't always the best one. For instance, financing can be a big deal-breaker. Is there something that could cause a snag if the buyer uses FHA financing, but wouldn't be an issue with a conventional or all-cash offer? Is the buyer asking for help with closing costs? Are there any contingencies? All of these things need serious consideration, he said.

D'Anzica's first piece of advice is to ask sellers to understand what their motivations are. Is the motivation to make as much money as possible? Do they need a quick sale due to personal reasons or are there any time constraints? "Once a seller understands what matters most to them, their decisions are easier to make." In the case of a bidding war, D'Anzica advises sellers to know when to stop. "Set deadlines, ask for the highest and best offers, and take back-up offers," he said.

David said it can be hard for sellers to accept offers because they are always wondering, "what if?" Could they get more money if they waited? Her advice mirrors D'Anzica's: Accept serious, qualified offers over waiting for a potential offer that may or may not be better.

At the end of the day, David said the best thing you can do is to stay on top of all of your client's needs, and that she's a firm believer that if it is meant to be, it will be. "I always strive to find the best house for my clients, and I won't stop until they are satisfied." ●

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# Local board RPAC events keep the

# FUN in fundraising

By Derick R. King  
NYSAR Political Affairs Coordinator

**A**sking people to donate their hard-earned money to a charitable organization is a task in itself. Asking people to donate to a political committee poses an even more difficult challenge as politics is such a polarizing topic for Americans. In order to demonstrate the importance of taking an active role in the political process, it often takes a measure of education and making politics relevant to an individual's life and livelihood. A dose of some old fashion fun and entertainment helps, too.

Every REALTOR® should take an active role in the political process – period. Government at every level proposes and enacts laws and regulations that impact your livelihood as REALTORS®. Your collective voice as REALTORS® is heard in the political process through the power and strength of the REALTORS® Political Action Committee (RPAC). In fact, REALTORS® encompass the largest trade association in America with more than 1 million members. Our strength in numbers speaks volumes to lawmakers. However, to keep the REALTOR® voice echoing through the halls of government on real estate issues such as the preservation of the mortgage interest deduction, enactment of a first-time homebuyer savings account and property tax relief, it takes a strong and viable RPAC. RPAC is built upon the voluntary

investments of individual members of the REALTOR® organization. Without those voluntary investments, the clout of RPAC and the voice for REALTORS® in the political arena is diminished.

The bulk of RPAC fundraising is conducted at the local board level, through the dues billing process and RPAC education and awareness events. These events are often key to helping a local board, and RPAC of New York, reach our shared fundraising goals, which as a state, we've reached for the past four consecutive years.

Attending and planning a local RPAC fundraising event can be enjoyable and rewarding. As New Yorkers we are blessed to be surrounded by endless possibilities for special event settings. Our regional attributes and attractions including popular restaurants, sports venues, wineries and waterways provide a bountiful stage for RPAC events. With so much at our disposal, local boards have had no trouble planning events that appeal to a wide array of members.

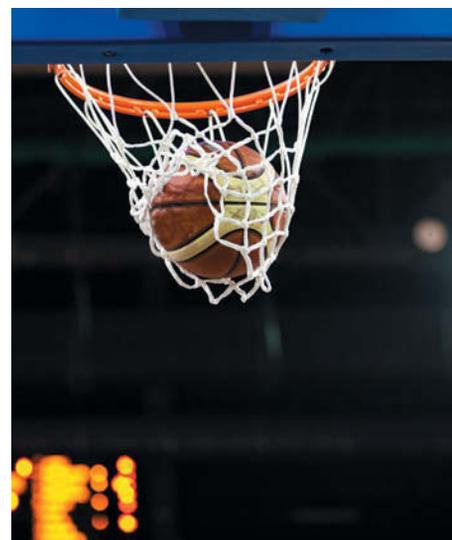
In fact, in 2015 local boards raised a record \$150,000 for RPAC through local events alone. Our local boards are off to a solid start in 2016 with nearly \$30,000 raised by local board events already. Here are some of the exciting RPAC events taking place across New York:

**Finger Lakes Wine Tour:** The Finger Lakes region in upstate offers not only amazing scenery, but an endless opportunity to sample some of the finest wines anywhere.



The Otsego-Delaware board has seized this playground as a forum for a comprehensive RPAC wine tour! The event begins in Oneonta where thirsty travelers board a motor coach destined for the Finger Lakes wine country. The day includes numerous stops at wineries, a brewery and even a distillery. Lunch is provided to keep travelers happy as well. Otsego-Delaware packs the motor coach and raises nearly \$5,000 for RPAC in a single afternoon. Watch for information about this September event.

