IMPACT

BUILDING & REALTY NEWS

VOL. 12 NO. 5 SERVING WESTCHESTER AND THE MID-HUDSON REGION DECEMBER 2013

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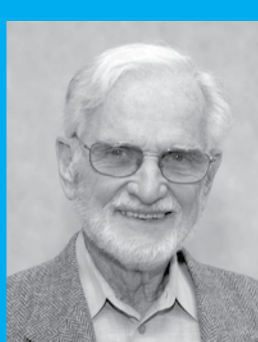

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By KENNETH J. FINGER, ESQ., CARL L. FINGER, ESQ., and DANIEL S. FINGER, ESQ. Finger & Finger, Chief Counsel, Building & Realty Institute (BRI)

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A Special Report:

Reviewing a Proposal to the Foreclosure Crisis

WHITE PLAINS—Westchester County Clerk Tim Idoni recently announced that foreclosure filings in Westchester County this year are the second worst in the last 10 years - a period including "The Great Recession" that began in 2008.

There has been an average of about 2,500 foreclosure filings per month. Foreclosures create a myriad of negative impacts, and not to just to the family that loses its home. The foreclosures also affect the surrounding neighborhood and the municipality as a whole.

In many cases, the properties are left vacant and boarded up to deteriorate, lawns become overgrown, and even squatters move in. All of this creates blight which lowers the property values in the municipality. A depressed housing market also leads to decreased municipal revenue from the mortgage transfer tax.

The precursor to foreclosures often occurs when the value of a house goes underwater —when its current value is less than the outstanding mortgage. In many such cases, homeowners stop paying the mortgage on an unsustainable investment.

Cornell Law School Professor Robert Hacket has proposed a novel approach to the problem. His idea is that a local municipality would purchase the underwater mortgage (not the house) from the lending institution or servicer at the current reduced market value and refinance a new mortgage for the current homeowner at the reduced principal.

Most economists agree that the most effective solution to this problem is through mortgage principal reduction. Under this process, the principal of the mortgage is reduced to the current fair market value of the house, and the monthly payments are thus reduced to a point where the homeowner can afford to, and financially desires, to make the new payments and avoid foreclosure.

The recent settlement of the lawsuit brought by the federal government against JP Morgan Chase included $1.5 billion for mortgage principal reduction.

While this sounds like a lot of money, it is nowhere near the estimated $1 trillion needed given the number of houses in the U.S. currently underwater. There are also federal programs of-

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Westchester's Recently Passed "Source of Income Legislation" To Be Reviewed At Jan. 29th Seminar

By Jeff Hanley, IMPACT Editor

WHITE PLAINS—The Apartment Owners Advisory Council (AOAC) has announced the scheduling of a program to review Westchester County's recently passed "Source of Income Legislation."

The seminar is scheduled for Wednesday, Jan. 29, 2014, at noon. The meeting will be at The Crowne Plaza Hotel in White Plains, event officials said.

AOAC officials said that the program is being held in cooperation with the AOAC's affiliate organizations, The Building and Realty Institute (BRI) and The Advisory Council of Managing Agents (ACMA). All BRI members are welcome to attend the seminar, event officials added.

Mark Fang, executive director of The Westchester County Human Rights Commission, will be the keynote speaker at the meeting. Fang was appointed to his role in May of 2012.

"We urge our members to attend this event," said Albert Annunziata, executive director of the AOAC/BRI. "We feel it will provide owners and managers, as well as others in the building and realty industry, with valuable information."

The Westchester County Board of Legislators approved the Source of Income proposal on Jun. 17, 2013. Westchester County Executive Rob Astorino signed the proposal into law on Jun. 26, 2013.

The legislation bans discrimination against potential renters and home buyers based on their source of income. The legislation that passed is a slightly modified version of the Source of Income Legislation that was previously vetoed in 2010.

The one modification to the bill was to change a single exemption. In the previous version, a landlord living in and owning a rental property with four or less units and maintaining ownership or part ownership in another property of four or less units would be exempted from the law. The modified Source of Income Legislation now simply exempts landlords and owners of one property of six or less units.

An exemption for co-ops and condos, which the BRI strongly supported, is in the recently approved legislation. In addition, the law allows landlords to use reasonable business judgment and level of income in evaluating potential tenants. The legislation will sunset in five years, unless it is re-enacted, AOAC officials said.

Event officials said that the AOAC and BRI memberships will soon receive information on the program. Those wishing to make advance reservations may do so by calling the AOAC/BRI offices at (914) 273-0730.

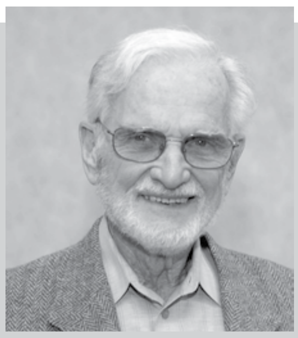
The AOAC is a realty industry membership organization that is composed of more than 250 owners and managers of rental apartment buildings and complexes. Those owners are responsible for approximately 20,000 units in Westchester County. The BRI is a building, realty and construction industry membership organization. The association has more than 1,400 members in 14 counties of New York State.

Snow/Ice Slip-and-Fall Claims—Who Pays The Bill?

SEE STORY ON PAGE 8

CO-OP CONDO CORNER

By HERB ROSE



Reviewing the Roles of Engineers and Architects for Key Processes of Your Building or Complex

NEW YORK – Engineer.

According to Wikipedia, "an engineer must weigh different design choices on their merits and choose the solution that best matches the requirements."

Architect. Again, according to Wikipedia, an architect is "a person trained and licensed to plan, design, and oversee the construction of buildings."

Areas of expertise often overlap between engineers and architects to the point that there are firms that do both types of work. It is important that your specifications are done with care and thought. And, with substantial projects, you must have the advice of as many professionals as you possibly can.

Every financial statement in some way makes a reference to whether studies have been done about how long major building components - such as the roof, elevators, boiler(s), brick work, plumbing and other substantial building parts - will last. Controversy exists as to whether it is necessary to do this projection, or not.

Below is a typical statement on the process:

"So-and-So Condo Association" has omitted the information about the estimates of future costs of major repairs and replacements that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements.

"Such missing information, although not a part of the basic financial statements, is required by the Financial Accounting Standards Board, which considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by the missing information."

The Question

To estimate or not estimate is the question. This sort of long range estimate is often recommended by lawyers and rarely by accountants. There are many opinions as to whether these projections are necessary at all. Jay Mendel, co-president of Garthchester Realty, a local property management company, says that nobody does this exceedingly expensive study. He said that publishing the theoretic future repair needs of a building will make selling units impossible. Also consider that if you have these figures done by professionals today, how long is the information reasonably accurate? Are you, as the board of your complex, responsible for accuracy in determining the value of your units and/or building?

Carmelo Milio, president of Milio Realty Corporation, another local property management firm, has found some buildings that prefer 20-year, long term projections of repairs. He has also observed other buildings that are more in the present. These buildings are comfortable with current engineering estimates of building problems (up to two years) with real time estimates that can be very useful, and would indicate what has to be done accurately.

An Example

"Cozy Home Co-op" is faced with long term deterioration of its external fire escapes resulting in building department citations and the substantial (more than $500,000) repair of these lifesaving facilities. Should they take the simple path with repair estimates from willing vendors, or take the professional path, including engineering and/ or architect specs?

A few years ago the co-op had palliative painting done by a crew that seemed to solve the problem at least in the short term. Building department citations have resulted in a new round of repairs and renovations. This work has also been undertaken without engineering specifications. I will report on this at a later date.

Each repair contractor will probably do an estimate geared to the lowest cost and figure materials and work accordingly. Specifications done by an engineering/architect team will come up with a plan to remedy the problems to satisfy building department requirements and serve as the basis for the estimates of vendors. Every supplier must submit numbers based on the same materials and work!

The consensus among knowledgeable members of the local property management industry appears that long range theoretical estimates have some value, while immediate necessary repairs must have professional specifications to be done economically correct. Check with your lawyer and/or accountant.

Herb's Hints

1) Run your sink faucet until the water is hot before turning a dishwasher on. This method uses less electricity for heating.

2) Do you think you overpay for gas and/or electric? Send me a copy of your bill for a free reading. You can e-mail it to me at hrose47563@aol.com.

