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DOS CLARIFIES A LICENSEE'S DUTY TO VERIFY THE LEGAL STATUS OF PROPERTIES FOR SALE OR RENT

NEW YORK STATE REALTOR®

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

JULY/AUGUST 2016

LOBBY DAY

Draws a Record Number
of REALTORS® in Support
of NY First Home Bill

A photograph of a man and a woman embracing from behind. The man is wearing a red and white checkered shirt, and the woman is wearing a white top with black polka dots. They are standing in a grassy field with a house in the background, illuminated by the warm light of a sunset or sunrise.

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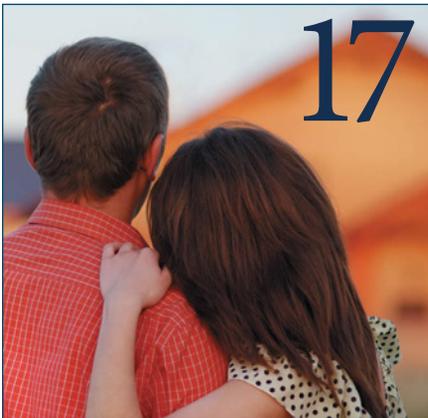
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NEW YORK STATE REALTOR®

NEW YORK STATE ASSOCIATION OF REALTORS®, INC.



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President's *message*



Linda Lugo
2016 NYSAR President

As REALTORS® we help homebuyers achieve the American Dream of homeownership. It's not always easy, but it is always rewarding. The REALTORS® I know also go above and beyond their "normal" real estate responsibilities by volunteering their time to different charitable organizations. We just want to keep giving!

Our natural affinity for housing leads many of us to support Habitat for Humanity through monetary donations or by working at a build site. Habitat for Humanity "believes that everyone, everywhere, should have a healthy, affordable place to call home." In addition to building homes they believe in building communities. Now, doesn't that sound a lot like what we do as REALTORS®?

I am very excited to announce that NYSAR is partnering with Habitat for Humanity of Suffolk. We will be contributing \$10,000 as a major sponsor. We will also add a "sweat equity" donation by showing up with tools in hand between August 30 and September 1 to build homes in Suffolk County. We will be looking for more than 60 volunteers to participate.

No special skills are required to volunteer. I will be there for all three days as proof that no special skills are needed. Habitat for Humanity also requires that the prospective homeowner participate in the build. It will be a rewarding experience for our volunteers to work along with the future homeowner in building their dream home!

Watch your email and NYSAR.com to learn how you can join with your fellow REALTORS® on these builds.

This is not the first time NYSAR has partnered with Habitat for Humanity. The NYSAR Housing Opportunities

Committee advanced the idea of this partnership and recommended participating in a build in the hometown area of the association president. Past Habitat for Humanity efforts include: 2010 in Westchester; 2009 in Syracuse; 2009 in Saratoga; 2008 in Slidell, Louisiana (Katrina aftermath); and 2005 in Suffolk.

We know well the barriers to homeownership, such as our high closing costs that rank among the highest in the nation, and the ability for first-time homebuyers to save to meet these costs along with a down payment. I'm proud of our partnership with Habitat for Humanity and the fact that it helps deserving families obtain affordable homes.

In addition to working with Habitat, NYSAR is also advocating for a program that will help first-time homebuyers across the state save for closing costs and the down payment through a program with income tax incentives similar to the state's 529 Education Savings Program. I encourage you to read more about our NY First Home program and our efforts to support its passage on page 17.

As my final thought, REALTOR® safety is always important in our businesses! The busier we get the more likely we may forget some basic safety precautions. Always let someone know where you are going when you show houses. Do not meet someone you don't know at a vacant house alone! Take a fellow REALTOR®, friend or family member. Be safe at your open houses. Be smart with your choices. ●

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

"The smallest act of kindness is worth more than the grandest intention." – Oscar Wilde

From the CEO's desk



Duncan MacKenzie
NYSAR Chief
Executive Officer

Phil Dunphy, proud REALTOR®. Pretty cool right! In case you missed it, the National Association of REALTORS® entered into a branding partnership with the ABC network to highlight Phil's "more than a real estate agent" status on the popular show "Modern Family." Building upon the episode in which Dunphy promotes the REALTOR® Code of Ethics and the special knowledge that we have about the market, actor Ty Burrell will headline a year-long consumer awareness effort funded through your NAR dues.

NAR is spending a great deal of time and resources focusing on the REALTOR® connection to consumers and NYSAR is a part of the action. In May, NYSAR agreed to participate in the second phase of a pilot program designed to engage consumers in the REALTOR® legislative advocacy efforts.

We are very excited to be a part of the Consumer Outreach Advocacy Program. This effort is NAR's largest and most comprehensive consumer advocacy recruitment ever with the ability to reach more than 85 million current and future homeowners.

The program's mission statement is: "To provide a compelling and comprehensive online source of public policy information on homeownership and community development issues, and to attract consumers to an interactive platform from which to

communicate their positions to federal, state and local policymakers in a unified voice."

The program currently has a database of more than 7.5 million consumers who have agreed to receive information on important legislative matters. This is a great start! Just imagine the powerful advocacy team created when 1.2 million REALTORS® are supported by millions of homeowners!

While in Washington, D.C. at the NAR legislative meetings in May, NYSAR President Linda Lugo, NYSAR Secretary-Treasurer CJ Del Vecchio, NYSAR Past President Greg Connors and Ithaca Board of REALTORS® President Lindsay Hart shared the REALTOR® point of view about key legislative matters affecting homeowners. Among the issues they discussed were the preservation of the mortgage interest deduction, the need to extend mortgage debt forgiveness, flood insurance and NYSAR's proposal for a first-time homebuyer savings program in New York. They also provided commentary on a host of other federal issues where REALTORS® are working to protect homeowners and private-property rights.

The brief clips will appear on the consumer facing site homeownershipmatters.realtor, a universal website where consumers can go to be updated on national, state and local issues. These videos and other material from the consumer outreach program will also appear on NYSAR.com.

The REALTOR® advocacy efforts in Washington, Albany and your local area are highly sophisticated and comprehensive, which accounts for our strong record of success. The next level of advocacy excellence is engaging the consumer regarding our shared interests. This new program is a critical step forward and NYSAR is excited to be a part of it. ●

A handwritten signature in black ink that reads "Linda Lugo".



NYSAR President Linda Lugo answers questions about key REALTOR® issues during an interview for the NAR Consumer Outreach Advocacy Program.

