

THE REALTOR®



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LIBOR Demonstrates Legislative Strength at the Federal and State Levels

By Mary Alice Ruppert, LIBOR President



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LIBOR President

Among the many things that your local Realtor® Association does for its members, legislative advocacy is by far the most important. Preserving homeownership rights for all those who desire to own a home, lobbying for fair and equitable tax policies, advocating for the preservation of the Independent Contractor status, are just a few of the issues that your Realtor® Association battles to

preserve at the local, State and National levels.

In May many Long Island Realtors®, along with Realtors® from across New York State and across the US, travelled to Washington, DC to meet with members of Congress and the Senate to discuss the issues and pending legislation that impact homeownership and the Realtor® business model. May 24, 2016 was Lobby Day and many of your fellow Realtors® travelled to Albany to meet with State Lawmakers to discuss the issues facing homeownership here on Long Island. Of immediate concern is the preservation of the Mortgage Interest Deduction (MID) which is the last vestige of affordability for all Americans. Without the ability to deduct the interest that homeowners pay annually on their mortgages, many would find homeownership out of their reach. Another piece of legislation that our Association is advocating to have passed is the First Time Home Buyer Savings Plan which helps first timers to save up enough money for a reasonable down payment on their first home. These are just a few examples of the issues that your fellow Realtors® are working hard to accomplish.

Some other issues, much closer to home for the working Realtor®, is the preservation of the Independent Contractor Status and maintaining licensure at the State level. Legislation has also been discussed that would tax Realtors® commissions and change the way we earn



NY State Assemblyman Phil Ramos (D- Brentwood) has sponsored a First Time Home Buyers Savings Account proposal in the Assembly, which would create a new

tax-free savings account modeled after New York State's 529 education savings program. NY First Home would help New Yorkers achieve the dream of home ownership by creating a dedicated savings account to be used exclusively to cover costs associated with the purchase of a first home in New York State, whether that is a single family residence, condo, cooperative apartment or townhome. Pictured from left to right are NYSAR Secretary-Treasurer Moses Seuram; NYSAR President Linda Bonarelli - Lugo; Assemblyman Phil Ramos; LIBOR President-Elect Dave Legaz and LIBOR Legislative Committee Chair Paul Llobell.

our fees. And, within the last year or so legislation that would limit a Realtor® to only be able to do business

CONTINUED ON PAGE 2

Legislative Strength

By Mary Alice Ruppert, LIBOR President

CONTINUED FROM PAGE 1



New York State Senator Jack Martins (R- Mineola) recently met with members of LIBOR to discuss our legislative priorities during the recent Lobby Day trip to Albany. Pictured from left to right are LIBOR member: Manzoor Patoli; Sen. Martins; LIBOR Vice President for Nassau County Charlotte Vanderwaag and LIBOR member Dennis Haber.

within the County where the Realtor's® office is located, had been introduced. Fortunately for all of us, we were successful in defeating this before it was able to get legs.

Keeping a watchful eye on the laws impacting the ability to purchase or lease real estate is a very important role that Realtors® play in our local communities. Maintaining a Realtor's® ability to make a living and list and sell real estate anywhere within the State where they are licensed, is equally important to preserving our industry. But we could use your help. You are the feet on the ground and may know about things happening in your community. The Long Island Board of Realtors® needs to hear from you. Help us help you and the community you live and work in. Contact our Government Affairs Department at (631) 661-4800. And, if you would like to get more involved, we would love to have you! Join our Legislative or RPAC Committee and help to keep homeownership attainable and our industry alive and well. When we work together we can accomplish more so consider joining the effort. ●

From Where I Sit

By Joseph E. Mottola

LIBOR Chief Executive Officer

We are all familiar with the medical and wellness advice about self-examination and re-evaluating how we live. LIBOR is actually following that advice as well.

Our Leadership with Director's approval has authorized conducting a professionally facilitated Operational Audit with the goal of determining how to operate more efficiently given the rapidly evolving industry changes. We want to learn what

similar Associations have in place with the goal of increasing our operating efficiency and providing the necessary services a vibrant Realtor® community will need in a cost effective, value based manner.



Additionally, we need to be flexible enough to adapt to possible "Game Changing" probabilities referenced in the "D.A.N.G.E.R." report which I outlined in a previous column. Areas of concern and differences we have seen include our slow decision making process; a time consuming committee process; the size of our Board of Directors; the tendency for the Directors to then micro-manage committee output; and its minimal turnover and lack of millennial representation.

The Planning group (Realtors® and Staff) have generated some significant and creative proposals to deal with these issues. These will be presented to the Directors at a special meeting called for this purpose to move forward with the proposals and authorize the appropriate bylaw changes. Then the internal operating procedures will be written to support the changes.

Some changes may be considered radical and would have to be phased in over a two year period. However, we never want to lose sight of the goal which is to have a Board responsive to the constantly evolving needs of its Realtors® to better serve the public in making one of the most important decisions of their lives. ●

The Market Is on Fire



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

Here are some issues that have recently been brought to the Legal Helpline.

Q. A flat rate broker listed a property which I sold. I dealt directly with the seller pursuant to the listing instructions. Now the seller refuses to pay me and we are closing this week. What do I do?

A. You contact the flat rate broker and tell him you are bringing him to Arbitration to collect the commission he promised to the selling broker on the MLS.

Q. Do I have a fiduciary duty to cut my commission if it will make the deal?

A. No!

Q. Do I have a fiduciary duty to co-broke an exclusive?

A. No, but the Department of State requires you to cooperate with buyer brokers even with an exclusive, although you do not have to offer compensation to the buyer broker.

Q. Do I have to cooperate with buyer brokers who are not MLS participants and am I required to pay them what I offer to buyer brokers on the MLS?

A. You must cooperate with any NYS licensee who is acting as a buyer broker but you are only bound to compensate those agents you have agreed to pay.

Q. Do I owe a commission to a cooperating agent if the seller takes an offer from that agent's buyer and then takes a higher offer from another buyer?

A. No, but the seller may.

Q. Can I co-broke an open listing?

A. Only if you can get the seller to allow you to do so and the seller agrees to pay both agents on the transaction.

Q. If I am the buyer, do I need to disclose that to the seller?

A. Absolutely! You are required to do so by the Department of State and the Realtor® Code of Ethics. The disclosure must be in writing in the binder and the contract of sale. In addition, if you want to get paid in the transaction, you may only do so as a buyer's agent and the payment must be made to your broker.

Q. Can I purchase a short sale?

A. You may, but you must act as a buyer's agent and you must disclose that you are a licensee. Furthermore, the bank may have a policy of refusing to pay a buyer if he is a licensee, so you and your broker might not be paid in the transaction. Therefore, you should discuss your planned purchase with your broker before you make your offer.

Q. Does my broker have to be paid when I purchase a house?

A. That's between you and your broker.

Q. Will I get paid on listings or deals I have in contract when I leave an office?

A. That depends on the agreement in place between you and your broker.

Q. Can my broker and I have an oral independent contractor's agreement?

A. The safe harbor guidelines require written independent contractor agreements signed at least every 15 months.

Q. I brought a buyer to an MLS listing and the buyer made an offer on that house through me. Previously that same buyer had looked at other houses with the listing agent, although he had not shown her the house she made the offer on through me. That agent called her and told her she could only buy that house through him, she withdrew her offer through me and I see she closed on that house the other day with the listing agent showing as the selling agent as well. What can I do?

A. You can bring Arbitration and make an Ethics complaint under Article 3 of the Code of Ethics, citing the other agent's failure to cooperate with you. ●

