

# THE REALTOR®



November/December 2016 Official Publication of Long Island Board of REALTORS® LIRealtor.com

## LIBOR Opposed to Onerous Mortgage Recording Fees

By Timothy Lachapelle, Legislative Liaison

The Long Island Board of REALTORS® (LIBOR), Long Island Builders Institute (LIBI), Long Island Association (LIA), the New York State Land Title Association (NYSTLA), the Commercial Industrial Brokers Society of Long Island (CIBS LI), and the Association for a Better Long Island (ABLI) stand united in opposition to the massive hikes to mortgage recording fees proposed this year by the Nassau and Suffolk County Legislatures.

Last year, Nassau County hiked the tax map verification fee by 200% from \$75 to \$225, and increased the per-block recording fee by 100% from \$150 to \$300. Suffolk County raised its Tax Map Verification Fee from \$60 to \$200, an increase of 233%.

This year, both counties propose raising fees again. Nassau County is considering an increase in the mortgage recording fee from \$300 to \$350. Suffolk County is debating a new \$300 per lot fee to record a new mortgage or refinance an existing mortgage, and an increase in the tax map verification fee from \$200 per lot to \$225.

We fear that another fee increase, one year after the largest fee increase in the history of each county, sets a dangerous precedent that could evolve into annual increases of fees levied on the real estate industry. Furthermore, we do not believe that either county has taken enough time to observe and analyze the effects of last year's fee increases in real estate and other sectors of the economy.

Some may argue that real estate transactions, which resulted in \$5.9 billion in gross sales in Nassau County in 2014, is a logical place to find the much needed revenue for the County. This logic is short sighted, because it fails to recognize the positive economic impact that a home sale has on a community. The National Association of REALTORS® estimates that a typical real estate transaction in New York State generates, on average,



over \$69,000 in economic stimulation, including additional expenditures on moving truck services, consumer items such as appliances and furniture, and dining at restaurants. Of course, the value of that stimulation is even higher on Long Island, where the cost of living is much higher than in other areas of the State.

Proponents of the fee increases fail to recognize that these massive fees negatively affect more than just the real estate market. Increasing home purchasing costs will create a drag on the local economies and will negatively impact sales tax revenue.

The increased fees negatively affect all facets of the real estate market, but this coalition would like to draw special attention to the affordable housing market. Long Island has a high demand for both available and affordable housing. Young people working on Long Island and in the city, retired citizens looking to down-size to a more manageable living space and low income families all create this demand. Long Island has made great strides in increasing the stock of affordable housing. Unfortunately, regulations that send closing costs soaring{,} creates another financial obstacle for those hoping to access this housing and undermines the progress that has been made.

We urge the County Legislatures to reject any budget that includes increases in real estate related fees. ●

## President's Message

By Mary Alice Ruppert  
 LIBOR President

As we approach the close of 2016, I wanted to reflect on the many achievements that this year brought and acknowledge the amazing team, without whom all of this would not have been possible.

First, my heartfelt thanks to the leadership team that supported and assisted in the many advances that were made on behalf of the Long Island Board of Realtor® Members. The Executive team devoted a great deal of time and effort to the development and execution of initiatives that will shape the future of our organization and advance efforts to safeguard homeownership on Long Island. I thank the Board of Directors for their scrutiny and input. Your experience and vision has been an invaluable guide as we navigated our way through the streamlining of systems and processes to position our organization for the years ahead.

Second, a huge thank you to the superb staff members of LIBOR. You made this year possible because of your diligent research, quick response and constant support at every moment – the knowledge base of these folks is unmatched.

As a result of our Organization Audit in March of this year, the Board of Directors brought forth initiatives to consolidate and streamline the organization. I commend our Board of Directors for their visionary approach to the areas of focus that will streamline the decision making process and allow for a more responsive and decisive process. Taking initiative from the “Danger Report” that the National Association of Realtors® brought forth at the end of 2015, your Board of Directors gave serious and sensitive evaluation of the future of the real estate industry and made hard decisions to move our Association forward.

Our legislative efforts this year have been many. While the battle to thwart the cease and desist initiative that threatens all of our Realtor® members in Queens County continues, our efforts have been organized and executed with a polar focus on defeating this issue. We have continued to battle for homeowners rights, excessive taxation, skyrocketing

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## From Where I Sit

By Joseph E. Mottola  
 LIBOR Chief Executive Officer

We are approaching the end of the year where we take stock of what went well this year and looking ahead to 2017.

Certainly the regional housing market has been better with more contracts being executed, home prices gradually inching upward and inventory levels continuing to shrink. As always, some areas are more active than others and multiple offers and price escalations are greater when the public perceives they have good School Districts.

Financially LIBOR and MLSLI are in good shape with revenues significantly exceeding expenses based on the improved market which fuels attendance at licensing courses and naturally dues as they move into the industry. CE courses add to the revenue as well. On the expense side, we have been able to operate in a very cost efficient manner which completes the picture for two financially sound organizations.

In 2017, we believe we will continue to experience a positive market with interest rates remaining attractive. MLSLI will continue to explore the types of technology products which can increase an Agent's effectiveness in crafting presentations for obtaining listings and assisting buyers in determining market values and realistic offer practices.

LIBOR will continue to refine its increasing use of software in the Professional Standards area to expedite processing and all of our Departments increasingly look to streamline operations while improving services.

We expect the industry to be under continuing scrutiny to insuring that Realtors® understand their obligations not only to their principals but to all parties to the transaction including potential buyers. The Department of State has taken strong positions that they want to insure a “balanced” transaction in that Buyers and Sellers are on equal footing. This is an evolving area and you can expect to see and hear more on this topic.