New York *news briefs*

2017 NYSAR committee sign up available in July

NYSAR committee sign up will be available online only between July 1 and July 31. You may select up to seven of the more than 25 NYSAR committees available in 2017 – three termed/closed committees and four open committees/forums/working groups. Volunteers are asked to be sure they will be able to attend the association's 2017 business meetings, which are Feb. 5-9 in Albany and Sept. 24-27 in Verona, before committing to serve.

For information and to sign up, visit www.nysar.com.



Reminder: Look to NYSAR Member Perks for your dental insurance year-round

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 or call 888.834.3713 to speak with a benefits' counselor.



Apply for a NYSREEF Scholarship by July 31

Any individual who has at least one year 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 advancing their real estate career.

Scholarships are awarded in February and in October each year. Applications for the 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.

NYSAR Fall Business Meetings to begin September 25



The New York State Association of REALTORS® will hold its annual Fall Business Meetings Sept. 25-28 at the Turning Stone Resort & Casino in Verona, NY.

In addition to the various committee meetings and working groups, the event will feature the General Session led by NYSAR President Linda Lugo and the Legal Update.

NYSAR encourages all members to participate as many of the sessions do not require official committee service. For more information or to register for the meetings, please visit NYSAR.com.

Update: Changes to STAR benefit for new homeowners

This year's budget agreement between Gov. Andrew Cuomo and state lawmakers included a change to the STAR program for certain new homeowners. The change will only apply to homeowners who purchased a home in New York on or after March 1, 2015. These new homeowners will now receive a STAR rebate check in September rather than a STAR credit against their school tax bill.

To assist its members in working with their clients and customers, NYSAR has created an informational flyer explaining the changes. Visit NYSAR.com to download the flyer.

There is no change to the amount of the STAR benefit that homeowners will receive.



NYSAR's 15th annual REALTORS® Commercial Real Estate Conference a success

The successful 15th annual New York State Commercial Real Estate Conference was held June 13-15 at the University Sheraton in Syracuse, NY.

The event featured: a full-day, pre-conference session sponsored by CCIM, "High Tech Marketing for Real Estate;" updates from commercial institutes – NYS CCIM and SEC; a legislative update from NYSAR Director of Government Affairs Mike Kelly; a keynote presentation moderated by commercial real estate blogger Duke Long on how technology changes the way commercial real estate professionals do business day-to-day; a full-day marketing session; and several continuing education credit courses.

This event was 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, please visit www.nyscar.org.

All REALTORS® must complete Code of Ethics training by December 31, 2016

Mandatory Code of Ethics training (formerly known as the Quadrennial Code of Ethics Training) must be completed by Dec. 31 of this year. The Code of Ethics course is available online through the National Association of REALTORS® (NAR) for free.

NYSAR offers a three-hour ethics course that meets the New York State Department of State real estate continuing education requirements. The new GRI-1 Ethics course also provides 7.5 hours of CE and GRI credit, while satisfying NAR's Code of Ethics training requirement. In addition, there are several online learning options offered via NYSAR.com that offer CE credit and fulfil the NAR requirement.

Members are advised not to wait until the last minute to take the Code of Ethics training. Failure to complete the training by Dec. 31, 2016 will result in the suspension of your membership on Jan. 1, 2017 until the requirement is met. Any member who has not met the requirement by March 1, 2017 will be automatically terminated.

There is also a penalty for boards and associations that fail or refuse to enforce the ethics training requirements. Refusal to enforce mandatory policies established by the NAR Board of Directors can result in loss of NAR-provided professional liability insurance coverage and loss of charter status as a member board.

Last chance to register for 2017 NYSAR Leadership Academy

Applications are being accepted for the 2017 NYSAR Leadership Academy through Aug. 1, 2016. The academy offers participants the opportunity to polish their leadership skills, raise their profile and gain valuable experience. The objective of NYSAR's Leadership Academy is to discover, educate and empower future leaders. Graduates come away with life-long friendships, a strong referral network and a real sense of accomplishment. 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 for more information.

Registration for the 2016 REALTORS® Triple Play and Trade Expo opens in September



Registration for the 2016 REALTORS® Triple Play and Trade Expo, set for Dec. 5-8, 2016 in Atlantic City, N.J., will open in September.

Triple Play 2016 will feature: up to 18 hours of CE credit; flexible scheduling with one-, two- and three-hour sessions; a wide variety of new speakers; an opening day session about using drones and video in your marketing; a Code of Ethics course in case you haven't met the quadrennial requirement for REALTOR® membership; and access to information from all sessions – electronically or in print. Plus, there will be: two full days with vendors in the Trade Expo; vendor presentations in the Trade Expo Theatre; networking events; shopping and restaurant discounts; and more. You'll get all this at the low price of \$89 (when you register online during the early-bird registration period). To get the most out of your convention experience, Triple Play has a mobile app allowing you to build your own schedule, complete with sessions to attend, vendors to visit and social events to enjoy!

Triple Play also includes the YPN Party for all ages on Monday, a reception for NYSAR members and the Icebreaker Reception on Tuesday, and the optional RPAC High Rollers' Suite on Wednesday.

All CE credit is free with registration.

Visit www.realtorstripleplay.com for more information or to register in September. ●

Inside the *numbers*

75

The percentage of first-time buyers that say they prefer not to purchase a starter home and instead want to purchase a home that will meet their future needs, according to the Bank of America Homebuyer Insights Report.

15

The percentage of homes purchased by single females in 2015, compared to just 11 percent in 1981, according to data from the National Association of REALTORS®. Homes purchased by single men fell from 10 percent in 1981 to 9 percent today.

35

The percentage of Americans that selected real estate as their top investment choice, according to a recent Gallup Poll. In comparison, 22 percent selected stocks and mutual funds, 17 percent for gold, 15 percent for savings accounts/CDs, and 7 percent for bonds.

325

The record number of New York State REALTORS® that made their voice heard at this year's Lobby Day on May 24. Turn to page 14 to learn more.

15

The number of consecutive months of home sales growth in New York State compared to the same month in the previous year, according to NYSAR home sales statistics. This was through April 2016, which was the most recent data available at press time.

7,331

The projected number of dollars to be spent on home improvements per home in New York State for 2016, according to the National Association of Home Builders' Remodeling by Zip Code Estimates for 2016 report. ●

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.