Editor's Note: Herb Rose is a co-op and condo consultant. He is recognized as one of the most knowledgeable consultants in the New York metropolitan area. Rose can be reached at hrose47563@aol.com. Rose is also a member of the Board of Directors of The Cooperative and Condominium Advisory Council of Westchester and The Mid-Hudson Region (CCAC). The CCAC can be reached at (914) 273-0730. Details on the association can be found at buildingandrealtyinstitute.org.

THE HANLEY REPORT

By JEFF HANLEY
Associate Director, Building and Realty Institute (BRI)/IMPACT Editor

BRI Recognized at Major NYC Trade Show

NEW YORK – Being cited for a strong performance is always nice.

But, being recognized among the leading representatives of the New York metropolitan area's building, realty and construction industry is even nicer.

That's how Albert Annunziata, executive director of The Building and Realty Institute (BRI), and I felt on Oct. 22 at The Jacob Javits Center in New York. On that day, the BRI received a proclamation for its outstanding contributions and services to the industry.

The proclamation was presented to our organization at The New York Build Expo, a major industry trade show. It was most definitely an honor for our Executive Director, and I, to accept the proclamation on behalf of the BRI. Our association was one of more than 25 companies and organizations that were recognized at the event. The proclamation was issued to the BRI by New York City Mayor Michael Bloomberg. A photo of the Awards Ceremony is on page three.

Formed in 1946, the BRI has more than 1,400 members in 14 counties of New York State. Our association's members are involved in virtually every sector of the building, realty and construction industry. Our organization is regarded as one of the largest membership associations in New York State.

The day after the show, the proclamation—with great pride—was immediately placed in the BRI offices in Armonk. And the overwhelming consensus among our staff is that the proclamation belongs to every BRI member. Accordingly, congratulations are in order to all of our members. As they say in the sports world, the BRI receiving the award was most definitely "a total team effort."

And, speaking of efforts, there are several fine reports from our contributors in this issue:

- An analysis in Insurance Insights on Snow/Ice Slip-and-Fall Claims. The report is from Ken Fuirst and Jason Schiciano of Levitt-Fuirst Associates, Ltd., the BRI's Insurance Manager.
- A Case Study in Counsels' Corner regarding cooperative policy as to the permissibility of the transfer of a shareholder's stock/shares to a trust. The study is from Kenneth Finger, Carl Finger and Daniel Finger of Finger and Finger, A Professional Corporation. Finger and Finger is Chief Counsel to the BRI.
- A report in Co-op and Condo Corner on the roles of engineers and architects for key processes of multi-family buildings and complexes. Herb Rose wrote the analysis.
- A forecast in Tech Talk on seven key technology trends that businesses should watch for in 2014. Andrea Wagner, president of Wagner Web Designs, authored the study.
- Reports on current trends in the building - from The National Association of Home Builders (NAHB) - and remodeling - from The National Association of The Remodeling Industry (NARI) - sectors.
- A review of the BRI's Annual Holiday Reception of Dec. 6. BRI officials termed the reception as one of the best-ever social events in the long and storied history of the association.

Here's a wish to all for a healthy, happy and prosperous new year! Enjoy the issue!

IMPACT
BUILDING & REALTY NEWS

Publisher: ALBERT ANNUNZIATA
Executive Editor: JEFFREY R. HANLEY
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Production: MEADOW ART & DESIGN, FAIR LAWN, N.J.

Published By The Builders Institute/Building and Realty Institute.
Subscription, $20 Per Year, Included In Membership Dues.

Entered As Periodical Matter At
Post Office, White Plains, NY 10610
USPS 259-900

IMPACT (USPS 259-900) Is Published Monthly For $20 Per Year By The Builders Institute/Building and Realty Institute, 80 Business Park Drive, Suite 309, Armonk, NY, 10504.
Periodicals Postage Pending At Armonk, NY.
POSTMASTER: Send Address Changes To IMPACT, 80 Business Park Drive, Suite 309, Armonk, NY 10504.

Reviewing a Proposal to the Foreclosure Crisis

Continued from page 1
fering mortgage principal reduction, but they are woefully underfunded.

A Novel Approach

Cornell Law School Professor Robert Hacket has proposed a novel approach to the problem. His idea is that a local municipality would purchase the underwater mortgage (not the house) from the lending institution or servicer at the current reduced market value and refinance a new mortgage for the current homeowner at the reduced principal.

The homeowner would then be able to stay in his/her house and the neighborhood would not become blighted. While the original mortgagee holder would obviously have to take "a haircut," it could very well be less of a loss than if they had the expenses of foreclosure and managing the vacant property, and eventually selling the property at the same reduced market value.

Professor Hacket goes further by proposing that if the current mortgage holder is unwilling or unable (due to complicated securitization) to sell the mortgage to the municipality, the municipality could use its power of Eminent Domain to purchase the mortgage. Eminent Domain is the right of a government to take private property at fair market value for a public good. Certainly, preventing blight is a public good.

A Review of the Concept

Eminent Domain has not been used in this way before, but several municipalities have been reviewing the concept. Furthest along is Richmond, Calif., a municipality of 106,000 that is east of San Francisco. The city has adopted a mortgage principal reduction plan in conjunction with Mortgage Resolution Partners that would provide services and arrange private investment. More than one-third of Richmond homeowners with mortgages - more than 7,000 - are currently underwater.

Nationwide, about one-quarter of home loans are at least 25 percent underwater. Richmond sent a letter in July offering to buy 624 mortgages.

In response, the mortgage trustees Wells Fargo, Deutsche Bank AG, and Bank of N.Y. Mellon sued the city, saying that they do not have the authority to sell the loans and the use of Eminent Domain would violate the "constitutional protection against impairing private contract."

The Federal Court dismissed the suit as not ripe, since the city has not yet started the Eminent Domain Proceedings.

Recently, several local cities have been reviewing the concept using a mortgage principal reduction program to prevent foreclosures and prevent blight.

Chuck Lesnick, the Yonkers city council president, held a recent press conference on the program and submitted a draft resolution to the City Council. It is now in committee. Yonkers has had more than 500 foreclosure filings in the last year.

Stay tuned!

—RH Consulting, Elmsford

Economic Analysis for 2014 Topic of BRI's January 16th General Membership Meeting

By Jeff Hanley, IMPACT Editor

WHITE PLAINS—"What's Ahead For The Economy in 2014!" is the topic of the January 16 General Membership Meeting of The Building and Realty Institute (BRI), association officials recently announced.

The meeting is scheduled to begin at 6:30 p.m. It will be at The Crowne Plaza Hotel in White Plains.

Dr. Robert Goodman, a well-known economic analyst, will be the event's keynote speaker. Goodman is a former Consultant for Putnam Investments. While with Putnam, he was a member of the company's Business Advisory Group, a panel of experts on Economic, Business and Personal Financial Topics.

During his career, Goodman has served as a consultant and spokesperson before broker, financial service industry and business groups. He is consistently quoted in the media and appears frequently on The Cable News Network (CNN). He has been a regular Guest Host on CNBC's "Squawk Box."

Goodman is also the author of the popular book, "Independently Wealthy – How to Build Financial Security in the New Economic Era." He has served as a senior economic advisor and managing director for Putnam Investments. He was also a member of Putnam's Investment Policy Committee and Global Asset Allocation Committee, working closely with the Equity, Fixed Income and International Investment Groups in the development of a Macroeconomic Framework for Investment Decisions. Goodman was a chief econ-

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A MATTER OF COMMUNICATION – "Reviewing The Communication Barriers That Slow the Performance and Growth of Your Business" was the topic of the Nov. 14 General Membership Meeting of The Building and Realty Institute (BRI). Pictured during the event are, from left to right, Julian Sturton (speaker), president of The Business of Leading, Inc.; Michael Beldotti, president, BRI; Diana Virrill, chair, Cooperative and Condominium Advisory Council (CCAC); Jeff Stillman, vice chair, Advisory Council of Managing Agents (ACMA); and Alana Ciuffetelli and Jerry Houlihan, vice chairs, Apartment Owners Advisory Council (AOAC). More than 45 BRI members attended the event at The Crowne Plaza Hotel in White Plains. ***—Photo by Jeff Hanley***