Moving forward, both LIBOR and MLSLI are fortunate to have dedicated and competent volunteer Leadership. Your Officers and Directors together with professional Staff are committed to serving and providing quality services and programs for the betterment of our Members. ●

# Caution! Dangerous Road Ahead!

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



Real Estate Licensees are regulated by the Department of State under Article 12A of the Real Property Law of the State of New York. An old legal maxim states, "Ignorance of the law is no excuse," and, if licensees are caught violating the law, they will be held to account, whether or not they realized that what they had done was prohibited. Real Estate Salespersons and Brokers are held to a higher standard than the general public since they are presumed to possess a greater understanding of the process involved in a purchase and sale. Since they are licensed, they are accountable to the governing agency for their behavior. Lately there have been a number of licensees who have contacted me and other attorneys because they have found themselves the subject of complaints made to the Department of State by members of the public.

When a salesperson has received notice of a complaint, the broker is also involved, and may be liable for failure to supervise the agent. When the parties are initially contacted, it is through an investigator, whose job it is to notify the licensee of the complaint and to give the licensee an opportunity to explain the situation in his or her own words. The agent and broker should contact their E&O insurance carrier immediately! At that point, it would also be prudent for the agent to contact an attorney, before he or she sends a statement into the DOS which is self-incriminating! Often the agent gives information to the investigator that is outside the scope of the original investigation but reveals another infraction which the Department is now inclined to include as an amendment to the original complaint.

If the investigator does not believe there was wrongdoing on the part of the agent, the agent may not hear anything! If the inspector believes there was a violation, the next correspondence the agent receives will be from a DOS attorney stating there will be a hearing. In this paperwork, as part of the Department's obligation to give due process to the agent, it will alert the agent to the potential penalties, which include fines, restitution to wronged parties, education, suspension or revocation of the agent's license. The letter ends with information regarding a negotiated settlement which

can be discussed with the DOS attorney, and a number for the agent or the agent's attorney to call. If the agent has not done so before, at this point an attorney (preferably one who has previously worked with the DOS) should be consulted.

The world has not come to an end just because there has been a complaint made against an agent, although the agent often believes it has! In most instances, the licensee's attorney can work out a settlement with the DOS. Although the idea of having to deal with the matter leaves most licensees weak at the knees, the process, although disconcerting and certainly serious, is not a witch hunt. The primary concern of the DOS is to remove untrustworthy agents from a position whereby they can cause harm to the general public. The attorneys at the DOS, however, know that most complaints are the result of negligence or inadvertent error on the part of the agent rather than malice or dishonesty. Therefore, they are willing to negotiate a settlement wherein the agent admits the mistake and promises not to allow it to happen again. If no settlement can be reached, or the agent wishes to have a day in Court, a Hearing will be held and a Judge will decide the outcome, which is, of course, subject to appeal. This process can become quite costly.

Fines have gone up and now start at \$2,000.00. The classes that a licensee may have to take will not be counted toward the 22 1/2 hour continuing education requirement. If a licensee has been ordered to make restitution, it will often be because someone has paid the licensee a commission the DOS deems was unearned. If a license is suspended, it will generally be for a period of time certain (up to one year) set by the DOS or until the agent has shown that an activity specified by the DOS (perhaps the payment of a judgment against the agent) has been performed. If a license is revoked, that will be for a period of a year, at which time the licensee may apply for a new license. There is no guarantee the request will be granted.

Finally, it would be beneficial if agents understood that the DOS will probably ask for agency disclosure forms and proof that the agent has complied with the 22 1/2-hour education requirement every two years. It is my experience that agents often do not have an agency disclosure form or, if they do have one, they have filled it out incorrectly and that some agents have applied for new licenses, checking off the box that says the education requirements have been met, when they have not been, either because the agent has failed to take any courses or has not completed all of them before applying for the renewal license!

Be careful! ●

## LIBOR EDUCATION HOT TOPICS



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## LIBOR NEWS

# President's Message

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closing fees, limiting member liability for legal housing status' and so much more. I thank all of our members who came forward to assist in all of these efforts.

This year also brought new relationships and affiliations that have greatly enhanced our Association and the reach of our Members within the Long Island community. We participated in a Habitat for Humanity build locally on the Island. We have developed a new partnership with United Way where our efforts to support and assist our Veterans continues. Our Affiliates Program is growing steadily as we invite businesses around Long Island to be a part of the growth of our organization.

Our Chapter and Division leadership teams have worked tirelessly to bring great educational programs, highly successful community fundraising events, networking opportunities and fun social gatherings to their members. Thank you one and all for a great year of events offered to engage all of LIBOR's members. The Association has initiated new technology to assist our Chapters and Divisions with communication efforts and financial accounting systems. We look forward to smoother and better systems to assist these volunteers and make things more streamlined.

So many things have been accomplished and I am so proud and humbled by the support and assistance of so many folks. It has been an amazing year, quite busy but extremely rewarding. I thank you for giving me the opportunity to serve you and the Association; it has greatly enhanced my life both personally and professionally. ●



Congratulations to Susan Gruen Helsinger, LIBOR 2016 Treasurer, on being named one of the five honorees of REALTOR® Magazine's 2016 Good Neighbor Awards. For the past 17 years, the program has recognized and supported REALTORS®

who dedicate countless volunteer hours and funds to help others. Susan was chosen for her remarkable story of how she turned a personal tragedy into a lifesaving venture of healing hearts, as the founder of The Jason F. Gruen Research Foundation. ●