August 16

Environmental Issues

September 20

Commission Issues

October 18

Agency – Dual and Designated Agents

November 15

Recent Court and DOS Decisions

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. ●



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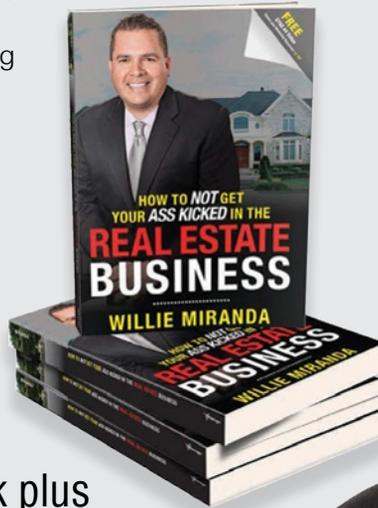
“Over A Billion Dollars Sold in Real Estate...”

Willie Miranda, who's known for his 'Renegade Style' and over-the-top 'Personality Marketing,' prompts some to ask, "Is this guy for real?" Oh yeah, and he's got the numbers to back up his systems. This past year, Miranda's team sold over 600 homes which resulted in over \$125 million in residential sales and the best part, is that 70% came from referrals. Miranda and his team also reached a huge milestone, selling over 5,700 residential properties resulting in over a **BILLION dollars** in real estate sales since opening his business in 2002.

Not too bad for a guy who had zero real estate experience back in 1998. A guy who today works a reasonable 40 hours per week and takes 4-5 family vacations per year, not to mention weekend getaways with them. So how has this Renegade's business **EXPLODED** during the last few years? It turns out, his unconventional approach is what has made all the difference.

How to Take YOUR Business from 'Ordinary' to 'Extraordinary' in 12 months or less...

Miranda's book illustrates **The Undisputed 14 Step Listing Process**, which will enable you to lock up every listing appointment and lock out the competition. It reveals **PROVEN** strategies on **Time Management Secrets For The High Producing Real Estate Agent**, giving you more time to spend with your family and how to **END Cold Call Grunt Work**. Miranda also discusses techniques that have never been seen in the real estate industry! Implementing these can lead you to becoming the successful **"Career Agent"** you want and not the failing majority of being a **"Transactional Agent."**



To receive a **FREE** Copy of Willie Miranda's **NEW** Book plus Bonus Marketing Materials (**value \$792.44**), call **518-348-2060** or go to: www.FreeBookFromWillie.com

(This **FREE** Book Offer is strictly limited to the **FIRST 100 AGENTS** who respond. **NO** exceptions.) Shipping and handling charges apply.





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DOS clarifies a licensee's duty to verify the legal status of properties for sale or rent

By S. Anthony Gatto, Esq.
NYSAR General Counsel

On April 19, 2016, the New York State Department of State (DOS) issued an opinion addressing what responsibility a licensee has for verifying the status of a property when taking a listing for sale or rent. The opinion was issued in response to a request by an undisclosed individual.

In the request, the following question was presented to the DOS:

Does the Department of State require a landlord's agent to investigate/discover the legal status of a rental property or if the status of the property is unknown does this eliminate liability for license law violations?

In its response, the DOS cited *McDermott v Related Assets, LLC*, 998 N.Y.S.2d 306 (Rich Ct. Sup. Ct. 2014). In *McDermott*, the court stated that "real estate brokers insist that they are professionals, and as professionals they are to be held to a higher standard than an unsophisticated, untrained buyer and seller. This court has previously held that along with receiving a license, brokers and salespersons are charged with knowledge and responsibility to check the public records to confirm any information the broker is conveying to the potential purchasers." Furthermore, the DOS cited *23 Realty Associates v. Teigman*, 213 A.D.2d 306 (1st Dept 1995), which found that "[a] real estate broker should have a working knowledge of the legal status of the property he is marketing."



The DOS is of the opinion that both the *McDermott* and *23 Realty Associates* cases support the DOS opinion that "a broker who fails to demonstrate a working knowledge of the property being marketed, fails to demonstrate the level of competency required to transact business as a licensee in violation of NY RPL §441 and 441-c."

The DOS also opined that any broker participating in a transaction involving an illegal rental is prohibited from collecting a commission in part because there is no tenant produced that is ready, willing and able since the rental is illegal. As such, the commission would be deemed unearned as the agreement was illegal and a broker is prohibited from collecting a commission upon an unlawful agreement.

A second question contained in the request asked:

"Whether it is the Department of State's current position that, when it is known that no rental permit exists, a landlord's agent has an affirmative duty, without the prospective tenant's
continued on page 12

NYSAR's Legal Hotline is a question-and-answer service for REALTOR® members only. Call 518-43-NYSAR or 518-436-9727 from 9 a.m. to 4 p.m. Monday through Friday with your questions. You will need to provide your member number, which can be found on the mailing label of this magazine. The hotline does not provide a client-lawyer relationship. For confidential legal advice, consult a competent attorney.

continued from page 11

inquiry or a misleading advertisement, to disclose such fact that the rental property lacks a rental permit to a tenant because failing to do so would not be active concealment...

The DOS opined that when a broker has actual knowledge that a property lacks a permit or is otherwise illegal (i.e., illegal conversion by adding bedroom, bathroom or other space), such information must be affirmatively disclosed without exception. The DOS has the authority to discipline a licensee for: "dishonest or misleading advertising, or [where such licensee] has demonstrated untrustworthiness or incompetency." NY RPL § 441-c. The DOS is "vested with broad discretion in imposing punishment on real estate licensees who have demonstrated untrustworthiness, and the exercise of that discretion will not be lightly disturbed." *Brabazon v. Cuomo*, 49 A.D.2d 430, 433 (3d Dept 1975).

According to the opinion:

"These broad powers to protect the public, operating in tandem with the express intent behind NY RPL Article 12-A, support the conclusion that when

a licensed professional markets a property, and fails to include information which s/he has actual knowledge of which would impair a prospective tenant's/purchaser's right to enjoy the property (i.e., possession itself is unlawful), this action is a breach of the "confidence or reasonable expectation of fair dealing" required to transact business. See generally *In re Wilson Sullivan Co.*, 289 N.Y. 110, 114 [1942] (holding, in part, "[t]he purpose of [NY RPL] article 12-A was to assure by means of licensing competency and the observance of professional conduct on the part of real estate brokers and salesmen"); *People v. Sickinger*, 79 Misc.2d 572, 574 [Crim Ct, New York County 1974] (holding, in part, "[t]he plain purpose of Article 12-A of the Real Property Law is to protect the public from inept, inexperienced or dishonest persons who might perpetrate or aid in the perpetration of frauds and to establish protective or qualifying standards to that end." (internal citations omitted)). Accordingly, a licensee who fails to include in an advertisement or otherwise disclose that a property is defective also commits an error of omission and fails

to deal equitably and competently with the public."

