

THE REALTOR



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LIRealtor.com

LIBOR's 29th Annual Education Conference & Trade Show — June 8th *List. Sell. Close. Repeat!*

Over 10 Training Sessions Approved for CE Credit! REGISTER & SAVE!

The Long Island Board of REALTORS®, Inc. (LIBOR) will be hosting the 29th Annual Thomas F. Tabone, Education Conferences and Trade Show on Thursday, June 8, 2017 at the Crest Hollow Country Club in Woodbury, New York. The day will consist of timely training session designed to help REALTORS® succeed in both today's market and future market 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 Emmy award winner, best-selling author, ABC-TV Silver Screen Award and NSA Hall of Fame Inductee Mark Scharenbroich. Part motivation, part thought provoker and pure comedic entertainer, Mark will engage, teach, inspire and move you to the next level. Join Mark Scharenbroich as he takes you for a fun ride on how to be effective at making meaningful connections in both your professional and personal life.

Throughout the day, training sessions will feature national trainers Maura Neill, Jeff Lobb, Terri Murphy, Nancy Mosca, Terry Watson and Paul G. W. Fetscher, speaking on the hottest industry topics that will help achieve success in your business.



In between sessions there will be a Creative Networking Fundraiser Luncheon with the chance to win \$1,000, designer gifts and prizes, with proceeds to benefit Hope for Youth.

Year after year the Education Conference has been proven a spectacular and resourceful event. Whether you are a conference veteran or first time attendee, we welcome you and look forward to seeing you on June 8, 2017. For complete details and to register, early discount for LIBOR members, visit our website at www.LIBOREDConference.com. ●

VISIT PAGE 4 FOR MORE DETAILS.

President's Message

By David Legaz
LIBOR President

Invest to Protect

7 Cents a Day to Protect our Industry!

With approximately 1.2 million REALTORS® across the country we have a powerful unified voice and our elected officials need to listen. It is our RPAC investments that maintains and creates new lines of communication with lawmakers and regulators on the National, State and local levels.

We continue to labor tirelessly to advance candidates and public policies as we protect and promote homeownership and property investment.

In September, at dues billing, I implore you to make your RPAC \$25 investment.

Your RPAC investment allows us to advocate for important issues that affect your business; such as the Preservation of the Mortgage Interest Deduction (MID) & Property Tax Deduction. As I write this, US Lawmakers are considering an overhaul of the current tax code with an implementation of a flat tax. Ever since the 1996 Dole / Kemp campaign REALTORS® have been opposed to the elimination of the mortgage deduction. A flat tax would eliminate the opportunity to deduct the mortgage interest and property tax.

As we know, the ability to itemize deductions related to Real Estate are essential to protecting the American Dream of home ownership and crucial to its affordability.

Here are other issues that we are fighting for: The Perpetuation of the "10-31" exchange - A flat tax would also do away with or limit the 10-31 tax-deferred like-kind exchanges which has been a cornerstone of commercial real estate since 1921. The Reauthorization and Reform of the National Flood Insurance Program — due to expire in September 2017 — If Congress does not pass an extension of this program, flood insurance premiums will go up for just about everybody. Tax-Free savings account "NY First Home"— modeled after the NY State's

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From Where I Sit

By Joseph E. Mottola
LIBOR Chief Executive Officer

Risk Management for both LIBOR and MLSLI and for Brokers and Agents will be an area of major increasing exposure. This includes areas like the DOS, Federal, State and local legal requirements.

The D.A.N.G.E.R. Report, commissioned by the National Association of Realtors®, warns that brokers and agents must be more sensitive and aware of the impending changing laws on independent contractor classification, protected class definitions, and laws that affect the everyday operations of a broker's business including the expansion of the operation of Teams governed by DOS.

Brokers must be educated on the trends and "hot topics" concerning pertinent Federal, State, and local government focus. On the State level, there is a concern about funding Unemployment Insurance and Disability coverage and the tax revenue they are not receiving so they are increasing vigilance and aggressively pursuing any opportunities they find.

We have always tried to reach Brokers and their Agents, but connect with a lesser number than we want despite our broad range of communication vehicles, including social media. For many reasons, Brokers especially, and thus their Agents, are reluctant to come to classes and programs. This needs to change as our industry climate changes.

MLS has long had Field Reps which constantly offer Brokers the opportunity for in-Office visits and presentations on Stratus, MLS Tech product awareness and Rules. Brokers do not usually stay or even attend these meetings. In their Office visits, the Field Reps can and do advise of Board educational programs and handle basic licensing inquiries. They do not and cannot provide any up to date legal information, however, this can be considered in Risk Management if we rethink our approach and expand Risk Management to Brokers in their offices.

LIBOR can be in the forefront in this critical legal Outreach approach as MLS was years ago, when the Field Rep Office visit concept was first introduced in the industry.

My personal view is that you will be experiencing exciting times as we move "lurchingly" ahead across the spectrum of these evolving organizations and more than ever, like all progressive businesses, we want to improve the "Experience" in all that we do for our members. ●

Broker and Salesperson Liability

By Cathy Nolan

Goldson, Nolan & Connolly P.C.

The Department of State is the Agency that governs Real Estate Licensees. As such, it has regulatory powers over Brokers and Salespersons. Licensees, however, are also finding that members of the public are trying to make them responsible in civil actions for duties and obligations they have allegedly breached, while federal, state and local governments are holding them accountable for behavior that could subject them to fines and even criminal prosecution! Everywhere Licensees look, they are in danger! The following are several Helpline questions that demonstrate the current threatening trend.

Q. I am a real estate salesperson and took a potential buyer to a home where she fell and broke her arm. The injured party wants to sue everyone. The seller is insisting I am responsible for the injury, not the seller, since I was showing the house. According to the seller, my having the listing has made me liable. Is this true?