**March Madness:** The Greater Rochester association has capitalized on the March Madness basketball frenzy annually with an event at a local sports bar featuring an array of food and drinks. To take this event a step further, there is a game of skill element, where attendees may compete in a basketball shootout. Trophies are awarded to the male and female champion. There is also a selection of live and silent auction items for attendees to bid upon! Just this past March, GRAR raised \$6,800 for RPAC during this legendary event.



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### Take Me Out to the Ballgame:

Besides apple pie and homeownership, there is nothing more American than a baseball game. Last year, Hudson Gateway REALTORS® rented a portion of the Malibu rooftop deck at Yankee Stadium, and enjoyed an afternoon of food, drinks and Yankee baseball. The home run event raised more than \$11,000 for RPAC and the sequel is planned for this June.



**Day at the Races:** And they're off! The Long Island Board of REALTORS® has been hosting an annual RPAC fundraiser at the Belmont racetrack for more than a decade. This wildly successful event includes a private room overlooking the track, a delectable lunch buffet, cash bar, private betting window, and live and silent auction items. Over the past several years, LIBOR has

raised an average of \$25,000 in a single afternoon at the track.

Additional examples of successful local board RPAC "FUNdraising" events include:

- LIBOR's NY Mets baseball game, RPAC Art Auction and REALTORS® Got Talent.
- Hudson Gateway's local mixers, Comedy Night, Mr. Legs Pageant and Trivia Night.
- Greater Syracuse's Cooking for RPAC and chocolate sales.
- Greater Capital's Bowling for RPAC and Culinary Institute luncheon.

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- Dutchess County's Hudson River Sunset Cruise.
- Ithaca's Roaring 1920's Mock-Casino Night.
- Jefferson Lewis's BBQ and Wine Tasting.
- Columbia Greene's Summer BBQ and Paint and Sip Party.
- Northern Adirondack and Clinton County's Railbiking for RPAC.
- Adirondack Regional Theater Night.
- Southern Adirondack's Winter RPAC Luncheon and Auction.

If REALTORS® are looking for a fun way to spend an afternoon or evening, while investing in RPAC, please contact your local board or me at 518-463-0300 x238 or [dking@nysar.com](mailto:dking@nysar.com). You can join the RPAC of New York Facebook group to keep up to date on all the activities.

As a bonus, RPAC of New York provides the resources to local boards to host a local RPAC event. NYSAR simply asks

the local boards to illustrate how they expect to at least raise double the overhead costs in RPAC proceeds. For example, if a local event is projected to cost \$500 to host, RPAC of New York will expect the local board to raise \$1,000 for RPAC.

We look forward to working together to raise money and awareness about RPAC, while having a bunch of fun along the way! ●

*Contributions are not deductible for income tax purposes. Contributions to RPAC are voluntary and are used for political purposes. You may contribute more or less than the suggested amount. You may refuse to contribute without reprisal and the National Association of REALTORS, the New York State Association of REALTORS or any of its local boards or associations will not favor or disfavor any member because of the amount contributed. 70% of each contribution is used by your state PAC to support state and local political candidates. Until your NYSAR PAC reaches its PAC goal, 30% is sent to National RPAC to support federal candidates and is charged against your limits under 2 U.S.C. 441a; after NYSAR PAC reaches its RPAC goal, it may elect to retain your entire contribution for use in supporting state and local candidates.*

# NYSREEF unveils new website

By Priscilla Toth  
NYSAR Director of Education

**W**ith its new website at [www.NYSREEF.org](http://www.NYSREEF.org) going live, the New York State Real Estate Education Foundation (NYSREEF) has made it easier than ever to apply for a scholarship.

Among the improvements on the new site, scholarship applicants may now download a fillable form to complete and provide to their managing broker for a signature. The completed form may now be emailed to the foundation along with the supporting materials. Additional details about the program are available on the website. Since its inception, the foundation has awarded more than 800 REALTOR® scholarships totaling more than \$220,000.

Other features of the new website include news articles and testimonials. You can read about how REALTORS® have used NYSREEF scholarships to increase their competency, achieve designations, grow their business and provide enhanced skills and services to their clients. You can also meet the newest designees, see who received the



latest scholarships and what organizations have donated to the foundation.

In fact, those companies, boards and individuals wishing to donate to the foundation can now also do that online. It's a great way to give back to the industry that has brought you success and to help raise the level of professionalism among REALTORS®. Simply select your donation level, click the link and if you are a NYSAR member you can donate online using a credit card. Non-members can easily print and complete the donor form which can be mailed with a check or credit card information.