NYSAR has always been of the opinion that licensees should verify the legality of a property before listing or selling it. NYSAR's opinion is based on a long line of DOS decisions from the past 25 years. A full list of the DOS decisions can be found in the Legal section of NYSAR.com by clicking on the Legal Counsel Compendium link and scrolling to link 10 (Building Code/Certificate of Occupancy/Zoning) in section E. Licensees should be verifying the legality of all properties that are subject to a real estate transaction in which the licensee is involved.

The obligation of a licensee to verify the legality of a property also extends to verifying the owners of the property for the purpose of having the complete authority of all owners when listing the property for sale or rent. If an owner has not signed the listing agreement, they are not obligated to cooperate with any licensees in permitting showings, accepting offers or ultimately signing the deed in order to convey the property. If the non-signing owner is uncooperative and refuses to sign the deed or lease, the interest in the property is unable to be conveyed to the buyer/tenant. It is foreseeable that a cooperating broker that brought the buyer/tenant could claim the listing broker acted in an incompetent manner and was misleading in listing the property without having the consent and authorization of all owners. Licensees must merely check the current deed for the identity of all owners of real property.

Licensees who once claimed ignorance or "put their heads in the sand" when taking listings that are illegal rentals, or sales where unpermitted work such as additional bedrooms or bathrooms do not appear in municipal records or received municipal permission, are on notice that such practices are contrary to the licensing law. The DOS recommends that the best practice for all licensees is to make a reasonable effort to verify the legal status of the properties they are offering. Failure to verify the legal status of a property may subject the licensee and their broker to discipline by the DOS as well as the return of any commissions earned in such a transaction. ●

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A record number of REALTORS® come to Albany for Lobby Day

REALTORS® hold hundreds of meetings with state lawmakers

By Michael Kelly
NYSAR Director of Government Affairs



NYSAR President Linda Lugo, right, shares a light moment with NY First Home sponsors Senator Betty Little and Assemblymember Phil Ramos after their Lobby Day presentations.



Senate Majority Leader John Flanagan, left, listens as NYSAR Legislative Steering Committee Chair Moses Seuram presents the REALTOR® position on cease-and-desist zones. NYSAR President-elect Dawn Carpenter, right, also presented information about key legislative priorities during the meeting.

REALTOR® Lobby Day in Albany is in a lot of ways like the pinnacle of each NFL season – the Super Bowl. Stay with me here. Think about all the preparation. All the hype. All the media coverage. All the great commercials. All the tailgating.

OK, it might not be exactly like the Super Bowl. But in terms of its importance to our legislative efforts, I think the analogy fits.

The 2016 edition of NYSAR's annual Lobby Day, held on Tuesday, May 24, was a resounding success for multiple reasons. One, attendance was terrific with at least 325 REALTOR® members from across New York making the trip to Albany. Many of the local boards were rallying the troops to get on a bus to Albany as early as 5 a.m. Thank you! Most importantly, our members held hundreds of meetings with their state lawmakers. Although these meetings were being held at different times and locations, the messages and stories being delivered to lawmakers were consistent.

NYSAR President Linda Lugo kicked off Lobby Day, rallying a packed house to the task ahead and outlining our key legislative issues. We were also

fortunate to have two guest speakers join us, Senator Betty Little (R-Glens Falls) and Assemblyman Phil Ramos (D-Brentwood). Senator Little and Assemblyman Ramos were the prime sponsors of NYSAR's first-time homebuyers savings proposal, NY First Home, which creates a state-sponsored savings program for the purpose of a purchasing a first home in New York State. Both reiterated the importance of our members' involvement in the process of government.

"I know you support [the first-time homebuyers savings program] and I appreciate you getting out there on this bill," said Little, who is a former REALTOR® and chair of the Senate Housing, Construction and Community Development Committee. "I think this will help us move ahead and avoid another housing crisis by giving people a really good incentive and opportunity to save for that home purchase."

In sponsoring the bill, Little said: "The dream of buying a first home is very exciting, but the reality of paying the down payment, closing costs and taxes can be a daunting challenge for many New Yorkers. This legislation would encourage responsible homeownership by rewarding savings for that purpose through a state income tax deduction. It's proactive, fiscally responsible and I think something which would appeal to a lot of people who want to be more financially ready when taking that big step of a first-time home purchase."

"I'm happy to support your legislative priorities," Little said, noting that the tax cap was "critical to helping us with property taxes."

"One main issue is that access to homeownership is limited because I represent a community that finds it difficult to be able to save money for a down payment," Ramos told REALTORS®, noting that the NY First Home program would improve the ability of New Yorkers to save for the down payment and other closing costs.

"Although [the state] is losing a little bit of revenue as a result of relieving the tax burden, when we look at what one spends when they become a homeowner the returns keep multiplying back to the state and back to society in the form of

services the government gives," said Ramos. "It's a win-win situation."

In sponsoring the bill, Ramos said: "Buying a home is one of the clearest and most exciting symbols of success and opportunity. But, unfortunately, between hefty student loans and exorbitant closing costs, too many young people are finding it impossible to save for a down payment. The NY First Home savings program will go a long way in helping all hardworking New Yorkers attain financial security to invest in their dreams, put down roots and help grow our economy."

Throughout the day our members spoke with lawmakers from each region of New York State regarding several key initiatives on NYSAR's 2016 Legislative Priority list including the NY First Home proposal. More details on this proposal and our campaign in support of it can be found on page 17.

Lawmakers also heard from their constituents and REALTOR® members about critical matters such as increasing transparency in the purchase of a co-op in New York and a "thank you" for their passage of legislation that will require real estate licensees to take continuing education coursework in relation to the law of agency.

While it's easy to say "thank you" to lawmakers, it's often difficult to explain why you're in opposition to a bill or regulation. During our Lobby Day, our REALTOR® members did an exemplary job explaining to their elected officials why we are opposed to: the imposition of a cease-and-desist zone in Queens; increases in taxes tied to the real estate transaction; and to the expansion of the current state law regarding a seller's notification of the presence of an agricultural district.