BRI CITED FOR ITS EXCELLENCE – The Building and Realty Institute (BRI) recently received an award and proclamation for its outstanding service to the building, realty and construction industry. The award was presented to the association on Oct. 22 by New York City Mayor Michael Bloomberg at The New York Build Expo Show at The Jacob Javits Convention Center in New York. Pictured during the Awards Ceremony are, from left to right, Jeff Hanley, associate director, BRI; Tom Woodcock; event official; and Albert Annunziata, executive director, BRI. The BRI, formed in 1946, has more than 1,400 members in 14 counties of New York State. The association's members are involved in virtually every sector of the building, realty and construction industry. ***—An IMPACT Staff Photo***

AN APPEARANCE FROM ASTORINO – Westchester County Executive Rob Astorino was the keynote speaker at the Oct. 17 General Membership Meeting of The Building and Realty Institute (BRI). The meeting was the second in a two-part series sponsored by the BRI that featured the major candidates for Westchester County Executive. Noam Bramson, the Democratic challenger to the incumbent Astorino, spoke at the BRI's Sep. 19 General Membership Meeting. Astorino defeated Bramson on Nov. 5 to win a second term. Pictured during the Question-and-Answer Period of the Oct 17 meeting are Astorino (speaking at the podium) and Albert Annunziata (left), executive director of the BRI. Annunziata served as moderator of the program. More than 75 BRI members attended the conference at The Crowne Plaza Hotel in White Plains. ***—Photo by Jeff Hanley***

NAHB Seeking Fix for Soaring Flood Insurance Premium Rates

WASHINGTON, D.C.—The National Association of Home Builders (NAHB) recently called on Congress to take steps to resolve unintended consequences of the Biggert-Waters Flood Insurance Act that are resulting in huge premium spikes for many home owners and impacting the sale, construction and remodeling of homes across the nation, NAHB officials announced in November.

Testifying before the House Financial Services Subcommittee on Insurance and Housing, Barry Rutenberg, immediate past chairman of NAHB, said a key concern of the law is that it requires properties that had subsidized rates under the National Flood Insurance Program (NFIP) to immediately move to the full actuarial risk rate when they are sold or transferred.

“Prospective home buyers fear the higher rates will make their mortgages unaffordable, especially in today’s already tight credit conditions,” said Rutenberg. “We have heard of cases throughout the country where pending sales were canceled at the last minute because of this sharp rate increase.”

Rutenberg added that this not only harms home sales, but also impedes the move-up buyer, who will not be able to sell their current home and move into a newly constructed one.

“Requiring full-risk rates to be paid upon sale or transfer for historically subsidized and previously grandfathered properties will lead to lower property values and hurt many local housing markets at a time when the U.S. housing recovery remains fragile and uneven,” he said.

To resolve some of the costly problems and unanticipated issues resulting from the implementation of the Biggert-Waters Flood Insurance Act, NAHB officials said that the association recommends that Congress take the following steps:

- Delay all rate increases until the Federal Emergency Management Agency (FEMA) completes its affordability study, which is required under the Biggert-Waters Flood Insurance Act and was due to be completed last April. After the completion of the study, FEMA will have a better understanding of how rate increases will affect policyholders and be better equipped to provide Congress with suggestions on how the NFIP can address affordability issues, said Rutenberg.
- Require FEMA to take into account all flood control structures when mapping. Further, NAHB urges Congress to ensure that FEMA allows for sufficient time and independent vetting of new maps and prohibits rate increases based on incomplete or inaccurate maps.
- Reinstate the higher “substantial improvement” threshold. This refers to the value of remodeling and renovation projects that cause the insurance premium rate increases to kick in. The threshold was lowered from 50 percent to 30 percent when the law went into effect. NAHB estimates this lower limit will place up to $8.5 billion in annual remodeling economic activity at risk, as even the simplest of remodeling jobs, like installing new appliances or updating bathrooms or kitchens, could result in many homes reaching the 30 percent threshold and triggering higher premium rates.
- Enable FEMA to continue to allow for flexibility for regional issues and to maintain the current residential “basement exception.” This exception is currently permitted in just 53 communities and allows home owners who require basements for safety and stability reasons to avoid the higher flood insurance rates under the law.
- Delay the premium rate hikes on second homes. Government data shows the median income of households with a second home is a modest $71,344. Many middle class families who own a second home are facing significantly higher premium rates under the Biggert-Waters Flood Insurance Act. As a result, even if they want to sell their second home, they cannot because the sale would result in a premium price spike for the new owner.

“NAHB is committed to working with this subcommittee and with Congress to find pragmatic solutions that will prevent undue hardship on the recovering housing market, prevent home values from decreasing and make the NFIP stronger and more effective for years to come,” said Rutenberg.

The National Association of Home Builders (NAHB) recently called on Congress to take steps to resolve unintended consequences of the Biggert-Waters Flood Insurance Act that are resulting in huge premium spikes for many home owners and impacting the sale, construction and remodeling of homes across the nation.

BECOME A MEMBER OF THE BRI:
www.BuildersInstitute.org

Trust In, and For, a Cooperative?

COUNSELS' CORNER

By Kenneth J. Finger, Esq.,
Carl L. Finger, Esq., and
Daniel S. Finger, Esq.
Finger & Finger, Chief Counsel,
Building & Realty Institute (BRI)



WHITE PLAINS—We have recently received inquiries regarding Cooperative Policy as to the permissibility of the transfer of a shareholder's stock/shares to a trust.

We presume that many cooperatives have this issue relative to the request so we thought this was a timely article.

Generally there are two types of trusts that are used for holding cooperative shares: a qualified personal residence trust (QPRT) or a grantor / revocable / living trust.

When a board has received a request for a transfer to a trust, the Board should review it with counsel in accordance with its general policy. If no policy has been adopted, we recommend that the Board adopt one.

One policy is obviously "no," it will not allow transfers to a trust. Should the Board choose to allow transfers to trusts, there are legal ramifications and may possibly be greater financial or other risks to the Cooperative. It is necessary for counsel to review the Trust document(s) and prepare other documents, in addition to interfacing with counsel for the Trust. In considering whether or not to approve such a policy, some of the issues are as follows:

QPRT Trust

Some of the main issues arise because the shareholder is generally alive at the termination of the trust and this raises issues of control or ownership of the stock and occupancy of the apartment at that time. The Cooperative has to be aware of same as discussed below.

A trust is a legal entity, not a person. Thus, although in a QPRT trust the shareholder reserves the right to use the apartment for a finite period of time, the Board should confirm through an agreement with the shareholder that only the shareholder(s) will occupy the apartment. An agreement to this effect should be prepared by counsel and executed by the shareholder as a condition to the approval.

The trust agreement, pursuant to applicable QPRT law, limits the amount of cash that can be held by the trust. The Trust agreement must be reviewed for, among other things, the assurance that cash will be regularly infused into the trust to meet the assessments and maintenance. Additionally, given that an entity is involved, it will be necessary for a personal guaranty to be prepared obligating the resident or former shareholder(s). Counsel can prepare this form also.

Given the nature and legal requirements, when a QPRT trust fixed term expires, the use of the apartment automatically passes to the beneficiaries, or for the benefit of the beneficiaries. Thus, if the Apartment Corporation approves of the transfer of the stock into a trust, it is in effect approving the later transfer out of the trust to the beneficiaries. If the Board does not want to grant such pre-approval, the shareholder's wishes might not be achieved. If the shareholder survives the expiration period, he / she may well want to transfer the apartment to a beneficiary only to sublease the apartment back from the beneficiary to assure his / her continued occupancy. We recommend against granting such pre-approval. If the Board does not want to pre-approve a transfer, there will have to be a document executed which confirms that only the shareholder(s) can reside and continue to reside in the apartment, even after the expiration of the trust period. There must be an assurance that any further transfer must be approved by the Board and the consent to the transfer to the trust cannot be deemed a consent to a later transfer (unless the Board so chooses to pre-approve such a transfer). This is another agreement that counsel will have to prepare.

The Trust Agreement also must be analyzed to assure that upon the death of the shareholder(s), and the trust ceases to exist or is converted to another type of trust, there must be an assurance that any further transfer is subject to the co-op's approval.

Grantor / Revocable/ Living Trust

Although Grantor Trusts are different from QPRT Trusts, in that many people use them as Estate Planning Devices to transfer assets without probate, the issues to the Cooperative may be similar to those set forth above as to QPRT trusts. For example, there are also issues of ownership and occupancy.

The Cooperative should require, as with the other type of trust, an agreement confirming that the occupancy of the apartment is limited to the shareholder(s).

A personal guaranty is still advisable given the fact that the shareholder(s) may be transferring limited assets into the trust.

