

Assessing Your Compliance With New York's Latest Legal Requirements

By Doreen Spagnuolo, Corporate Counsel and Patrick Fife, Associate Corporate Counsel, Long Island Board of REALTORS®

While Long Island's REALTORS® need to continue navigating the many COVID-19 guidelines related to real estate, it remains crucial that they also continue staying on top of the many other important and in some cases new laws and regulations that impact the industry. You should take the time to review these issues so you can lessen your risk for potential litigation, client complaints and licensing issues.

Compliance with Agency Disclosure Laws:

Check that you are using the most up-to-date Agency Disclosure Forms. If you use outdated forms, the New York State Department of State (DOS) will likely fine you if a DOS audit or complaint investigation occurs. The most up-to-date forms can be found on the DOS website.

You should understand what the form means, and you must present the form to sellers, buyers, landlords and tenants for their signatures at the first substantive contact. If a party refuses to sign the form, you will then have to sign a Declaration by Real Estate Licensee (available under Documents on Demand at LIRealtor.com), which states you presented the form to the party, explained what it meant, and the party refused to sign.

The disclosure form has places for you to disclose who you are working for, including a section on the form that, once properly explained, enables clients to grant you a right to represent more than one party in a dual agency situation. You should understand and explain each role to your client. Failing to do so could



result in legal liability, possible loss of commission and licensure issues.

Compliance with Fair Housing Laws:

This past year brought new state Fair Housing regulations that created a New York State Housing and Anti-Discrimination Disclosure Form (the "Disclosure Form") and a NYS Housing and Anti-Discrimination Notice (the "Notice"), which are available on the DOS website.

You must provide the Disclosure Form to all prospective residential or commercial buyers, tenants, sellers and landlords at first substantive contact. The Disclosure Form must be given to the prospective party via e-mail, text, facsimile, hardcopy, or other electronic message system, and you must maintain proof of the manner of delivery for three years. If the Disclosure Form is provided by hardcopy, you must also have the consumer sign the form. If the consumer refuses to sign, you will then have to sign a Declaration stating you presented the Disclosure Form to the party, and the party refused to sign. A sample Declaration is available under Documents on Demand at LIRealtor.com.

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President's Message

By Susan Helsing
President,
Long Island Board of REALTORS®

A year has now passed since our lives, as we had been living, have changed. Being in the midst of a quarantine has taken adjusting to the necessary safety issues and lots of patience. REALTORS® are strong, resilient, imaginative and caring professionals. Over this past year so many of you have found special ways to give back to our communities.

I would like to share with you one project that has helped me to cope at this time. The beginning of April, 2020, I was contacted by REALTOR® Traci Cangiano, Broker/Owner of Cangiano Estates, Ltd. Traci and her daughters Daniella and Kristin decided to start "Quarantine Kitchen" (QK) on Facebook, where people in our industry could share recipes, food and cooking information, and things related to the kitchen. I was honored to be asked to join. Because of the overwhelming support, Traci and her family came up with the idea to start a Quarantine Kitchen Cookbook. All the money collected from the sale of the book would be donated to the Tunnel to Towers — Covid 19 Heroes Fund. With the overwhelming success of the book and the support of so many of us in the real estate industry, as well as friends and families, this project has raised over \$25,000 in donations. I received my QK cookbook in January, shipped in a hot pink envelope.

Honoring efforts like this, NAR and the Good Neighbor Society have teamed up and want to highlight all of the outstanding work our REALTORS® have done and continue to do, showing how much we care about our neighbors and all who are in need. Are you giving back? We would like to hear from you, please share your story with us at pr@lirealtor.com.

"WE ARE MORE THAN REALTORS®" ●

Making a Statement – LIBOR's Involvement in the 2021 Local Elections

By Bo Patten, Vice President of Government Affairs,
Long Island Board of REALTORS®

Spring is just around the corner! It's hard to imagine that the 2020 elections are barely in our rearview mirror and our focus now has to shift to 2021, and the surplus of local elections happening all across the city and Long Island. So buckle up LIBOR, it's going to be a busy season!

Building off the success we had in 2019 with the largest and most far reaching candidate vetting and RPAC giving cycle this association has seen, we look to expand our process even further by weighing in on New York City races in our Queens jurisdiction. It all started in December of 2020, when we learned of two special elections for Queens City Council in Districts 24 and 31, occurring in February 2021. While, at the time this article was written these elections had yet to happen, we hit the ground running with a team of LIBOR members and staff to start vetting the candidates in those races.

So what's on the menu for 2021? Well it's a feast for sure. Let's start in New York City. The NYC Mayor's race will be at the top of the ticket. Moving down the ballot you'll see races for Public Advocate, Comptroller, Brooklyn District Attorney, Manhattan District Attorney, the 5 Borough Presidents, and lastly the City Council Races. With 14 City Council seats in Queens, we look to be actively involved in a thorough candidate vetting process with the candidates for City Council and our Queens members.

The City will also be rolling out a new method of voting this year called Ranked-Choice Voting. Be sure to check your LIBOR newsletters for more information to come.

On the Island and only within LIBOR's jurisdiction, Nassau County will see elections for County Executive, Comptroller, Clerk, and the County Legislature. In Suffolk County, you'll only see the County Legislature on the ballot. The cities of Glen Cove and Long Beach will see some members of the council on the ballot. Glen Cove will also have their Mayor's race. The towns of North Hempstead, Hempstead, Oyster Bay, Huntington, Babylon, Brookhaven, and Smithtown will all have Supervisors races in addition to certain members of their respective

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Assessing Your Compliance

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You must display the Notice at every office and branch office. The Notice must be prominently displayed in the office window and must be visible to persons on that portion of the sidewalk adjacent to such office or branch office. If your office is not accessible from the sidewalk, or if postings are otherwise prohibited by any other applicable law, the Notice must be prominently posted in the same location as your business license. The Notice must also be prominently displayed at every open house and a link to the Notice must be included on all of your websites (including social media).