Several days after Lobby Day I had several lawmakers approach me and comment about their meetings with REALTORS® from their district and how it was a pleasure seeing them in Albany. I also had several others mention to me that they saw the halls and elevators of the Capitol and legislative office building packed with REALTORS® wearing their REALTOR® "R" lanyards. These comments were



REALTORS® presented their legislators with the "Dare to Dream NY first home" savings bank during their meetings to help highlight the need for a program to assist first-time homebuyers in saving for the purchase of a home.

REALTORS® rallied to support NY First Home during Lobby Day.

unsolicited and a great affirmation of the success of our Lobby Day.

I think lobbying or petitioning one's government is critical to the survival of any organization and that it can't happen enough. One of the great things about our association and the REALTOR® family as a whole is that our members rally around these type of legislative efforts year after year.

Thanks to the participation of so many REALTORS® at this year's Lobby Day, I'd have to say it was a clear victory for NYSAR's 52,000 members. Much like what's immediately asked of the Super Bowl winners, we're already being asked if we can repeat this year's success. Our response is a resounding, "Yes!" We're already looking forward to next year's event. ●

Editor's Note: The legislative session ended as this issue was going to press. Both the NY First Home and Cooperative Housing Transparency bills passed in the Senate, but did not reach the Assembly floor for a vote. NYSAR will continue to champion these issues in the next legislative session.

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New York State Association of REALTORS®, Inc.

NY First Home

NYSAR's first-time homebuyer savings plan proposal

By Michael Kelly
NYSAR Director
of Government Affairs



One of NYSAR's top priorities during this year's Lobby Day was the NY First Home proposal. This legislation, sponsored by Senator Betty Little and Assemblyman Phil Ramos, will help first-time homebuyers achieve the American dream of homeownership in New York.

High taxes and fees are creating barriers for potential homebuyers who work hard to save for the purchase of their first home. State lawmakers are considering the NY First Home proposal, modeled after the state's 529 College Savings program, which would allow New Yorkers to save \$5,000 annually (couples up to \$10,000) to pay for costs associated with purchasing their first home. New York State taxpayers could also take a state income tax deduction against any deposits into the program.

In addition to our discussions with state lawmakers and legislative staff, NYSAR is engaging the public via a multi-faceted media campaign. Our hope is to further educate lawmakers and the public regarding the challenges facing first-time homebuyers in New York. We will be asking voters to reach out to their elected officials and express their support for the NY First Home proposal.

Our campaign began with a statewide poll of probable voters across New York State that found broad, bi-partisan support for a first-time homebuyer savings program like the

one we are advocating for in this session. A second and critical baseline component to our campaign was economic research and a cost-benefit analysis for our proposal. This independent study done by several economists found that for every dollar invested in the NY First Home proposal, state and county governments would recoup more than \$5 dollars of economic benefit.

We're now taking the findings of our poll and economic research to voters in a variety of ways including:

- Creation of a website at NYFirstHome.com.
- A petition drive at the above website in which respondents can tell their state lawmakers they support the program.
- Online advertisements.
- Robo-calls to voters.
- Patch-through calls that connect voters with their state lawmakers.
- Palm cards describing the need and components of the proposal.
- A leave behind for lawmakers with the NY First Home website on it.
- Direct mail with tear-away post cards to be mailed to state lawmakers.

I encourage you to visit NYFirstHome.com to learn more about our proposal, take action and let your lawmakers know you support this initiative. ●



Yes you can retire someday

By Christopher Michelsen

Financial Advisor, UBS Financial Services, Inc.

R
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Your financial life encompasses more than your assets. It includes your goals for the future and how you want to live right now. When it comes to retirement, the decisions you make today can have a huge impact on what retirement will be like. Putting in a little extra effort now can pay off for you down the road. If you're not already planning for your retirement, here are some tips to help you get started.

Decide what's important

A good first step is to come to an agreement about your goals in retirement. Ask yourself, what do you want your money to accomplish? What do you dream about doing one day? And, here's one question that couples often forget to consider: What's happening now that can impact your financial future? For example, are you helping support adult children or your parents? You should think through these important questions and then create a plan to pursue your goals.

Coordinate your strategy for Social Security

Even if you're not counting on Social Security as a major source of income in retirement, it's important to know that you have various options to consider. Making informed decisions before you start taking Social Security can lead to significantly higher benefits over the course of your retirement.

Don't forget long-term care planning

Life expectancy continues to grow, and many of us are spending more years in retirement. This makes issues like healthcare and eldercare more important than ever. Start having conversations now about developing a long-term care plan. For example, do you envision staying in your home as long as you can? How heavily will you rely on family to provide your care? How do you intend to fund future health and long-term care costs?

Here are answers to common questions we receive about retirement.

Question:

Is it too late for me to start now? I'm in my 50s.

Answer:

The good news is that it is never too late to begin saving for retirement. Whether retirement is years away or looming on the horizon, it is always a good time to put a plan into action. The sooner you begin, the easier it is to help reach goals as there is more time to accumulate a nest egg that you will likely need to draw on in retirement.

Saving for retirement should be done in a tax efficient manner by incorporating IRS qualified accounts. Options such as an Independent 401(k) or an IRA should be part of the plan based on your needs. IRS qualified accounts can help you to save money on a tax deferred basis, meaning that the money going into the account today has not had taxes paid. Down the road in retirement when the savings in these accounts is drawn upon is when the income tax will be paid. This strategy allows for accumulating a larger nest egg to grow in the near term and potentially paying income taxes in retirement at a lower tax rate.

For example, a married couple who is in the 28-percent federal income tax bracket decides to save \$20,000 each into their own 401(k) plans. This could benefit them in a few different ways. They will save \$11,200 on their current federal tax bill (2 x \$20,000 x 28 percent). Also, if their federal income tax bracket were to fall to say the 15-percent tax rate in retirement, this strategy would represent a significant overall tax saving on the income earned.

More good news for those 50 years and older is that the IRS provides a catch-up provision above traditional contribution limits. For independent contractors investing through an Independent 401(k) Plan, the maximum contribution is \$53,000. Those 50 and older have an available catch-up provision of \$6,000, taking the potential tax deferred savings to \$59,000 for 2016.

The earlier you start the easier it is, as you have that many more years to accumulate contributions and spread out savings for the retirement goal you have set.

Question:

How will I know if I have enough to retire?

Answer:

Everyone's retirement goals are different. Whether your plan is to travel, write a book, or just spend more time with the grandkids, it requires careful planning.