Donations may be made in memory or in honor of a prominent REALTOR®

or may be used to recognize an accomplishment or milestone.

If your success depends on the vitality of the real estate market or the livelihood of REALTORS®, we urge you to help nurture that vibrancy by giving back. With your generous support, the Foundation can continue to ensure the solid future of the real estate profession.

By donating to the Education Foundation, not only is your charitable contribution tax deductible, but you gain opportunities to enhance your exposure in the industry, be recognized by your peers and have the satisfaction of paying your own success forward.

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Thank you to the RPAC Major Investors from New York for going above and beyond with your support of RPAC. RPAC investments are used to support federal, state and local lawmakers who share the REALTOR® commitment to promote homeownership and private property rights.

For more information on RPAC or the Major Investor Installment Plan, please visit the RPAC page of NYSAR.com or contact NYSAR's Political Affairs Coordinator Derick King at 518-463-0300 x238 or dking@nysar.com

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# Summer/Fall National Designation

# 2016

## Course Schedule



**GRADUATE REALTOR® INSTITUTE (GRI)**  
7.5 hours CE each - \$125 each for members

### GRI-1 Ethics

June 8.....Albany.....Jim Pugliese  
Oct. 12.....Canton.....Lin Fields

### GRI-2 Business

June 7.....Syracuse.....Russ Romano

### GRI-3 Agency

Aug. 3.....Staten Island.....Al Fazio, Esq.  
Sept. 12.....West Babylon.....Al Fazio, Esq.  
Sept. 15.....Binghamton.....Jim Braman, Esq.  
Oct 6.....Hudson.....Jim Braman, Esq.

### GRI-5 Buyers - Satisfies NYS Fair Housing requirement.

June 27.....Woodbury.....Don Scanlon  
Sept. 8.....Corning.....Russ Romano  
Sept. 29.....Rochester.....Jeremias Maneiro

### GRI-6 Sellers

Sept. 14.....Buffalo.....Randy Templeman  
Oct. 6.....Ithaca.....Fran Carroll  
Oct. 12.....Rochester.....Jeremias Maneiro

### GRI-7 Property

Aug. 10.....Staten Island.....Nancy Mosca  
Sept. 8.....Goshen.....Nancy Mosca  
Oct. 11.....Jackson Heights.....Nancy Mosca  
Oct. 20.....Corning.....Roseann Farrow  
Oct. 25.....Syracuse.....Roseann Farrow

### GRI-8 Technology

May 25.....Albany.....Jeremias Maneiro  
Oct. 7.....Putnam.....Nancy Mosca  
Oct. 19.....Buffalo.....Jeremias Maneiro  
Nov. 3.....West Babylon.....Nancy Mosca  
Nov. 30.....Rochester.....Jeremias Maneiro



**ACCREDITED BUYER REPRESENTATIVE (ABR)**

### ABR Required Course

15 hours CE - \$295 for members

Sept. 14-15.....Syracuse.....Linda D'Amico  
Oct. 17-18.....Woodbury.....Linda D'Amico  
Nov. 17-18.....Goshen.....Roseann Farrow



**CERTIFIED INTERNATIONAL PROPERTY SPECIALIST (CIPS)**

### CIPS Theater – Staten Island

No CE credit - \$150 each for members

May 31.....Americas.....David Lauster  
June 1.....Europe.....David Lauster  
June 2.....Asia/Pacific.....David Lauster



**GREEN - THE SUSTAINABLE PROPERTY DESIGNATION**

7.5 hours CE - \$150 each

### Green Day One:

Oct. 24.....Utica.....Randy Templeman

### Green Day Two:

Oct. 25.....Utica.....Randy Templeman

**MILITARY RELOCATION PROFESSIONAL (MRP)**

### MRP Required Course (ABR Elective)

6.5 hours CE - \$125 members

Oct. 5.....Jackson Heights.....Linda D'Amico

**PRICING STRATEGY ADVISOR (PSA)**

### Pricing Strategies: Mastering the CMA

6 hours CE - \$150 members

Sept. 20.....Oneonta.....Roseann Farrow



**RESORT & SECOND HOME PROPERTY SPECIALIST (RSPS)**

### Vacation, Investment & Luxury Properties

Required Course (ABR Elective)