A further agreement assuring that no further transfers are deemed approved by this approval of the ownership by the Trust should be executed. Thus, no further transfer can be permitted, even to a named beneficiary of the trust, without the Board's approval.

General Concerns

•Some trusts have what is called "spendthrift" provisions, preventing the invasion of the trust corpus / principal for the purpose of paying debts. The Cooperative cannot accept this type of clause even though in New York such a clause does not preclude creditors from seeking payment. This should be avoided by the execution of an amendment to the Trust waiving this clause as to the Cooperative.

•Permitting ownership by non-persons and entities. The Board may consider this at conflict with the general concept of owner occupancy. We cannot say how a lender would view this type of ownership in analyzing the percentage of owner occupancy.

•Argument that the Cooperative is at greater risk because of the division of legal and equitable ownership; i.e., the trust owns the apartment; the former shareholder has the right to the use of the apartment, and beneficiaries may also have an interest.

•Some people have stated that the additional documentation is, in effect, an amendment of the proprietary lease, which cannot be accomplished without shareholder approval. Although there is no case law on

Should the Board choose to allow transfers to trusts, there are legal ramifications and may possibly be greater financial or other risks to the Cooperative.

Continued on page 9

BRI Holds Its Annual Holiday Reception

By Jeff Hanley, IMPACT Editor

CHAPPAQUA – More than 115 members of the local building, realty and construction industry attended the Dec. 6 Holiday Reception of The Building and Realty Institute (BRI).

The reception, termed by BRI officials as one of the organization's best-ever social events, was at Crabtree's Kittle House Restaurant and Inn in Chappaqua.

The BRI, as a new feature to the reception, honored a series of its members who provided the association with outstanding service in 2013.

Photo coverage of the Awards Ceremony is below. Not pictured in the montage is Joseph Pizzimenti of The Remodelers Advisory Council (RAC) of the BRI. Pizzimenti received an award for assisting the BRI in its legislative initiatives. Also not pictured is Diana Virrill, chair of The Co-operative and Condominium Advisory Council (CCAC) of the BRI. Virrill received an award for her service to the CCAC. —Photos by Myron Marcus

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Michael Beldotti (left), president of The Building and Realty Institute (BRI), is pictured after receiving a recognition award for his "outstanding and dedicated service" during his term as president (2012-2013). Albert Annunziata (right), executive director of the BRI, is also pictured.

Albert Annunziata (right), executive director of The Building and Realty Institute (BRI), is pictured while presenting Ken Finger, Esq. (left), an owner representative to The Westchester County Rent Guidelines Board, with an award. Finger was recognized for his efforts on behalf of The Apartment Owners Advisory Council (AOAC) in that role. Finger also serves as chief counsel to the BRI.

Eric Lashins (left), a past president of The Building and Realty Institute (BRI), was cited for his exemplary efforts as chairman of the BRI during 2012 and 2013. Albert Annunziata (right), executive director of the BRI, is pictured while presenting Lashins with the award.

Carl DiMaio (left), a member of The Building and Realty Institute (BRI) since the 1960's, was cited for his dedicated and outstanding service to the association. Albert Annunziata (right), executive director of the BRI, is shown while presenting DiMaio with a special Service Award. A longtime Westchester County resident, DiMaio is a past president and chairman of the BRI.

Carol Kope (right), an owner representative to The Westchester County Rent Guidelines Board, received an award for her efforts on behalf of The Apartment Owners Advisory Council (AOAC) in that role. She is pictured during her acceptance remarks. Albert Annunziata, executive director of The Building and Realty Institute (BRI), is also pictured.

Bob Lupica (right), a Professional Services member of The Building and Realty Institute (BRI), received an award for his exemplary service to the association. Albert Annunziata (left), executive director of the BRI, is pictured while making the presentation.

Building and Realty Institute (BRI) Professional Services Member Brett LaRocque (left) is pictured while receiving an award for his work on the association's Special Events. Albert Annunziata (right), executive director of the BRI, is pictured while announcing the presentation.

INDUSTRY REPORTS

Remodeling Market Continues to Show Growth

DES PLAINES, Ill.—The National Association of The Remodeling Industry's (NARI's) third-quarter Remodeling Business Pulse (RBP) data of current and future remodeling business conditions continues to soar, association officials recently announced.

Quarter-over-quarter Increases are evident in nearly all sub-components measuring remodeling activity, officials added.

Moving toward the holiday season—which has been a slower season in recent years—remodelers are reporting the highest overall rating on business conditions at 6.41, up from 6.31 reported during the second quarter. The rating has steadily increased in the six quarters NARI has been tracking, the report said.

"From the comments on the Remodeling Business Pulse survey, pent-up demand continues to drive the current remodeling market," said Tom O'Grady, chairman of NARI's Strategic Planning & Research Committee. "The general sense is that consumers are tired of waiting and feel more secure about spending money, which is also reflected in the higher values in jobs sold."

Growth indicators in the third quarter of 2013 are below. The rating system is from one to nine, where one is much worse than a year ago and nine is much better. Five is about the same as last year.

The Current Business Conditions Category was rated 6.41 (from 6.31 last quarter);

The Number of Inquiries Up Sector was rated 6.55 (from 6.50 from last quarter);

The Requests for Bids Division remained the same as last quarter, at 6.45;

The Conversion of Bids to Jobs Category was rated 6.00 (from 5.91 last quarter);

The Value of Jobs Sold Sector was rated 6.31 (from 6.12 from last quarter).

The report said that one interesting note in the second year of the survey is that going into the fourth quarter of the year, remodelers tend to be more cautious in their outlook - that rating fell 3.2 percent from last quarter, though at 6.12, it's still higher than the 2012 low of 5.34.

"As we enter the holiday season, inquiries about projects don't slow, but the conversion rate inquiries to sales tends to, which has been reflected in the last two third-quarter Remodeling Business Pulse surveys," O'Grady said. "It's hard to judge for sure, after consumers spend money during the holidays, how serious they will be in the new year to get that remodeling project under way."

Other significant contributors to overall activity in the report are:

- Postponed Projects continue to be the key factor in Remodeling Business Growth, at 85 percent;
- Improving Home Prices came in at the secondary, at 72 percent of respondents (up from 65 percent last quarter);
- Certainty about the Future moved into the Number Three Spot, at 48 percent (edging out Economic Growth, which came in at Number Three 3 in the second quarter).

"Weather continues to impact sales regionally," O'Grady said. "But another reason that stood out was that successful remodelers spent time refining their processes and skills."

Those wishing to review the research in its entirety should send their requests to marketing@nari.org.

NARI is the only trade association dedicated solely to the remodeling industry, association officials said. The organization, which represents 7,000 member companies nationally, is composed of 63,000 remodeling contractors. It is recognized as "The Voice of the Remodeling Industry."

Builder Confidence Holds Steady in November

WASHINGTON, D.C.—Builder confidence in the market for newly built, single family homes was unchanged in November from a downwardly revised level of 54 on the National Association of Home Builders (NAHB)/Wells Fargo Housing Market Index (HMI).

The study was released on Nov. 18.

The report stressed that, for the sixth consecutive month, more builders have viewed market conditions as good than poor. "Given the current interest rate and pricing environment, consumers continue to show interest in purchasing new homes, but are holding back because Congress keeps pushing critical decisions on budget, tax and government spending issues down the road," said NAHB Chairman Rick Judson. "Meanwhile, builders continue to face challenges related to rising construction costs and low appraisals." "Policy and economic uncertainty is undermining consumer confidence," said NAHB Chief Economist David Crowe. "The fact that builder confidence remains above 50 is an encouraging sign, considering the unresolved debt and federal budget issues cause builders and consumers to remain on the sideline." Derived from a monthly survey that NAHB has been conducting for 25 years, the NAHB/Wells Fargo Housing Market Index (HMI) gauges builder perceptions of current single family home sales and sales expectations for the next six months as "good," "fair," or "poor."

The survey also asks builders to rate the traffic of prospective buyers as "high to very high," "average," or "low to very low." Scores from each component are then used to calculate a seasonally adjusted index, where any number over 50 indicates that more builders view conditions as good than poor, the study said.

The HMI index gauging current sales conditions in November held steady at 58. The component measuring expectations for future sales fell one point to 60 and the component gauging traffic of prospective buyers dropped one point to 42.

The HMI three-month moving average was mixed in the four regions. No movement was recorded in the South or West, which held unchanged at 56 and 60, respectively. The Northeast recorded a one-point gain to 39 and the Midwest fell three points to 60.