Current expenses are the first place to look for a reference as to how much savings you will need to have in retirement. Some of these expenses may change; the mortgage will likely be paid off and college tuition for children will no longer be in play, but many of the current expenses can remain.

The next factor to consider is how long to anticipate being in retirement. Through the aid of modern medicine and technology, many people are spending far longer in retirement than they originally imagined. According to the U.S. Department of Social Security, a woman turning age 65 today can expect to live, on average, until 87 and a man to 84. This means that most people need to plan for 20 years or more of retirement.

A third factor to take into consideration is inflation, how much things are going to cost down the road. Costs associated with such things as groceries, housing, clothing, medical care and education will continue to rise. A long-term rate of inflation used in financial planning is 2.7-percent annually, according to the U.S. Bureau of Labor Statistics. Most of the things we buy today will cost more in the future.

Again, everyone's retirement goals are different, but the combination of all these factors will determine how much a person may need in retirement.

Question:

Is it more beneficial to become incorporated or a LLC in order to reap more benefits for retirement?

Answer:

Fortunately, when it comes to retirement saving, the amount someone can put away is a function of their income and not business structure. Qualified plan contribution limits are set by the IRS and are directly related by how much income someone earns and how old they are with respect to catch-up provisions.

The decision to conduct business as an entity rather than as a sole proprietor is more a factor of limiting legal risk rather than taxability. When seeking to make the decision to incorporate or create a limited liability company (LLC) always consult your tax or legal advisor.

Question:

What is the minimum you should have in reserves before setting up a retirement account?

Answer:

A cash reserve is something that everyone should have on hand. In a business like real estate, where professionals are likely not receiving the same paycheck every two weeks, I believe it is even more critical. How much reserves someone keeps on hand is a function of their historical business and how conservative they are. Three months of expenses is a good cushion for most.

The thing to remember in terms of retirement savings is that you will need this money someday. This is similar to the structure that you have to save money for your potential income tax liability each year.

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Question:

If you already have a traditional IRA, can you still open an Independent 401(k) Plan?

Answer:

Yes, you can have multiple IRS qualified retirement accounts including IRAs and 401(k)s. There is no limit to the number or the type of accounts a person has. One thing that you have to be careful of is keeping track of these different accounts. Often keeping track of one account can be enough to deal with, let alone having multiple. The good news is that all of these different qualified accounts are portable, which means that it is possible to move the monies from one account type to another without creating a taxable event. The money can go from an IRA to a 401(k) all the while never being distributed and, therefore, not taxed. It is important that you always follow the guidelines of whichever plan provider is being used to ensure that transitions are smooth and timely. One thing to keep in mind is that if money is distributed from any of these qualified plans for 60 days, it is considered a taxable distribution and the money will be added to earned income in the year in which this occurs.

“Even if you’re not counting on Social Security as a major source of income in retirement, it’s important to know that you have various options to consider.”



Question:

What is the difference between a traditional IRA and a Roth IRA?

Answer:

This is a great question that comes up often. When contributing to most IRS qualified plans, e.g. IRA, SEP, 401(k), the money that goes into the account is on a tax deferred basis. This means that deductibility of a traditional IRA contribution is based on your modified adjusted gross income and the current year income is reduced by the amount contributed, therefore reducing that year’s tax liability. Once the money is distributed from that account in retirement, income taxes will be paid in that tax year.

When money is contributed under the Roth provision, taxes have already been paid on the money in that tax year. There is no immediate benefit in the form of reducing taxable liability in the current year. In retirement (for an individual 59.5 years or older) when the money is distributed there will be no tax as the tax was paid when initially contributed, as long as the Roth IRA account is held for at least five years. ●

Editor’s Note: Christopher Michelsen is a financial advisor with UBS Wealth Management, a NYSAR Member Perks partner. He has worked with domestic and international clients through the past two recessions and six equity market corrections. He is based in UBS New York office, working with a team of professionals who develop wealth management solutions for entrepreneurs, real estate professionals and business owners. Michelsen graduated from New York University with degrees in business and economics. He joined UBS in 1999 and moved to UBS Wealth Management after more than a decade at UBS Investment Bank. He is a member of the International Real Estate Federation Board of Directors.

Christopher Michelsen is a Financial Advisor with UBS Financial Services Inc. a subsidiary of UBS AG. Member FINRA/SIPC in 1251 Avenue of the Americas, New York, NY. The information contained in this article is not a solicitation to purchase or sell investments. Any information presented is general in nature and not intended to provide individually tailored investment advice. The strategies and/or investments referenced may not be suitable for all investors as the appropriateness of a particular investment or strategy will depend on an investor’s individual circumstances and objectives. Investing involves risks and there is always the potential of losing money when you invest. The views expressed herein are those of the author and may not necessarily reflect the views of UBS Financial Services Inc. Neither UBS Financial Services Inc. nor its employees (including its Financial Advisors) provide tax or legal advice. You should consult with your legal counsel and/or your accountant or tax professional regarding the legal or tax implications of a particular suggestion, strategy or investment, including any estate planning strategies, before you invest or implement. Depending on your needs we can help you implement your retirement strategies through both our brokerage and advisory capabilities. As a firm providing wealth management services to clients, we offer both investment advisory and brokerage services. These services are separate and distinct, differ in material ways and are governed by different laws and separate contracts. For more information on the distinctions between our brokerage and investment advisory services, please speak with your financial advisor or visit our website at ubs.com/workingwithus.

We have **COMPLETE CONTROL** of your computer



Don't
Forget
To Backup

By Austin Moran
NYSAR Director
of Information Technology

Hardly a day goes by when we don't see a news story about some sort of data compromise, website infection or computer security hack. Criminals, who often operate large-scale international crime organizations, have become so skilled at gaining access to corporate, government and personal computers, along with compromising huge databases, that users don't even have to click on anything to download and install malware (malicious software).

Cyber criminals install malware on your computers or devices in order to gain control or access. Malware can infect Windows, Macs, smartphones, tablets and other "connected" devices. The intent is to disrupt governmental computers/networks, commit corporate sabotage, steal money from individuals or entities, steal benefits (such as Social Security or medical insurance) and identity theft.

Sophisticated cyber criminals working across vast networks of connected/infected devices are at the root of most malware. Many criminal organizations hire full-time programmers to create malware that they then sell to other organizations, while even providing technical support and software updates for their malware programs.

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“Most importantly, make daily back-ups of your files on a standalone flash drive or CD that is normally disconnected from your device.”

The goal of most malware is to make money by selling or using data from your compromised computers and devices. The latest threat to computer security is that of extortion.