7.5 hours CE - \$150 members

May 23.....Riverhead.....Roseann Farrow



**SELLER REPRESENTATIVE SPECIALIST (SRS)**

**SRS Required Course (ABR Elective)**

15 hours CE - \$295 members

June 1-2.....	White Plains.....	Roseann Farrow
June 8-9.....	Buffalo.....	Randy Templeman
June 14-15.....	West Babylon.....	Roseann Farrow
Sept. 12-13.....	Syracuse.....	Randy Templeman
Nov. 16-17.....	Albany.....	Jim Pugliese
Nov. 28-29.....	West Nyack.....	Roseann Farrow



**SENIORS REAL ESTATE SPECIALIST (SRES)**

**SRES Required Course (ABR Elective)**

12 hours CE - \$295 members

June 14-15.....	Bronx.....	Don Scanlon
July 18-19.....	Goshen.....	Roseann Farrow
Aug. 17-18.....	Riverhead.....	Don Scanlon
Sept. 7-8.....	Rochester.....	Jeremias Maneiro
Oct. 18-19.....	Poughkeepsie.....	Roseann Farrow
Oct. 19-20.....	Albany.....	Randy Templeman

**SHORT SALES & FORECLOSURES RESOURCE (SFR)**

**Short Sales and Foreclosures Required Course (ABR Elective)**

6.5 hours CE - \$125 for members

Nov. 3.....	Rochester.....	Randy Templeman
Nov. 14.....	West Babylon.....	Linda D'Amico

NAR designation courses available online 24/7 at [www.RealtorU.com](http://www.RealtorU.com).



New York State Association of REALTORS®, Inc.

# A day in the life of NYSAR's Government Affairs Department

*continued from page 16*

the Tupper Lake region and a campaign in opposition to mandated sprinkler systems in residential homes. Last, the New York State Association of REALTORS® fund is our political committee with the sole purpose of conducting independent expenditure political campaigns in support of REALTOR® champions seeking public office.

Almost 10 years ago NYSAR realized the value and importance of having retained lobbyists monitoring and lobbying on our behalf before the New York City mayor and City Council. It is often the case where a legislative idea, good and bad, will originate in the New York City Council and make its way up the Hudson River to Albany. NYSAR staff works closely with the team at The Parkside Group each week to advocate for our legislative priorities. Presently, we're working with our retained lobbyists and members of the City Council on the drafting and introduction of legislation in support of more transparency in the purchase of a cooperative housing. Having this group of professionals looking out for our interests in New York City has been a tremendous benefit to our association.

As an association, NYSAR is extremely fortunate to have one of the strongest political action committees in the entire state. Because of thousands of generous and thoughtful investments by REALTOR® members, NYSAR is able to use the REALTORS® Political Action Committee (RPAC) to support lawmakers that protect our interests. Most often this is facilitated by NYSAR staff attending a lawmaker's fundraiser. From early January until mid-June, NYSAR staff typically attend three to five of these events per night. These events allow our staff to develop and build on relationships with lawmakers and staff that are often beneficial at a later time. There's an old saying in lobbying, "You can't make a friend when you need one."

You can follow the Government Affairs Department's activities at NYSAR.com, on Facebook in the NYSAR Facebook Group and on twitter at @NYSAR\_GA. ●

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NYSAR leadership team; continued from page 13

on their existing mortgage, through principal forgiveness or through a short sale, do not face an income tax liability on the amount of the loan that has been forgiven. Last December this law was extended for tax years 2015 and 2016 when Congress approved a bill sponsored by New York Congressmen Tom Reed (R-Corning) and Charlie Rangel (D-Harlem). NYSAR's leadership team and NAR reiterated the importance of this law and the need to have it extended beyond 2016.

While in Washington, New York's leadership team also had the opportunity to thank U.S. House members for passage of a bill that would ease FHA lending requirements as they relate to the sale and purchase of a condominium. The legislation passed the House in February with bipartisan support 437-0, which is a rarity in Washington. Our next challenge is to get the U.S. Senate to take up this measure, which will benefit first-time homebuyers and ease restrictions on existing homeowners.

One of NAR's top priorities over the last several years has been the enactment and improvement of the National Flood Insurance Program (NFIP). New Yorkers know firsthand the importance of this critical government program as the private insurance market has not returned to this marketplace. In March of 2014 we celebrated the passage of the Homeowner Flood Insurance Affordability Act, which made several key improvements to the NFIP including removing the ability to raise rates when the property transfers, restored grandfathering, limited premium increases, required refunds of overpayments of premiums and created a flood insurance advocate. While these changes were extremely beneficial to our membership, NAR realizes that in its current structure the program is not sustainable for policy holders and taxpayers alike. To that end, NAR is suggesting several key initiatives for reform of the program as well as reauthorization prior to its expiration at the end of 2017.