A. Absolutely not, unless you somehow caused the harm. The seller is liable and should inform his insurance carrier about the claim. You might want to point the seller and his lawyer to a 2006 2d Department case (Schwalb v. Kulaski, 814 NYS2d 696) wherein the Court found that the broker was not liable in a similar case where the broker merely showed the property and did not own, control, occupy, maintain or manage the property!

Q. The seller told me he had a rental permit for the property I listed, but did not show it to me, although I asked to see it. Now the tenant is in and it appears there is no permit. The tenant wants her money for the fee back from me and is threatening to report me to the Department of State. What should I do?

A. Give back the money! What you should have done is check with the town to make sure there was a permit on the record. Although the tenant should not be threatening you with the possibility of a complaint to the DOS, you should be aware that the DOS would look upon your failure to have made diligent efforts to confirm the

existence of the permit evidence of incompetent and perhaps untrustworthy behavior. You could be fined more than the return of the fee would cost. Your return of the fee, however, will not guarantee that the tenant will not complain to the DOS anyway!



Q. I am a buyer's agent and brought about a transaction with my client for a property listed by another office. After the closing, the buyer decided to sue the seller, his lawyer, the listing agent and me because the house he bought had no Certificate of Occupancy for a finished basement. I think the lawyer or the listing agent should be responsible. I only gave the buyer the information I was given. Is this fair?

A. Life isn't fair! This, however may well be considered reasonable by a Court of competent jurisdiction. The claim will be that the seller should not have offered a property that did not conform with local law to an unsuspecting buyer, the listing agent had a duty to discover and disclose material information regarding the property he was marketing, and you, the agent representing the buyer, had a further duty to confirm the information given by the seller and listing broker, since you were working for the buyer and such inquiry would be part and parcel of your duty of reasonable care to your client. The lawyer's liability lies in the fact that he did not ask the buyer if there was a finished basement, since he probably never saw the house. If the buyer were to complain about the transaction to the Department of State, you and the listing agent could be found incompetent and untrustworthy! Next time, check!

In each situation above, the broker would be vicariously liable for the actions of the agents!

Be careful! You have much to lose! ●

President's Message

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529 College Savings Plan where NYS residents can save up to \$5,000 (\$10,000 for couples) annually, capped up to \$100,000, and take a deduction against personal income tax for the beneficiary's first home purchase. Queens Cease & Desist Zones - Senator Avella is continuing to lead a campaign to create a Cease & Desist zone for all of Queens for 10 years. A Cease & Desist list was in existence from 1989 to 2014 where licensees were obligated to check a list before any mailings, phone calls or door knocking in order to avoid fines. Since 2011, the DOS has had little or no reported violations by real estate licensees and as a result they opted not to renew any of the existing cease and desist zones. For more information on any of these issues, plus others that we are advocating, please visit www.LIRealtor.com.

In closing, I am proud to announce that the LIBOR Board of Directors have approved a REALTOR® Safety App named Real Safe Agent™ as a new LIBOR member benefit. Real Safe Agent™ is a simple and powerful crime prevention security system that empowers the entire real estate community to cooperate and collaborate to prevent crime and to protect itself. Our goal is to showcase the app at Education Conference on June 8th, extensive training will be offered with its roll out. ●

GOVERNMENT AFFAIRS

LIBOR Urges Towns to Streamline Building Dept. Process

All REALTORS® understand the frustration. It is the closing; the buyer just noticed that the Certificate of Occupancy (CO) on hand does not account for a half bathroom that was added in the basement in the 90's. The attorneys delay the closing for a few more weeks as you head straight to your local building department for the updated CO. You are notified that since you are not the homeowner, you need to fill out a FOIL request for the specific document. You fill out your FOIL Request and pay the fees and now it is time to wait.

If the previous owner never obtained approval for the extra bathroom, suddenly the homeowner is subject to fines and inspections, and the buyer wants to drop out of the deal. These kind of problems are unavoidable, but what if they could be identified and solved within hours rather than weeks?

LIBOR Government Affairs Department is working with local Town and Village Supervisors and their respective Building Departments, to identify inefficiencies in the retrieval of real estate documents, and improve their practices. In discussions with REALTORS® and local building departments, we have identified three major problems.

Outdated Technology — In this day and age, it is unfathomable that all Building Department information cannot be accessed electronically. In many cases, retrieval consists of digging by hand through endless file cabinets, often times located in basements or off premises storage. LIBOR is encouraging Towns to develop online databases where homeowners can locate and print all of the documents related to their property. We would also like to see an internal database at Town Halls that REALTORS® can access, to quickly search and retrieve a document.

Overpriced Documents — Often times REALTORS® take up the responsibility of retrieving the necessary documents for their clients, even paying the nominal fees out of pocket. However, when towns charge fees of \$20, \$50, even \$200 per document, going the extra mile for clients has become much more difficult.

Long Turnaround Time — The statutorily required time limit for a FOIL request is one month, time that REALTORS® and their clients simply do not have. If a REALTOR® wants access to public records then they should be able to access all the documents related to the property that they are representing without a FOIL. ●

2017 29th Annual Thomas F. Tabone LIBOR Education Conference & Trade Show



THURSDAY | JUNE 8
CREST HOLLOW COUNTRY CLUB WOODBURY, NY

FEATURING KEYNOTE SPEAKER
MARK SCHARENBOICH

BREAKOUT SPEAKERS

BREAKOUT SESSIONS ARE APPROVED FOR 1.5 CE CREDITS!

Terri Murphy • Maura Neill • Jeff Lobb • Terry Watson •
Paul G.W. Fetscher • Nancy Mosca

FOR FULL DETAILS AND TO REGISTER GO TO:
www.liboredconference.com