Mainstream websites such as the *NY Times*, the BBC, MSN, REALTOR.com and AOL have fallen victim to a new rash of malicious advertisements. The advertisements may download and install crypto ransomware or other malware, often without users having to do anything in order to install it. The tainted ads have exposed hundreds of thousands computers and devices.

Just because you have anti-malware software installed doesn't mean you are not at risk. In the 12,000 lines of code used in crypto ransomware, the malicious code identifies a long list of anti-malware applications that it can successfully avoid. Once it clears a path through your anti-malware software, it goes on to install a Trojan and ransomware on your device.

Ransomware is the biggest threat to computer security these days. It is designed to block access to a computer system until a sum of money is paid. Originally, these attacks were launched primarily at individual computers, but have lately been launched at hospitals, commercial entities and even a number of police departments across the country.

Once ransomware has been installed and activated, it encrypts everything on your device/computer including all documents, videos and photos. Unless you have a special key (code), it is impossible to decrypt your data. Normally, once ransomware is installed, you will receive notification giving you an allotted amount of time in which to pay a ransom (anywhere from \$400 to thousands of dollars). Failure to pay the ransom in the allotted time will result in complete loss of all data on your computer.

The FBI has warned that it may be best to pay the ransom in order to obtain the key that will enable you to decrypt your data. On the other hand, they further warn that there have been cases where victims did not receive the key after paying the ransom.

A hospital in Southern California was infected with ransomware two months ago. After consulting with security and law enforcement, they determined that it would be in their best interest to pay the ransom of \$17,000. They did get the key that allowed them to decrypt their compromised data.

In order to protect yourself from malware, be sure that you have anti-virus/anti-malware software from a trusted vendor. Keep in mind that new malware is produced daily and that it usually takes a few hours, days or even weeks before the “good guys” can counter the effect of a new exploit. This has become somewhat of an “arms race.”

Cyber criminals infect computers and devices by exploiting vulnerabilities in their software. Be certain that the operating system, applications and devices are enabled to automatically install updates.

It's common for the “bad guys” to create fake apps that lure you into downloading and installing them. Be sure to only download and install apps from a trusted source.

Reduce your attack vulnerabilities by smart-browsing (only go to verified and legitimate sites). Uninstall browser extensions like Adobe Flash, Oracle Java, and Microsoft Silverlight. Be sure to install security patches as soon as they become available.

Instead of using an administrator account on your computer/device, use a standard account with limited privileges, and don't click on a link or attachment from an email message even if it appears to be from a trusted source such as a friend or a bank.

Most importantly, make daily back-ups of your files on a standalone flash drive or CD that is normally disconnected from your device. If you leave a flash drive installed on your computer and you become infected with ransomware, the data on your flash drive will also be encrypted along with everything else on your computer. Keep your backups away from your devices and computers. ●



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New NAR Designations

foster your success in today's market

By Priscilla Toth
NYSAR Director of Education

The National Association of REALTORS® and its affiliates have developed a few new designation programs to help REALTORS® stay on top in challenging times. These include the Sellers Representative Specialist (SRS) designation, Pricing Strategy Advisor (PSA) certification and the Certified Real Estate Teams Specialist (CRETS) certification.



The **Sellers Representative Specialist (SRS)** designation program is designed to: strengthen your ability to conduct effective seller counseling sessions; increase your listings; and enhance the support services you provide today's sellers. The SRS course prepares REALTORS® to effectively represent sellers, from securing

their commitment and preparing for the listing appointment to handling the counseling session, marketing the listed property, coming to a meeting of the minds and assisting through to closing. You will learn how to handle the challenges that can crop up along the way. To earn the designation, candidates have two years to complete the SRS course, plus one elective course, and document acting as a seller's representative in five closed transactions. Classes are scheduled in Albany, Syracuse and West Nyack this fall.



Along the same lines, the **Accredited Buyer Representative (ABR)** designation helps REALTORS® to effectively serve buyer clients, from conducting a buyer counseling session and using buyer representation agreements to negotiating buyers' offers and bringing their transactions to a successful close. To earn the ABR designation, candidates have three years to complete the ABR course, plus one elective course, and document acting as a buyer's representative in five closed transactions. Fall classes will be held in Goshen, Syracuse and White Plains.



The new **Pricing Strategy Advisor (PSA)** certification program helps REALTORS® guide their clients through the anxieties and misconceptions they often have about home values. The competence and professional expertise of a well-trained REALTOR® is more important than ever in today's market to help consumers understand the complexities of valuation. The PSA course is designed

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to hone your skills for pricing properties, creating solid CMAs and using REALTORS® Property Resource tools so you can more effectively counsel your clients. PSA classes will be held in Oneonta and White Plains this fall.



The use of teams has become increasingly popular in today's real estate industry as a means of improving efficiency, maximizing performance and increasing profitability by unbundling tasks in the real estate transaction. In many companies there are multi-agent teams running their own business within the brokerage. The **Certified Real Estate Teams Specialist (CRETS)** certification was developed by the Real Estate Business Institute (formerly known as CRB) to help team leaders, team members, brokers, managers and those interested in forming a team to develop a blueprint for a team. Course participants explore everything from job descriptions, employment contracts and compensation plans to what makes a team successful, complying with license law and managing conflicts.

In order to earn the certification, candidates must complete the two-day core course, Understanding and Leveraging Teams, plus two elective courses – HR Solutions for Teams and Team Leadership for Maximum Performance. Watch for upcoming courses in your area. As an added bonus, once you earn the CRETS certification, you are just a few steps away from earning the CRB designation. You will simply need to complete the Accelerate Manager online series and submit a management resume and application.

NAR designations typically require longer hours of instruction and the payment of ongoing annual dues, while certifications often involve shorter instructional times, a one-time application fee and no ongoing dues. The one exception to this is the Graduate REALTOR® Institute (GRI) designation, which requires no annual fee to use. For both NAR designations and NAR certifications, REALTOR® membership in good standing is, of course, required.

For upcoming courses in your area, visit NYSAR.com/education and select the designation or certification that piques your interest. Many of the required courses are now available at your local board and online to further assist you in reaching your goal. ●

Summer/Fall National 2016 Course Schedule



THE ALL NEW GRADUATE REALTOR® INSTITUTE (GRI)

7.5 hours CE each - \$125 each for members

GRI-1 Ethics - Satisfies REALTOR® ethics training requirement.