The study stressed that the NAHB/Wells Fargo Housing Market Index (HMI) is strictly the product of NAHB Economics and is not seen or influenced by any outside party prior to being released to the public. HMI tables can be found at www.nahb.org/hmi. More information on housing statistics is also available at http://www.housingeconomics.com/.

Strong Multifamily Sector Pushes Building Permits Above 1 Million in October

WASHINGTON, D.C.—The issuance of new building permits rose 6.2 percent to a seasonally adjusted annual rate of 1.034 million units in October, due primarily to a double-digit increase on the multifamily side.

The data was released on Nov. 26 by the U.S. Census Bureau and analyzed by The National Association of Home Builders (NAHB). The trend follows a 5.2 percent increase in permit issuance in September to 974,000 units, NAHB officials said. Census figures for nationwide housing starts for September and October were delayed until mid-December as a result of the recent partial government shutdown, NAHB spokesmen added. "Despite the recent government shutdown, builders feel a housing recovery is still under way," said Rick Judson, NAHB chairman. "However, this fragile recovery still faces a number of challenges, including uncertainty in Washington, tight credit conditions for home buyers and limited availability of labor and lots." "Permits are often a harbinger of future housing activity and the strong showing in the multifamily sector, along with stable numbers on the single family side, bode well for a continuing, gradual upturn in housing over the coming months," said NAHB Senior Economist Robert Denk. "But consumer and builder confidence could be seriously undermined unless policymakers make progress over looming budget, tax and economic policy issues in the weeks and months ahead." Multifamily permit issuance rose 15.3 percent to 414,000 units in October, while the single family side posted a 0.8 percent gain to 620,000 units, NAHB officials said. Regionally, permits issuance in October held steady at 101,000 units in the Northeast and rose 15.4 percent in the West and 9.4 percent in the South. The Midwest posted a 9.6 percent decline, NAHB spokesmen added.

Heritage White Plains Breaks Ground

The 48,000 Square-Foot, Open Air Luxury Retail Destination Targeted to Open in 2016

WHITE PLAINS—Faros Properties and Caspi Development recently received site plan approval and will begin leasing Heritage White Plains, a 48,000 square-foot, open-air, luxury shopping and restaurant destination.

The companies recently made the announcement.

Heritage White Plains is at 120 Bloomingdale Road, across from Bloomingdale's, south of The Westchester and adjacent to the 145,000 square foot former Nestlé headquarters that the partners own and are actively renovating.

Heritage White Plains is positioned for luxury and exclusive retail tenants who prefer an intimate "main street" environment over an enclosed mall, officials said. The environmentally conscious Heritage White Plains development will include between 12 and 18 boutique retailers, specialty shops and restaurants, along with pedestrian walkways, a public arts plaza and an outdoor café.

Spokesmen said that the design creates a new type of lifestyle center with pedestrian friendly shopping and dining. Heritage White Plains offers ease of access - immediate highway access and abundant on-site parking - that is unmatched in other fashionable shopping destinations, officials added.

Faros and Caspi have retained Arrowstreet, Inc., an architecture and design firm based in Boston, to handle all aspects of development. Arrowstreet's design for Heritage White Plains incorporates both modern and classic notes, combining refined contemporary details with natural materials. The full-service architecture, urban design, planning, interiors, and environmental graphics firm has been creating award-winning projects worldwide for more than five decades.

"Arrowstreet is among the top architecture and design firms in the world and has extensive experience in environmentally friendly luxury development," said Joshua Caspi, principal of Caspi Development. "Their innovative designs and sustainable approach align with our vision for the property. We are thrilled to have them on board."

"In addition to filling the last gap in retail expansion along the Bloomingdale Road corridor, Heritage White Plains will provide a new type of center not yet seen in Westchester County," added Alex Leventhal, managing partner of Faros Properties. "Heritage incorporates a high level shopping experience into a sophisticated urban lifestyle environment."

Faros Properties said that it will continue to seek direct and venture investment opportunities nationwide as the compa-

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INSURANCE INSIGHTS

By Ken Fuirst and Jason Schiciano, Levitt-Fuirst Associates

Snow/Ice Slip-and-Fall Claims—Who Pays The Bill?

YONKERS—As we write this article, the sun is glistening on a blanket of snow covering what used to be the brownish-green grass just days ago.

But, the sun is also glistening on another, not so benign shiny surface: "Black Ice" blotting the pavement and sidewalks around our office parking lot.

Ah yes, December, a time for holiday parties and gift-giving, but also the beginning of snow, ice, and that most common of insurance claims: the infamous snow/ice slip-and-fall claim!!!

Builders Institute (BI)/Building and Realty Institute (BRI) members must obtain proper risk transfer documentation and hire properly insured snow/ice removal contractors to help avoid "paying the bills" for a slip-and-fall claim.

Virtually every member category of the Builders Institute (BI)/Building and Realty Institute (BRI) can be affected by snow/ice slip-and-fall claims:

Apartment Building Owners, Condos, Co-ops and Homeowners Associations (HOA's): claims from residents, visitors, service contractors, or even employees.

Property Managers: Most of the time, a property manager who manages an apartment, condo, co-op, or HOA building will be named—along with the building owner entity—in snow/ice slip-and-fall lawsuits.

Building Contractors: Claims come from contractor employees working on the jobsite, and bystanders (whether on/around the jobsite with or without authorization). Or, claims from employees and service providers to the contractor's office location.

Landscape/Snow Removal Contractors: If you're in the business of removing snow and salting ice at residential or commercial properties, and if there's a snow/ice slip-and-fall claim, your company may be named, or impleaded into a related lawsuit. Your employees could even slip-and-fall while doing their jobs.

So who pays the bill for Snow/Ice Slip-and-Fall Medical Bills, Lost Wages, Legal Defense Costs and/or Monetary Settlements/Judgments?

While you're likely hoping the answer is "anyone but me or my insurance company," the answer is complicated. Let's examine some of the key issues:

Possible Claimants and Applicable Insurance Policies

- **Employees.** Employees injured "on the job" have the right to collect workers compensation insurance and employers must—by law—provide workers compensation insurance. If your snow/ice removal contractor, or building superintendent, uses "day workers" (e.g. workers hired for the day, and normally paid cash), these day workers are still entitled to workers comp benefits, if they are injured. Therefore, Building Owners should 1) Have a workers comp policy before directly hiring any individual (even day workers) to perform snow/ice removal; 2) Hire only snow/ice removal contractors that show proof of workers compensation insurance (or else risk financial liability associated with the employer's failure to provide workers compensation insurance.)
- **Contractors Working At Your Property Or Jobsite.** As noted above, employees of contractors working at your property are entitled to workers comp if they are injured by a snow/ice slip-and-fall. But in addition, in New York State, thanks to Labor Laws 240/241, contractors' employees injured on a jobsite can sue the building owner for liability associated with failure to provide a safe workplace (even if the building owner had no supervisory role over the contractor employee.) Such liability claims would typically apply to the general liability policy of the building owner, or contractor employer, if risk transfer has been accomplished. This is referenced in the following sections.
- **Residents/Visitors/Bystanders To Your Property Or Jobsite.** These groups can sue the property owner for negligent failure to properly and/or effectively remove snow/ice. Similar to previous sections, the general liability policy of the property owner (or contractor employer, if risk transfer has been accomplished) would typically apply.
- **Property Managers.** Since property managers often have responsibility for identifying, or contracting for, snow/ice removal services on behalf of the properties that they manage, property managers are often co-defendants in snow/ice slip-and-fall lawsuits.