Advocacy is a key component of NYSAR's overall mission on behalf of our members and their clients. I can tell you that NYSAR's leadership team did yeomen's work advocating on behalf of our more than 50,000 members during our March meetings in Washington. Our members reiterated the REALTOR® position on this issue while visiting with their federal lawmakers during NAR's May Mid-Year meetings. ●

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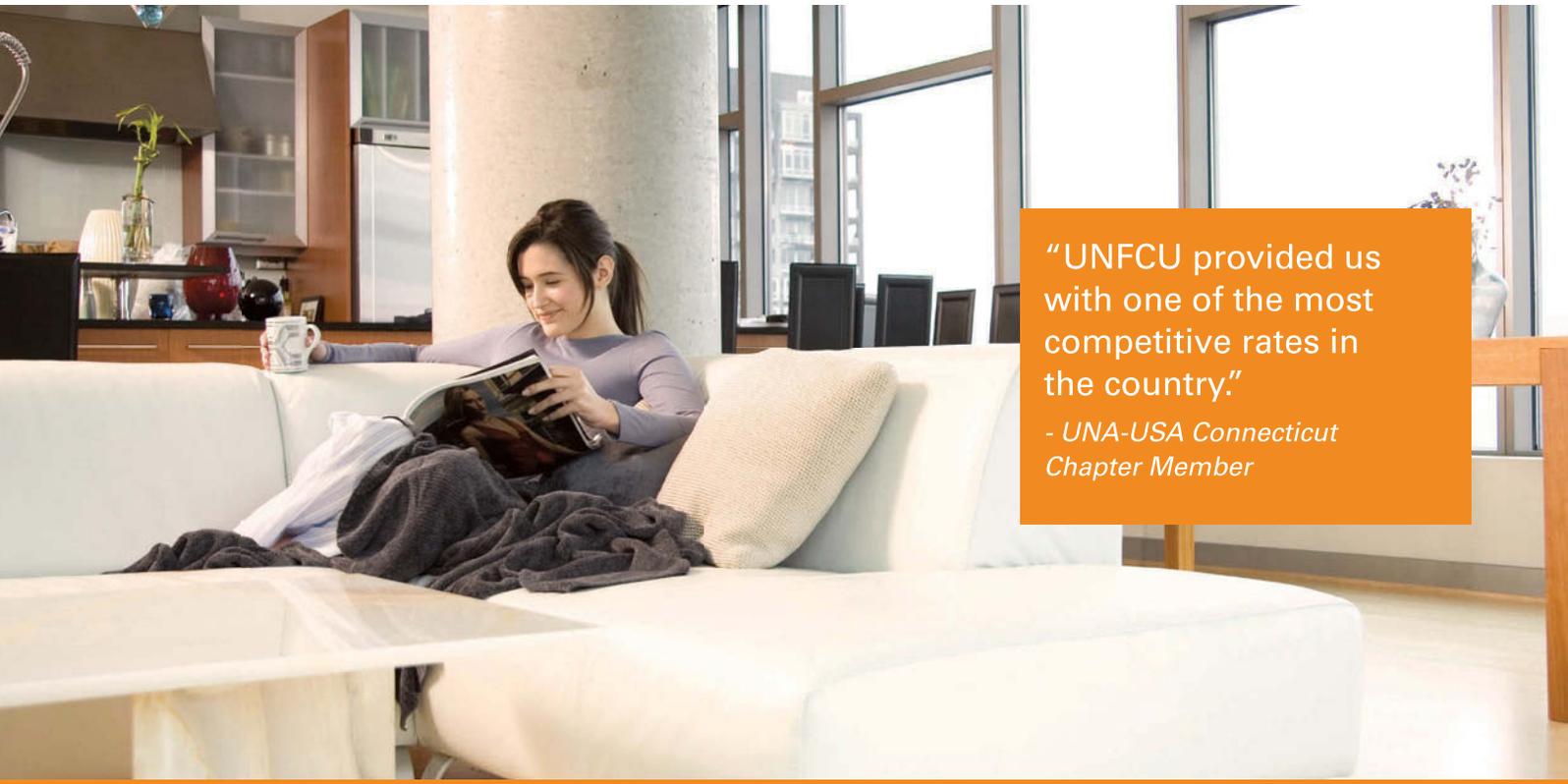
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# 2015

## BY THE NUMBERS

# UNITED STATES

The RE/MAX network, now in nearly 100 countries, enjoyed another strong year in 2015, setting the stage for a dynamic 2016.