Regarding websites, also make sure your websites comply with the Americans with Disabilities Act (ADA). Although there are no official rules on how websites need to comply with the ADA, your websites should meet the minimum standards in the Web Content Accessibility Guidelines (WCAG) 2.1. More information about the WCAG and ADA website compliance is available in the Legal Tips section of LIRealtor.com.

Compliance with New York's New Sick Leave Law — New York State's new mandatory Sick Leave Law went into effect on September 30, 2020, and it requires employers of all sizes in New York to provide their employees with varying amounts of either sick or unpaid sick leave depending on the employer's size and income. Even if your office employs only one part-time personal assistant, the law may affect you. More information about this law are available in the Legal Tips section of LIRealtor.com.

Advertising Regulations — You should be sure all of your advertisements comply with the DOS Advertising Guidelines, which can be found at https://www.dos.ny.gov/licensing/re_advertising/re_advertising.html.

Effective November 2, 2020, new advertising regulations must also be followed when any broker, or an associated licensee of that broker, advertises property not listed with that broker. The purpose of this regulation is to clearly identify the listing broker and to ensure that consumers do not mistake the advertising licensee for the listing broker. More information about these new regulations is available in the Legal Tips section of LIRealtor.com.

Also remember that regulations prohibit associate brokers and licensed salespersons from using corporate or executive titles like "vice president", "senior vice

president" or "managing director". The DOS has stated that, under New York law, neither an associate broker nor a licensed salesperson can hold an ownership interest in a brokerage. As a result, they may not use corporate titles for marketing or other purposes.

To help ensure compliance with the advertising regulations, DOS recommends that you evaluate your advertising periodically and, before placing any new advertisements, you review its advertising checklist, which can be found at: https://www.dos.ny.gov/licensing/re_advertising/Real%20Estate%20Advertising%20Checklist.pdf.

While this list is not exhaustive, it is intended to cover common real estate advertising issues.

Review Your Independent Contractor Agreements (ICA) — Independent Contractor Agreements must be signed every twelve to fifteen months, and failure to do so could result in the NYS Department of Labor determining that an agent is an employee rather than an independent contractor. Improper classification of real estate salespersons can cause tax and other legal problems, including fines, back pay, and other employment and accounting issues. Real Estate Brokerages with Sales Associates practicing in the 5 boroughs of New York City must ensure their independent contractor agreements comply with a New York City Administrative Code requiring independent contractor agreements contain certain elements. You can find sample independent contractor agreements, including one that complies with the New York City Administrative Code, at the Documents on Demand page of LIRealtor.com. ●

LIBOR's Involvement in the 2021 Local Elections

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Town Councils. Please keep in mind, there are several other elections happening on this Island, but these are the ones happening within our association's jurisdiction.

We're excited to involve our members in this year's vetting process. Please be on the lookout for communication from your Government Affairs Department on important election dates, voting locations, and other pertinent information. Stay tuned and never hesitate to reach out to a member of our department! ●

LIBOR EDUCATION



Earn Your GRI – Take a Designation Course with NYSAR

Register at [NYSAR.com/nysar-portal](https://www.nysar.com/nysar-portal)

All 1-day designation/certification classes will be held over two half-days and all 2-day designation/certification classes will be held over 4 half-days. Attendance for all days is mandatory to earn CE credit and designation/certification.

GRI 1 – ETHICS (7.5 HOURS CE)

Capitalize on what sets REALTORS® apart from RE Licensees
March 25 - 26 • 9:00 – 1:00 pm

GRI 8 TECHNOLOGY (7.5 HOURS CE)

Explore the latest technologies to connect with, communicate with & service clients.

April 21 - 22 • 9:00 – 1:00 pm

GREEN DAY 2 (7.5 HOURS CE)

Representing Buyers and Sellers of Resource – Efficient Homes
March 30 – 31 • 9:00 – 1:00 pm

PSA (PRICING STRATEGY ADVISORY CERTIFICATION) (6 HOURS CE)

Enhance your skills providing clients with property pricing guidance, Creating CMA's working with appraisers and educating clients on potential misconceptions about home values.

April 6-7 • 9:00 – 1:00 pm

SRES (SENIORS REAL ESTATE SPECIALIST DESIGNATION) (12 HOURS CE)

Specialize in the 50+ market by studying lifestyle and housing trends, how life stages impact real estate choices and how to develop a network of resources for clients.

April 12 – 15 • 9:00 – 1:00 pm

2019-2021 REALTOR® MANDATORY ETHICS TRAINING

REALTORS® are required to complete ethics training of not less than 2 hours, 30 minutes of instructional time within THREE-YEAR cycles (NAR rule changed November 2019). We are currently in CYCLE 6 that covers January 1, 2019 to December 31, 2021. There are no exceptions or exemptions from this National Association of REALTORS® requirement, even if you are exempt from CE in NY. This mandatory requirement is separate from your New York Department of State Fair Housing and Agency requirements.

Go to link below to take your Ethics NOW!

www.lirealtor.com/education/nar-code-of-ethics-training

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OneKey™ MLS is committed to providing REALTORS® with a range of robust tools, many of which are free, that will help you serve your customers better and grow your business. By providing you with easy access to state-of-the-art real estate products and services, we give you the edge over the competition in your marketplace."

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