Indemnity and Additional Insured Status

Relating to slip-and-fall bodily injury claims for negligence, and specifically excluding workers compensation benefits (which are an automatic right of an employee injured on-the-job), who (or whose insurance company) is legally and financially responsible for the claim, again depends on multiple factors, including:

- **Additional Insured Status.** If you are a property owner who employs a snow/ice removal contractor, you should make sure that you are an "Additional Insured" on the contractor's general liability policy (and also its auto and umbrella liability policies). A contractor certificate of insurance listing you as "Additional Insured" is usually not enough to establish Additional Insured status. A written contract, wherein the contractor agrees to name you as "Additional Insured", or a specific endorsement to the contractor's policies, is typically required, in addition to the certificate. If a contractor's liability insurance policy recognizes you as an Additional Insured, these policies may (subject to other policy terms) respond on your behalf, thus avoiding a claim against your liability insurance policy (and potentially higher resulting premiums).
- **General Liability Policy Exclusions.** Even if the property owner is a recognized Additional Insured on a snow/ice removal contractor's liability policy, the policy may contain exclusions (injured worker exclusions; contractual liability exclusions, etc.) that could exclude coverage for the property owner. In order to avoid this unfortunate outcome, have your insurance broker and/or attorney examine your snow/ice removal contractor's liability insurance policies.
- **Indemnification.** Indemnification is a complicated topic, which we will not detail in this article. However, in general, in order to increase the likelihood that a property owner's snow/ice removal contractor (and its insurance carriers) respond on behalf of the property owner, in addition to obtaining additional insured status, the property owner should secure a written indemnification agreement, wherein the contractor holds-harmless

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Study: Housing Affordability Continues to Slide in Third Quarter

WASHINGTON, D.C.—Strengthening house prices and increased interest rates in metros across the country contributed to lower housing affordability in the third quarter, according to the recently released National Association of Home Builders (NAHB)/Wells Fargo Housing Opportunity Index (HOI).

The study was released in mid-November.

In all, 64.5 percent of new and existing homes sold between the beginning of July and the end of September were affordable to families earning the U.S. median income of $64,400. The figure is down from the 69.3 percent of homes sold that were affordable to median-income earners in the second quarter and the biggest HOI decline since the second quarter of 2004, the report said. "Housing affordability is being negatively affected by a 'perfect storm' scenario," said NAHB Chairman Rick Judson. "With markets across the country recovering, home values are strengthening at the same time that the cost of building homes is rising due to tightened supplies of building materials, developable lots and labor." "The decline in affordability is the result of higher mortgage rates and the more than year-long steady increase in home prices," added NAHB Chief Economist David Crowe. "While affordability has come down from the peak in early 2012, the index still means a family earning a median income can afford 65 percent of homes recently sold. Some of the decline in the affordability index could be the result of a loss in some more modest-priced home sales as tight underwriting standards have limited the purchases by moderate-income families."

Indianapolis-Carmel (Indiana) and Syracuse (N.Y.) were tied as the nation's most affordable major housing markets as 93.3 percent of all new and existing homes sold in this year's third quarter were affordable to families earning the areas' median incomes of $65,100 and $65,800, respectively, the report said.

Meanwhile, Kokomo (Indiana) claimed the title of the most affordable smaller market, with 96.9 percent of homes sold in the third quarter being affordable to those earning the median income of $60,100.

Other major U.S. housing markets at the top of the affordability chart in the third quarter included Youngstown-Warren-Boardman (Ohio-Pa.); Harrisburg-Carlisle (Pa.); and Buffalo-Niagara Falls (N.Y.), in descending order, the report said.

Smaller markets joining Kokomo at the top of the affordability chart included Vineland-Millville-Bridgeton (N.J.); Davenport-Moline-Rock Island (Iowa-Ill.); Bay City (Mich.); and Springfield (Ohio).

For a fourth consecutive quarter, San Francisco-San Mateo-Redwood City (Calif.) held the lowest spot among major markets on the affordability chart, according to the report. There, just 16 percent of homes sold in the third quarter were affordable to families earning the area's median income of $101,200. Other major metros at the bottom of the affordability chart included Los Angeles-Long Beach-Glendale (Calif.); Santa Ana-Anaheim-Irvine (Calif.); New York-White Plains-Wayne (N.Y.-N.J.); and San Jose-Sunnyvale-Santa Clara (Calif.), in descending order, the report said.

All of the five least affordable small housing markets were in California in the latest quarter. At the very bottom of the affordability chart was Santa Cruz-Watsonville, where 20.3 percent of all new and existing homes sold were affordable to families earning the area's median income of $73,800. Other small markets at the lowest end of the affordability scale included San Luis Obispo-Paso Robles, Santa Rosa-Petaluma, Napa and Salinas, respectively. The NAHB/Wells Fargo HOI is a measure of the percentage of homes sold in a given area that are affordable to families earning the area's median income during a specific quarter. Prices of new and existing homes sold are collected from actual court records by Core Logic, a data and analytics company. Mortgage financing conditions incorporate interest rates on fixed- and adjustable-rate loans reported by the Federal Housing Finance Agency, the study said.

The NAHB/Wells Fargo HOI is strictly the product of NAHB Economics and is not seen or influenced by any outside party prior to being released to the public, NAHB officials said.

Residential Developments Are Helping to Revitalize the Village of Ossining, Spokesmen Stress in New Report

OSSINING—The Village of Ossining's waterfront and Main Street shopping crescent are poised for a transformation as four new residential mixed-use developments take shape while helping to revitalize the historic village, officials recently said in a new report.

Three projects—Avalon Ossining, 147-155 Main Street and 105-107 Croton Avenue — are currently in the construction phase. A fourth, Harbor Square, is expected to soon follow, with final approvals from the village now in place, officials said.

Once completed, the developments will offer more than 400 new rental units in the village, from affordable housing to luxury apartments, officials added. The report said that officials from The Village of Ossining are hoping to attract young professionals and empty nesters alike looking for a combination of affordable living, waterfront views, and convenience, with easy access to mass transit and New York City a mere 45 minutes away.

Avalon Ossining and Harbor Square are both planned as luxury developments, the later with a full-service concierge. Two developments, Avalon Ossining and 147-155 Main Street, have scheduled completion dates in the first half of 2014, the report said. "These brand new apartments are perfect for anyone interested in living in an urban, yet historic community," said Ingrid Richards, the Village's manager of downtown and economic development. "We are very excited to see these developments progress. Our growing retail and restaurant businesses will also benefit greatly from the new additions."

Earlier this year, the Stagg Group, a Westchester-based developer, purchased the village-owned property at 147-155 Main Street. The parcel, known as the "We Can Do It" lot, has been vacant for more than 15 years following a devastating fire. Construction is now underway for a five-story, mixed-use building containing 31 apartments, 1,202 square feet of retail space, and 3,185 of restaurant space. The new brick and masonry building will blend with the village's existing historic architecture and is expected to be move-in ready by April or May of 2014, officials said.

A Milestone

"The redevelopment of this parcel represents another milestone of success for the Village of Ossining," said Mayor William R. Hanauer. "It will complete the historic Main Street shopping crescent and represents yet another forward step in the renaissance of the village and the rejuvenation of its downtown."

Also in the construction phase, 105-107 Croton Avenue will feature 14 rental units, as well as 2,700 square feet of retail space, the report said. Hanauer added: "Those living in the Stagg building will have market rate and affordable quarters with the convenience of contemporary living in our historic downtown, across the street from the farmers market and within walking distance to the Ossining Station. New Croton Avenue tenants will have more reasonably priced units, convenient to excellent shopping, as well as three of our excellent schools."

Once completed, the developments will offer more than 400 new rental units in the village, from affordable housing to luxury apartments, officials added.

Owned and operated by Avalon Bay Communities Inc., Avalon Ossining will offer 168 brand-new luxury apartments for lease starting in February, 2014. Located at 217 N. Highland Avenue on the site of an old office building now demolished, the new, smoke-free community will feature one, two and three-bedroom apartment homes. Amenities ranging from large contemporary kitchens and energy-efficient appliances, to private balconies with stunning views of the Hudson River are included, officials said. Avalon residents will have access to a state-of-the-art fitness center, an outdoor swimming pool, a clubhouse, a children's playground and a WiFi Café. The community is one mile from the Ossining Metro-North Railroad Station and within walking distance to nature trails and hiking along the Crawbuckie Nature Preserve, spokesmen added.

"Ossining has always been home to people of all economic abilities. To guarantee that we continue to provide affordable housing, the Board of Trustees passed a policy in 2006, then codified and enacted that policy in 2009, mandating that all development of six units or more provide that 10 percent of the units be affordable as defined by the state," said Hanauer.

He added: "What the Village has always lacked, however, is luxury rental apartments. With the construction of Avalon and Harbor Square, people with significant disposable income will have luxury apartments with spectacular river views, with some affordable units among them."

On The Waterfront

Ginsburg Development Companies, LLC recently received final approval from the Village of Ossining's Board of Trustees for Harbor Square, a 188-unit luxury rental community on the Hudson River waterfront, the report said.