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Worldwide sales leadership based on total residential transaction sides.

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	RE/MAX UNITED STATES	RE/MAX WORLDWIDE
AGENT COUNT	59,918 TOTAL	104,826 TOTAL
	2,813 NET GAIN	6,816 NET GAIN
	4.9 % INCREASE	6.9 % INCREASE
OFFICE COUNT	3,550 TOTAL	6,986 TOTAL
AGENT EXPERIENCE	15.4 AVERAGE YEARS IN REAL ESTATE	12.4 AVERAGE YEARS IN REAL ESTATE
	8.6 AVERAGE YEARS WITH RE/MAX	7.5 AVERAGE YEARS WITH RE/MAX
FRANCHISE SALES <sup>1</sup>	261 TOTAL	946 TOTAL
RESIDENTIAL TRANSACTION SIDES	960,000+ TOTAL	1.5m+ TOTAL
	16.6 AVERAGE PER AGENT	15.3 AVERAGE PER AGENT
COMMERCIAL TRANSACTION SIDES	12,000+ TOTAL	25,000+ TOTAL
COMMISSIONS	\$115,446 AVERAGE PER AGENT	\$109,571 AVERAGE PER AGENT

# ONLINE EXCLUSIVES

*The following pages are provided as an extra value  
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# ONLINE EXCLUSIVES

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# THE REALTOR®

May/June 2016

Official Publication of Long Island Board of REALTORS®

LIRealtor.com

## LIBOR KEY Conference June 9th — *Keep Educating Yourself!*

The Long Island Board of REALTORS®, Inc. (LIBOR) will be hosting the 28th Annual Thomas F. Tabone, Education Conference and Trade Show on Thursday, June 9, 2016 at the Crest Hollow Country Club in Woodbury, New York. This year's theme will be "KEY - Keep Educating Yourself" is the answer to ensure your success in your career in the real estate profession." The day will consist of timely training sessions designed to help Realtors® succeed in both today's market and future markets as well. At the conference, Realtors® will receive all the benefits of attending a national convention right here at the local level, without the expense of travel.

The conference kicks off with a high powered keynote session, sponsored by Freedom Mortgage Corp, featuring international real estate trainer Tom Ferry, "How to 10X Your Business and why NOW is the Best Time Ever"! For close to 20 years, Tom Ferry has earned a reputation as a top trainer, motivator, speaker, author and business coach for real estate professionals. Tom has conducted training for more than 260,000 salespeople and has personally coached some of the world's top producing agents. Scores of real estate professionals point to Tom Ferry as the mastermind behind their achieving new levels of productivity, whether in the six- or seven-figure range. Tom has an unwavering desire to help his clients work less, eliminate stress, and have more fun, ease, passion and joy in their businesses and lives, thereby leading their businesses by design. Don't miss Tom Ferry who will be right here live on Long Island!

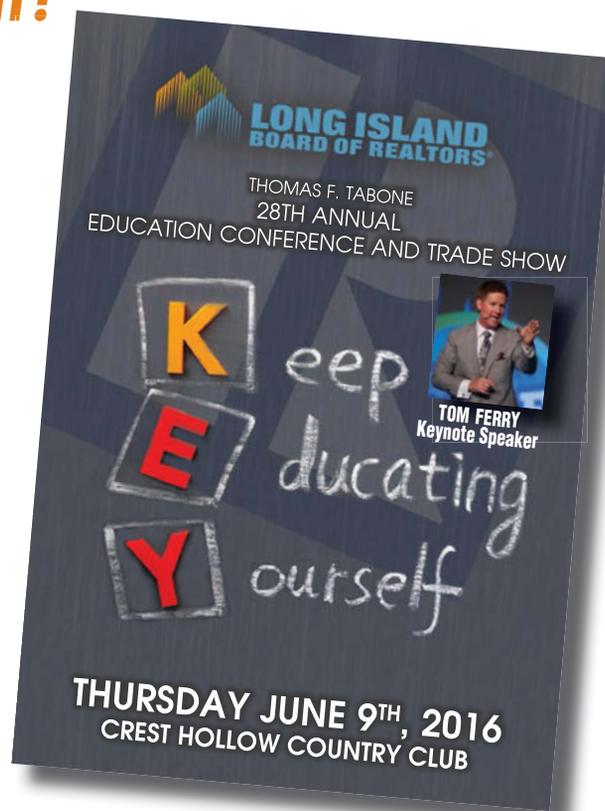
Throughout the day, additional training sessions will feature national trainers, G. William James, Roseann Farrow, Juanita McDowell and Bruce Gardner, on timely topics to include:

"The Listing Machine: How to Get Listings in a Seller's Market - will be repeated twice due to popularity!