Oct. 12 Canton Lin Fields

GRI-2 Business

Nov. 19 Buffalo Joe Whittington

GRI-3 Agency

Aug. 3 Staten Island Al Fazio, Esq.

Sept. 12 W. Babylon Al Fazio, Esq.

Sept. 15 Binghamton Jim Braman, Esq.

Oct. 6 Hudson Jim Braman, Esq.

GRI-5 Buyers - Satisfies NYS Fair Housing requirement.

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. 13 Goshen Nancy Mosca

Oct. 11 Jackson Heights Nancy Mosca

Oct. 20 Corning Roseann Farrow

Oct. 25 Syracuse Roseann Farrow

GRI-8 Technology

Oct. 7 Putnam Nancy Mosca

Oct. 19 Buffalo Jeremias Maneiro

Nov. 3 W. Babylon Nancy Mosca

Nov. 7 Carmel Nancy Mosca

Nov. 14 Binghamton Randy Templeman

Nov. 30 Rochester Jeremias Maneiro

Designation



ACCREDITED BUYER REPRESENTATIVE (ABR)

ABR Required Course

15 hours CE - \$295 for members

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



SELLER REPRESENTATIVE SPECIALIST (SRS)

SRS Required Course (ABR Elective)

15 hours CE - \$295 members

Sept. 12-13SyracuseRandy Templeman
 Nov. 16-17AlbanyJim Pugliese
 Nov. 28-29W. Nyack.....Roseann Farrow



GREEN, THE SUSTAINABLE PROPERTY DESIGNATION

7.5 hours CE - \$150 each

Green Day One:

Oct. 24UticaRandy Templeman

Green Day Two:

Oct. 25UticaRandy Templeman



where the future takes shape

SENIORS REAL ESTATE SPECIALIST (SRES)

SRES Required Course (ABR Elective)

12 hours CE - \$295 members

Aug. 17-18RiverheadDon Scanlon
 Sept. 7-8.....RochesterJeremias Maneiro
 Oct. 18-19.....Poughkeepsie.....Roseann Farrow
 Oct. 19-20.....AlbanyRandy Templeman



MILITARY RELOCATION PROFESSIONAL

MRP Required Course (ABR Elective)

6.5 hours CE - \$125 members

Oct. 5Jackson HeightsLinda D'Amico



SHORT SALES & FORECLOSURES RESOURCE (SFR)

Short Sales and Foreclosures Required Course (ABR Elective)

6.5 hours CE - \$125 for members

Nov. 3RochesterRandy Templeman
 Nov. 14.....W. Babylon.....Linda D'Amico

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NYSAR Real Estate Services Inc.

The NYSAR and RPAC leadership recognize the following members for investing in the REALTORS® Political Action Committee (RPAC) at the Major Investor level in 2016.

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

Golden R Investors (\$5,000-\$9,999)



Joseph Canfora
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Dawn Carpenter
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Richard Haggerty
 Hudson Gateway



Duncan MacKenzie
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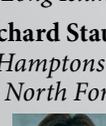
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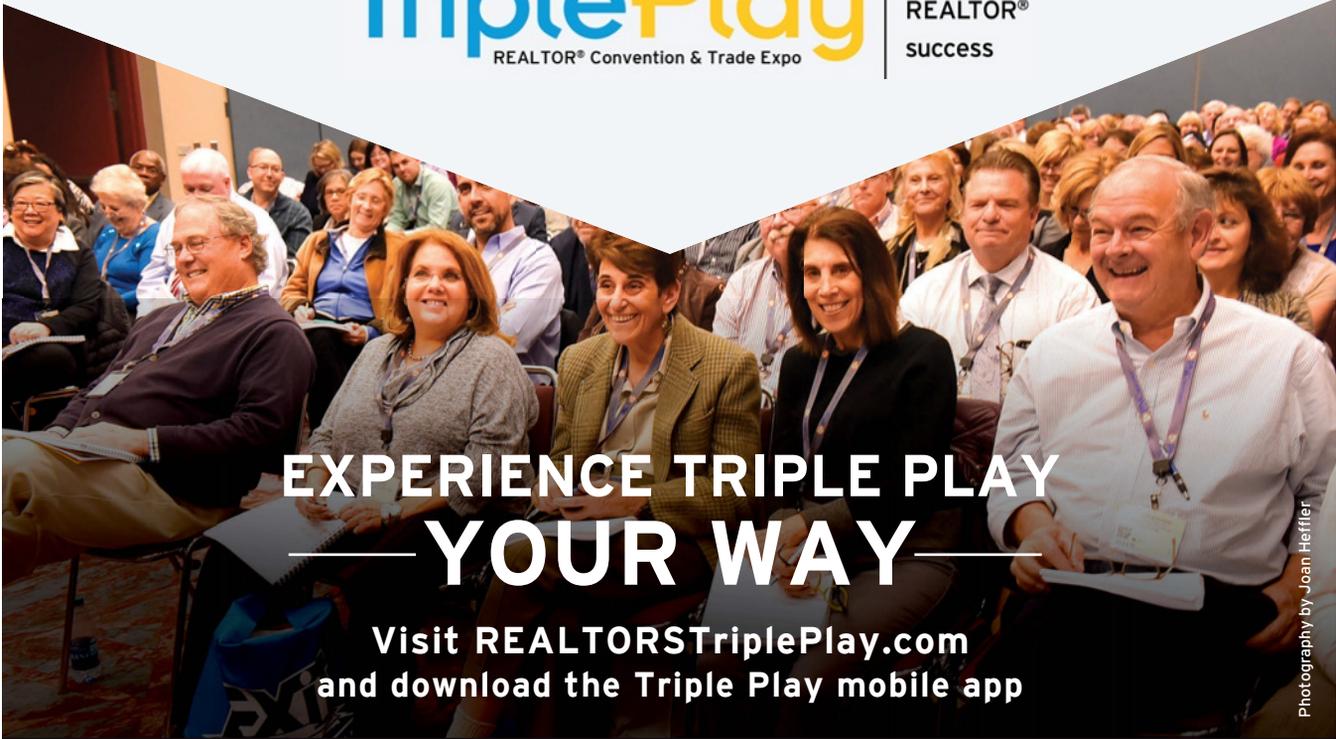
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	10.4	Not released	0.4%	5	516	6,500
	9.4	120,919	1.9%	30	2,350	36,800
	8.7	Not released	4.0%	1	1,200	42,000
	8.6	730,128	14.0%	34	3,000	84,800
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