Located on Westerly Road, across the street from the train station and adjacent to the historic Main Street business district, Harbor Square will offer apartments ranging in size from studios to three bedrooms, many with balconies. Additional amenities include a rooftop fitness center, spa and swimming pool. Currently scheduled to open in the spring of 2015, Harbor Square's 4.5-acre site will also feature a new restaurant and waterfront park, according to spokesmen.

"All four of these residences will have attendant commercial space, which together will accomplish our goal of spreading the tax base," said Hanauer. Those interested in receiving more information on downtown and economic development in the Village of Ossining can contact the Village Manager's Office at 914-941-3554, or visit www.villageofossining.org, officials said.

Trust In, and For, a Cooperative?

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this issue, this does not appear to be a major problem since among other things, the specific proprietary lease with the individual shareholder could be amended to reflect this policy when necessary, apartment by apartment.

•Payment of flip tax and other charges to the Cooperative. Does the Board want to have a flip tax paid in this situation? There are also transfer agent fees.

•Payment of counsel fees. If the Board adopts a policy to allow such transfers, the expenditure of counsel's time can be substantial. Trust agreements can be very complex and they have to be carefully reviewed with the Board's protection in mind. Boards that have dealt with issues such as this require that the shareholder bear the full cost of the Co-operative counsel's legal fees even if the transfer, for some reason, does not materialize. The time expended will be in the area of review of the trust agreement (and these can be quite complex and complicated); discussion and drafting of new documents; explanation of documents and purpose of same to Shareholder(s) counsel; seeking of opinion letter from counsel and review of same; and supervision of execution or review of documents after execution to assure proper execution.

Conclusion

While the ownership by a trust may be complex and create legal problems, as well as some degree of risk to the Co-operative, it would appear that these problems and risks can be generally eliminated by the drafting and signing of the Board's documents as prepared and reviewed by the Board's counsel.

The issue of whether or not the Board wants to allow ownership by a non-person is discretionary with the Board, as is the basic issue of whether the Board wants to allow Trust Ownership.

Editor's Note: The authors are with Finger and Finger, A Professional Corporation. The firm is Chief Counsel to The Building and Realty Institute of Westchester and The Mid-Hudson Region (BRI). Finger and Finger is based in White Plains.

Snow/Ice Slip-and-Fall Claims—Who Pays The Bill?

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the property owner, and the property manager (if applicable) from claims arising from the contractor's work. Absent an indemnification agreement, obtaining coverage for a snow/ice slip-and-fall claim from a contractor's insurance may be delayed or prevented, in absence of an indemnification agreement.

- **Reverse Indemnification/ Additional Insured.** In recent years, the legal defense and judgment costs associated with snow/ice slip-and-fall claims have become so exorbitant, that insurance carriers providing liability insurance to snow/ice removal contractors—especially those providing "cheap" insurance—have endeavored to place the risk associated with slip-and-fall claims back onto the property owner, by having the property owner agree to indemnify the contractor and name the contractor Additional Insured (something a property owner should never agree to).

If your snow/ice removal contractor is providing the work contract, or other documents for signature, make sure they do not obligate you to name the contractor as Additional Insured and/or require you to indemnify the contractor. If you are a snow/ice removal contractor, you may want to check your policy (especially if it was surprisingly inexpensive, or if you had a lot of prior slip-and-fall claims) to make sure your policy does not contain these "reverse" requirements, since your clients may be furious to learn about them, especially after a claim, if they unknowingly agreed.

Yes, insurance is more complicated and confusing than ever these days, and claims for snow/ice slip-and-falls are near the top of the complexity list.

Given the frequency of these claims, and that nearly everyone (building owners, property managers, contractors, etc.) are exposed, it pays (literally) to understand the factors involved with liability and insurance. Your insurance broker and attorney can help.

Editor's Note: Levitt-Fuirst Associates, Ltd. is the Insurance Manager for The Building and Realty Institute of Westchester and The Mid-Hudson Region (BI-BRI). Levitt-Fuirst Associates is based in Yonkers.

Veteran Manager Announces Formation of Ferrara Management Group

ARMONK—Robert Ferrara, a veteran of the Westchester and Mid-Hudson Region property management industry, recently announced the formation of The Ferrara Management Group (FMG).

FMG specializes in the management of co-ops, condos and rental apartment buildings, company officials said.

Ferrara has more than 23 years of experience in the property management sector. He is a member of the Board of Directors of The Advisory Council of Managing (ACMA), an affiliate organization of The Building and Realty Institute (BRI).

ACMA is composed of the leading property management companies in The Westchester and Mid-Hudson Region. The BRI is a building, realty and construction industry membership organization with more than 1,400 members in 14 counties of New York State.

FMG is based in Armonk. The firm has a staff of six veteran members of the local property management sector, company officials said.

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ny expands its portfolio. Company officials said that the firm will continue to explore overlooked development opportunities created by the recent economic downturn.

Faros Properties is a New York City-based real estate investment firm established by Alexander Leventhal, Jeremy Leventhal and Elliot Gould as a platform to target long-term private investment opportunities. Faros primarily targets core investments in supply-constrained markets with high concentrations of intellectual capital, officials said. Faros and its predecessor companies trace their roots to family-owned operations. The family has, for more than six decades, been actively involved in the construction, development, acquisition, management and financing of more than 50 million square feet of real estate internationally.

Caspi Development has been a leader in the ownership, management and development of residential and commercial real estate for more than 40 years. Based in Purchase, the company is known for its diversity and ability to respond to market conditions and capitalize on opportunities, according to company spokesmen.

In recent years, the company has acquired, through joint venture, approximately 1,600 apartments in New York City. Most recently, Caspi Development projects include a 500-unit apartment package in the Bronx with Finkelstein Timberger and CBRE Capital Markets, as well as a number of high-end apartment projects in Brooklyn with Artemis Real Estate Partners.

Other notable Caspi Development projects include:

- The 600-room Holiday Inn in midtown Manhattan on 57th Street.
- The Chambers Hotel, a luxury 80-room hotel off Fifth Avenue and 56th Street.
- The Stamford Marriott Hotel in Stamford (Conn.).
- The Classic in Stamford and Hartsdale.
- 235-245 Main Street, a 158,000 square foot office property in White Plains.
- The Sanborn Map Building, a 75,000 square-foot office property in Pelham.

Economic Analysis for 2014 Topic of BRI's January 16th General Membership Meeting

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omist with J. & W. Seligman & Co., Inc., between 1972 and 1989. He has also been an economist at Citibank and the Federal Reserve Bank of New York. "We are very happy that Dr. Goodman will be speaking at our annual Economic Forecast Membership Meeting," said Albert Annunziata, executive director of the BRI. "His presentations are always very informative. They have always been well-received by our membership."

Annunziata said that BRI members will soon receive notices on the event. He added that the association is accepting advance reservations for the meeting at (914) 273-0730.

The BRI is a building, realty and construction industry membership organization. The association, based in Armonk, has more than 1,400 members in 14 counties of New York State. Members of the BRI are involved in virtually every sector of the building and realty industry. The association was formed in 1946.

Mack-Cali Acquires New Jersey Complex

EDISON, N.J.—Mack-Cali Realty Corporation recently announced that it has acquired the two-building, 159-unit multifamily property known as Park Square in Rahway, N.J.

The property includes a parking garage and approximately 6,000 square feet of retail space. The facility was acquired for a purchase price of approximately $46.5 million, officials said.

The multi-family property consists of one- and two-bedroom luxury apartments ranging from 800 to 1,480 square feet. The property, which is 94 percent leased, was acquired from Landmark Companies of Keasbey, N.J., officials added.

Park Square offers residents an impressive amenity package, including a 24-hour fitness center, 24-hour resident service, an enclosed, secure private garage with parking options, a community room with Wi-Fi and a billiards room, as well as convenient on-site retail. Spokesmen said that the property is strategically located, since it provides a two-minute walk to the Rahway train station. The location offers ideal access to Liberty International Airport and Manhattan, as well as the Jersey Shore.

Mack-Cali's Roseland subsidiary will manage and lease the property with the best-in-quality standards for which it is known, company officials said.

Mitchell E. Hersh, president and chief executive officer of Mack-Cali, said: "The Mack-Cali/Roseland team is thrilled to acquire Park Square, a true luxury rental community that offers residents spacious, well-appointed apartments in an ideal transit-oriented location. Park Square further fulfills Roseland's mission of building visionary lifestyle."