"How to Run Your Business on Google"

"Power Language" and "How's Your Image"

"Video Marketing for Growth and Profit"



"How's Your Image - Realtor ranking sites" and much more!

Realtors® will have an opportunity to win \$1,000 in our Giveaway Sweepstakes, sponsored by Franklin First Financial. Attendees will also have the opportunity to win a \$250 Apple gift card at the wrap-up session. This year's fundraiser luncheon will benefit Autism Speaks, an organization that educates advocates and provides support services to ensure a life without limits for children with autism. Throughout the morning, Realtors® will have an opportunity to purchase raffle tickets to win tablets, bikes, Weber grill, designer handbags, Broadway show tickets, gift cards and many other premium items.

A special "Magical Realtor® Luncheon" will feature

**CONTINUED ON PAGE 4**

## President's Message

By Mary Alice Ruppert  
 LIBOR President

In 2016, we are proud to celebrate 100 years of the distinction of REALTORS®, and the power we hold in protecting the American dream, advocating for property ownership and healthy communities, and making tomorrow a better place to live.

The Long Island Board of REALTORS®, Inc. (LIBOR) celebrated its centennial in 2010. From its inception, the goal of the Board was to further the best interests of those engaged in the real estate business as well as the need for protection of the public and community. In 1916 LIBOR became a member of the National Association of REALTORS® (NAR)

One hundred years ago, the term "REALTOR®" was adopted by NAR to identify members of a group of individuals deeply committed to integrity, community, and protecting the American Dream of property ownership. This was a revolutionary perspective in 1916..

The term REALTOR® remains a federally registered collective membership mark which identifies only real estate professionals who are members of NAR and subscribe to its strict Code of Ethics. The code spells out the professional responsibilities and expectations of REALTOR® members to their clients, customers, fellow Realtors® and the general public. This is what separates us from other real estate licensees.

Protecting the interests of consumers demands high standards of professional conduct and training. To uphold these standards, NAR requires every REALTOR® attend a minimum of 2.5 hours of ethics training every 4 years. If you have not satisfied your ethics training requirement for 1/1/13 to 12/31/16, LIBOR will help you achieve your professional development by offering many ways to complete this training. For complete information on any of the educational options available, visit <http://www.libor.com/education/nar-code-of-ethics-training>.

Take pride in the REALTOR® mark. A century later, time and technologies may have changed the industry and how business is conducted, but our strong ideals, commitment to go the extra mile, and REALTOR® pride haven't. ●

## From Where I Sit

By Joseph E. Mottola  
 LIBOR Chief Executive Officer

Many REALTORS® seem to sense that the industry is changing. Others seem totally unaware. The National Association of REALTORS® (NAR) in an effort to assess what changes could radically affect the industry commissioned a study which is referred to as the "D.A.N.G.E.R" Report which is an acronym for "Definitive Analysis of the Negative Game Changers Emerging in Real Estate."

They analyzed almost 8,000 survey responses and interviews of Brokers, Agents, Firms of all sizes and Vendors. They targeted 10 Issues in each Category: Agents, Brokers, Boards, MLSs, and State and National Associations.

The Goal was to identify not resolve Issues. The Report looked at the Probability, Timing and Impact of the Issues and generated a Danger Index Score. The Danger ranges from Critical to Low and many of the Issues have a different affect based on market cultures and differing State Regulations with respect to Agency and License Law.

One Issue that affects Agents is that "Marginal Agents destroy the reputation of Good Agents." We need more competent Agents who would provide better service and enhance the reputation of REALTORS®.

Another potential "Game Changer," which would affect Brokers and Agents alike, is the High Probability that the IRS will eventually strike down the Independent Contractor status of Licensees and insure that they are classified as Employees. Business Models would have to change for both.

The Prime Mover behind this is needed income for the States to offset Unemployment Insurance and Workmen's Comp costs as well as Federal Tax revenue to support government services and bolster Social Security income.

Associations too are stressed relating to evolving technology and the Consumers' informational demands. Decision making takes too long and there is limited Director turnover which hampers encouraging newcomers with their resulting new ideas.

Leadership is conducting an "Association Operational Audit" to identify our Issues and structure and identify "Best Practices" of other Associations. Any Recommendations will go to the Directors and ultimately Membership if Bylaw changes are required. Stay tuned! ●

# The Market Is Changing



By Cathy Nolan  
Goldson, Nolan & Connolly P.C.

