

NEWSBRIEF: LEGISLATIVE UPDATE

Happy New Year!

by Dave Corsi, MREIA Legislative Awareness Chair

Hope one and all had a happy and safe New Year. It appears 2009 will shape up to be a very interesting year! From a legislative standpoint expect more of what transpired in 2008. Politicians and the legislatures will keep proposing mountains of legislation, most of which, while designed to “help” will most likely make the situation worse. Below are a few observations as to what will be coming down the pike.

Bed Bug Legislation – Yes, you read that right. Trenton has held hearings the past few months on this issue. The upshot is legislation that will hold the landlord liable for eradication of bed bugs in their furnished units, regardless of the cause of the infestation. Here are just a few problems with this proposal; many tenants, even in furnished apartments, bring in some furniture, mattresses and pillows that they own. What if the bed bugs came from the tenant’s belongings? One could also envision a tenant having a dispute with their landlord, (non-payment of rent) then claiming the unit is infested with bed bugs, rendering it uninhabitable and claiming damages.

You may be thinking that you are safe since you do not rent “furnished units.” Keep in mind that politicians seeking votes never sleep and the chances are good that this legislation via the state or the court system will ultimately include all landlords.

“Subject to” Mortgages – Throughout the nation, several states have pending bills to make doing “subject to” real estate deals **illegal**. Briefly stated, “subject to” is when a buyer purchases a property from a seller without paying off the existing mortgages and without the mortgagee’s consent. (note: getting the lender’s permission to take over a loan and the existing payments would be an “assumption” of the mortgage). Needless to say, many investors have used “subject to” to purchase thousands of properties over the years. There have been discussions in Trenton to make “subject to” deals in New Jersey illegal as well. I will keep you posted.

Lease Option Transactions – In 2008 legislation was offered to limit or eliminate lease option transactions in New Jersey. So far, MREIA in conjunction with NJAREP, has been successful in getting the Legislature to slow down and carefully look at lease options.

On the positive front, the financial meltdown has caused Congress to look for different ways to shore up the financial sector, particularly the banking system. Please be aware that legislation is to be introduced in January, which will allow real estate “dealers” (flippers, contractors, builders, etc.) to elect **“installment sale tax treatment”** on real estate sales. Currently “dealers” are required to pay the tax on their profit in the year of sale, even if they did **not** yet receive some or all of the profit. By allowing the use of the *“installment sale tax treatment,”* the dealer will be able to pay tax on the profit as the money is received. This would create a huge opportunity for the real estate community while helping to strengthen and limit the risk and liability to the banking industry. In the “Metro” and the “Legislative Corner” of our home page, we will keep you informed as the legislation makes its way through Congress. We will also continue to monitor, meet with, testify at hearings and recommend amendments to protect private property rights.

How can **YOU** help us in 2009? If one thing was reinforced to the leaders of MREIA the past few years it is: *“the squeaky wheel gets the grease.”* We will be requesting a **“call to action”** from our members in 2009 asking you to get involved.

Getting involved means contacting your elected officials at the local, state and federal level. Write letters, email, phone and meet with them to express your views on topics that concern you. In the meetings we have held with political leaders, what has been universal is their attempting to gauge how many potential voters we represent. The cold hard fact is, that in most cases, they are only interested in what we have to say if we have numbers (i.e., voters) behind us. Political consequences trumps all!

I cannot stress enough how important it is to the financial, economic and emotional welfare of our nation for you to be an informed citizen and let your voice be heard. Best wishes on a happy, safe and prosperous New Year. ***The author is a Past President of MREIA and has made presentations at MREIA meetings and the Learning Annex.***