Mack-Cali Realty is a fully integrated, self-administered, self-managed real estate investment trust (REIT). The company provides management, leasing, development, construction and other tenant-related services for its Class A real estate portfolio. Mack-Cali owns or has interests in 276 properties. They consist of 266 office and office/flex properties totaling approximately 30.7 million square feet and 10 multi-family rental properties containing more than 3,400 residential units, all in the Northeast. The properties enable the company to provide a full complement of real estate opportunities to its diverse base of commercial and residential tenants, officials said.

Houlihan-Parnes Announces Upstate Transaction

FARMINGTON, N.Y.—Houlihan-Parnes Realtors, LLC, represented by Jerry Houlihan, recently announced the financing of the Travelodge Hotel on 6108 Loomis Road in Farmington.

The two-story, 109-room hotel is in the Finger Lakes Region of central New York. The facility's amenities include a swimming pool and restaurant, as well as an elevator.

Houlihan arranged a loan of $225,000 with a private group of investors for a one-year term. The lender was represented by W. Stephen Tierney, Esq., of Woods Oviatt Gilman LLP.

Houlihan-Parnes Realtors, LLC is a multi-faceted real estate investment company headquartered in White Plains. Founded in 1891, its companies and affiliates are engaged in the acquisition and ownership of all types of commercial real estate investment property in the continental U.S., spokesmen said.

Houlihan-Parnes and its affiliates specialize in commercial mortgage finance, investment sales, property management, leasing, mortgage servicing and consulting, officials added.

Goldschmidt and Associates Reports Local Transactions

BRONXVILLE—Eric S. Goldschmidt, senior partner at Scarsdale-based Goldschmidt and Associates, recently announced that the company has brokered the sale of the former DiCicco Marketplace property at 505 New Rochelle Road in Bronxville to CVS Caremark Corp.

The former food market will be renovated and occupied by a 7,800 square-foot CVS Pharmacy, Goldschmidt added.

Officials said that the new CVS location is strategically located between the company's Eastchester and Pelham stores. It will be an excellent addition to the community, as it will sell packaged food, drinks and dairy products, as well as health and beauty aids, officials added. The facility will also contain a full CVS Caremark Pharmacy.

The store opening, in early 2014, complements the opening in mid-November of the 14,400 square foot CVS Pharmacy at 2290 Central Park Avenue in Yonkers, the former site of Nathan's. CVS will occupy 50 percent of the new strip center. Goldschmidt and Associates is the exclusive broker for the center and was the sole broker for the CVS Caremark lease.

T.M. Crowley and Associates was the preferred Developer for CVS/Caremark on both transactions, officials added.

Since 1991 Goldschmidt and Associates has specialized in the sale and leasing of retail, commercial and industrial real estate in the New York metropolitan area. It is licensed in New York, New Jersey, and Connecticut, company spokesmen said.

Houlihan-Parnes Reports a Bronx Transaction

NEW YORK—Houlihan-Parnes Realtors, LLC, represented by Jerry Houlihan, recently announced the sale of 2285 Andrews Avenue North in the Bronx.

The building is on the west side of the street between West Fordham Road and West 183rd Street. The property contains 37 rental units, plus a super's unit in the basement. The building was sold on a co-brokerage basis with Houlihan-O'Malley Real Estate Services, Inc. The buyers satisfied a 1031 Tax Free Exchange with the purchase, officials said.

Sean Leyden of Garfunkel Wild, PC represented the buyers in the transaction.

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Houlihan-Parnes Involved In Connecticut Transaction

STAMFORD, Conn.—A partnership that includes members of Houlihan-Parnes Realtors has purchased the remaining 12 unsold condominium apartments at the Classic Condominium in Stamford, company officials recently announced.

The complex is at 25 Forest Street. The purchaser was represented by Rob Ocko of Harrington Ocko and Monk, LLP.

The high-rise property features one, two and three-bedroom apartments. Penthouse apartments are also at the facility. The complex also features an indoor pool, indoor underground parking, a fitness center and a lounge for residents. Some of the newly purchased apartments are under renovation. They will eventually be marketed for sale, officials said.

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TECH TALK

Seven Technology Trends to Watch in 2014

By Andrea Wagner
Wagner Web Designs, Inc.

DANBURY, Conn. – Here's a wish for a Happy New Year to all. And with that wish comes seven key trends we should watch in 2014.

1. The iPad has created a powerful productivity tool in the hearts and minds of business users. Now with tablets from Microsoft, Google, and others, your website must be "tablet-friendly."

2. Smartphones and Beacon-Based Sensors Will Become a Very Big Deal (from Tim Bajarin, PC Magazine). Experts are saying that 2014 will be the year that Bluetooth Low Energy Beacons take off. Potential uses include placing them around ball parks so that they can communicate with smartphones and tablets to give you related information about game stats, deals from concession stands, and coupons for discounts on branded clothing. They could also be used in stores, so that as you pass with a beacon on it, it sends a message to your smartphone announcing a deal on the products that expire within 30 minutes. Apple is leading the charge in this space with its iBeacon technology, but Microsoft and Google are also working on similar programs.

3. Speaking of Smart Phones, the world will become "mobile-first," with mobile experiences outnumbering the desktop, tablets and other smart devices. Consider a mobile website for your business routines.

4. The growth of "the cloud" will make devices less important than the services accessed through them.

5. This year saw the increased use of wearable tech, such as the Nike+ Fuel Band and Fitbit. This market is expected to grow to 100 million units by the end of 2014.

6. According to Pew Research, 21 percent of Americans already use some form of technology to track their health data, and, as the market for wearable devices grows, so too will the mountain of data about our behaviors and vitals. During the new year, we may see more of this data incorporated into our day-to-day medical care.

7. And, finally, regardless of whether you are marketing B2B or to consumers, at the receiving end of any communication is a person. This is where the ultimate engagement needs to lie. So get out and network, meet for lunch, and communicate!

Editor's Note: Andrea Wagner has been creating Websites and offering services for small businesses for more than 16 years. Her company's web address is www.wagnerwebdesigns.com.

Graf Involved In the Financing of White Plains Building

WHITE PLAINS—Ed Graf of Houlihan-Parnes Realtors, LLC recently arranged a $7,850,000 first mortgage on the newly-constructed, 30-unit apartment building at 68 Lake Street in White Plains, company officials said.

The interest rate on the loan is fixed at 3.75 percent for the entire seven-year term, with a 30-year amortization schedule. The non-recourse financing was done at par and has a prepayment privilege on a declining scale, officials said.

Spokesmen added that there also is a five-year option to extend. The borrower was represented by Steven Pearsall, Esq. of Gaboriault and Pearsall, P.C.

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Klansky Joins Executive Leadership Team of U.S. Energy Group

FRESH MEADOWS, N.Y.—U.S. Energy Group recently announced the expansion of the company's Executive Leadership Team to include Brian Klansky as Senior Vice President of Sales.

The addition of Klansky is the latest growth move for U.S. Energy Group, a market leader in the area of building energy management services, company officials said.

"I am thrilled to welcome Brian to our executive team," said Jerry Pindus, chief executive officer (CEO) of U.S. Energy Group. "He has the experience and the enthusiasm needed to excel at an industry leader like U.S. Energy Group, as we take enterprising steps to help managers reduce fuel consumption and run their buildings more efficiently."

As Senior Vice President of Sales, Klansky will be responsible for all aspects of sales and marketing at U.S. Energy Group. They include strategic development, demand generation, and revenue. He will continue to expand the company's footprint by fostering geographic growth and widening the scope of U.S. Energy's managed services department, company officials said.

Previously, Klansky was Vice President of Sales at M5 Networks, a leader in cloud telephony, for seven years. While at M5, Klansky grew sales from under $10 million to over $50 million, spurring ShoreTel (SHOR) to acquire the company, which now brings in $100 million in sales each year, according to company spokesmen.

The addition of Klansky to U.S. Energy Group has resulted in a burgeoning demand for TEEM, the company's new enhanced energy management and metering service that provides clients with a dedicated Energy Manager. The manager works to maximize fuel, electric, and water savings for clients while improving tenant comfort.

The company's other flagship products, including the Building Energy Management System (BEMS), which reduces fuel usage by 15-to-40 percent, The Verifier® Digital Fuel Gauge, and the USE Manager Online Information Portal, are all experiencing substantial increases in sales, officials said.

"At U.S. Energy Group, we offer technologically innovative solutions and enhanced managed services that enable property managers to control and reduce their energy usage and save money," Klansky said. "I am pleased to be developing and directing the strategic marketing and sales plan."