After having endured years of a real estate market ruled by the buyers, the sellers now seem to be flexing their muscles! Based on the types of questions coming into the Helpline recently, it is apparent prices are heading upward and sellers are finding a new strength. Here are samples of the inquiries I have recently received:

**Q. I am a buyer's agent and lately I am noticing that listing agents are taking office exclusives and not putting the houses on MLS. I have buyers who would like to see these houses but many of the listing agents refuse to allow me to show. Can they do that?**

A. No! The Department of State, in a series of opinion letters dating back to 1999, has consistently stated that sellers may not refuse to allow a buyer to be represented when that seller is represented by an agent. Therefore, it would be an unlawful instruction for the seller to tell the listing agent to keep buyer agents out of their homes. This does not, however, mean a listing broker must co-broke the listing with agents who want to represent the seller, since the vicarious liability the seller and agent may have for the actions of the sub-agent may be something neither the seller nor agent wish to take on.

**Q. I represent a number of buyers and always identify myself as a buyer's agent when I call listing agents to make appointments to show houses my client's would like to see. The listing agents often ask to see my signed agreement and buyer agency disclosure. I usually do not have an agreement, just the disclosure. What do I do?**

A. The listing agent is only entitled to get an agency disclosure that is filled out to show that you work for the buyer as a buyer's agent and that he/she can give to his/her seller for the seller to sign. The listing agent, however, is never to be given the disclosure signed by your buyer. Furthermore, the listing agent has no right to see any contract you may have with your buyer.

**Q. I always work as a buyer's agent, but buyers never want to sign an agreement. I just have them sign the agency disclosure. Is this all I need?**

A. You can represent a buyer whenever you want, whether he signs an agreement or not. But you run the risk of doing a great deal of work with no commission earned if a buyer has not promised to pay you and the seller and listing agent have not offered compensation to buyer agents.

**Q. My buyer made an offer on a property that the seller said was acceptable. The buyer had an inspection and then the listing agent said there was a higher offer and the seller was going to take it unless my buyer was willing to pay what the other buyer offered. Is that fair? And, is the buyer entitled to get the cost of the inspection back if the seller takes the second offer?**

A. Fair to whom? The listing agent has an obligation to bring all offers to the seller and, if the seller wants the higher amount, the listing agent is fulfilling the fiduciary duty owed to the client to obtain the highest price and best terms possible. Your buyer has an opportunity to raise his offer and/or improve the terms.

**Q. My buyer had an accepted offer then had an engineer's inspection which showed some problems with the house. The seller refused to make the repairs or lower the price and subsequently took another buyer's offer. My buyer wants to put a lis pendens on the property and sue the seller because they had a meeting of the minds. Will the buyer win?**

A. The Statute of Frauds says a seller is not obligated to sell to a buyer unless there is a signed writing containing a promise to do so. If the buyer were to place a lis pendens on the property, the buyer and his/her lawyer could be sanctioned by the Court and made to lift the lis pendens. Incidentally, the accepted offer itself was nullified by the buyer the minute the buyer asked to change the terms of the offer the seller had accepted.

**Q. Lately, when I make listing presentations, the sellers are asking me to reduce my commission and telling me that other agents are willing to work for less than the amount I quote as my fee. Why can't we all agree to keep commissions at a certain amount and refuse to take less?**

A. You can, but then you will go to prison for violating Federal Anti-Trust Laws!

Until next time, be careful out there! ●

# LIBOR KEY Conference

CONTINUED FROM PAGE 1

Ken Salaz, a magician mentalist who recently appeared on Late Night with Jimmy Fallon. You will be amazed by this award winning mentalist featured on NBC, ABC and the Today Show. Come have some fun, a chance at prizes, sweepstakes and much more. In addition, an exhibit trade show of over 60 exhibitors will be on hand displaying products and services to assist Realtors® in their profession. This is a great opportunity to speak one on one with the participating vendors. There will be a special "Drinks, Snacks and Entertainment" session sponsored by Wells Fargo Home Mortgage in the exhibit area, that will offer attendees a drink break, snacks and entertainment before beginning the second half of the day.

The Education Conference undoubtedly is a spectacular event. Whether you are a conference veteran or first time attendee, we welcome you and look forward to seeing you on June 9, 2016. For complete details and to register, early discount for LIBOR members, visit our website at [www.LIBOREDConference.com](http://www.LIBOREDConference.com). ●

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