



2023  
**Legal**  
Update

**DECEMBER**



New York State Association of REALTORS®, Inc.

Legal Hotline

**Monday-Friday**

**9:00a.m.-4:00p.m.**

**518-436-9727**

# Welcome!!!

- NYSAR's free monthly Legal Update CE
- May take once every license renewal period for 1 credit under legal update category
- Recorded and livestreamed for non-credit

## 2024 Dates

- January 9
- February 20
- March 12
- April 2
- May 21
- June 11
- July 23
- August 20
- September 10
- October 22
- November 19
- December 17

## How to Register

- NYSAR.com
- Education
- Legal Update CE Course
- Register for a legal update

# ARE TELEMARKETING COLD CALLS STILL PROHIBITED?

Are cold calls still prohibited?

**YES**

# When Will the State of Emergency Expire?

- NO COLD CALLS
- The law is not industry specific and is triggered statutorily by **any** SoE
- Currently multiple SoE's in effect
- Only when all SoE is lifted will cold calling be permitted

# How will I know when the SoE's expire?

- NYSAR news via email
- <https://www.nysar.com/legal/legal-news/>

# How will I know when the SoE's expire?

- **EO 28.7: Support Asylum Seekers**

**Declared:** Extended on October 23, 2023 (Original EO 28 declared May 9, 2023)

**Expires:** December 20, 2023

- **EO 3.27: Disaster Emergency related to Gun Violence**

**Declared:** Extended on November 9, 2023 (Original EO 211 declared July 6, 2021)

**Expires:** January 7, 2024

## General Business Law §399-z(14)(a)

Effective 9/13/2023

Where it is determined after hearing that any person has violated one or more provisions of this section, the secretary, or any person deputized or so designated by him or her may assess a fine not to exceed ~~eleven~~ **twenty** thousand dollars for each violation.

# NAR LAWSUITS

# What Are They?

- Two different lawsuits: Sitzer/Burnett and Moehrl
- The lawsuits claim that NAR rules violate antitrust laws and inflate the fees paid to buyer's agents by requiring a listing agent to compensate a buyer's agent for listing a property on the MLS.
- Settlements by brokers and MLS should not be viewed as a concession that the plaintiffs will prevail

# What Are They?

- Sitzer/Burnett decided 10/31/2023
- There will be an appeal
- Decision not published by judge
- Scope of decision is currently unknown

# What Could it Mean for Brokerages

- Worst case scenario-prohibiting cooperating compensation to buyers
- Best case scenario-we continue practicing as we are now

# What is Happening Now

- MLS are now allowing 0% compensation to buyer agents on listings
- Buyer agents must discuss compensation during first substantive contact
- Commission should be agreed to prior to entering into a buyer agency relationship
- Do not wait until buyer wants to submit offer to discuss commissions
- Failure to discuss may lead to buyer agent not be compensated and suing the buyer under “unjust enrichment” theory

# What Should We Do

- Use of an Exclusive Right to Represent/Buyer Broker Agreement (ERTR) should become a standard practice
- Brokers need to review their NYS SOP if they want to mandate ERTR
- Brokers may also use a non-exclusive commission agreement without amending their SOP
- Brokers should educate their associated licensees as to the different ways in which buyer agents can collect commissions

# What Should We Do

- Listing agents offer cooperating compensation to buyer agents
- Buyer agrees to include compensation to buyer agent in purchase offer
- Buyer agrees to compensate buyer agent themselves
- If buyer refuses to compensate buyer's agent you do not have to work with them

## In the Meantime...

- NYSAR is working closely with REBNY to determine the impact on NY broker practices
- Drafting a non-exclusive commission agreement for buyer agents
- Educate membership if the court rules in favor of the plaintiffs
- Until the court issues a decision, we won't know what we will or will not be able to do

## NYSAR Resources

- <http://www.nysar.com>
- Information will be updated if there are any changes

# ANTITRUST LAWSUIT RESOURCES

# NYSAR Resources

## How does the Sitzer decision impact me today as a New York licensee?

There is no immediate impact on how licensees conduct business in New York. The lawsuit is far from over as NAR is in the process of filing post-trial motions and will appeal the decision. Regardless of the outcome of the lawsuit and any appeal, licensees should inform consumers that commissions/compensation are negotiable and agreed upon between the broker and consumer, discuss commissions/compensation with the consumer so they understand how commissions/compensation are paid and who would be responsible for the payment. In doing so, licensees should also be emphasizing the value of utilizing a buyer's agent and promoting the use of exclusive or non-exclusive commission/compensation agreements.

# NYSAR Resources

Recently, NAR's policy on cooperative compensation has been interpreted to permit 0% cooperating compensation to cooperating brokers through an MLS. How does this impact members of an MLS where 0% cooperating compensation is being offered?

Licensees should discuss commissions/compensation with potential buyer clients prior to entering into an agency relationship. The discussion should include how the buyer's agent is being paid and who is responsible. It is highly recommended that the terms under which the broker is entitled to commissions/compensation are set forth in writing. This should not be anything new for licensees as these discussions should have been occurring prior to the lawsuit as not all property for sale offered compensation to buyer's agents such as a FSBO.

## NYSAR Resources

May a listing broker still offer cooperating compensation to a cooperating broker?

Yes. Listing brokers and the seller determine how much cooperating compensation to offer cooperating brokers. The amount of compensation can be any amount, including 0%. Listing brokers should inform the seller as to the various scenarios under which a cooperating broker may be compensated (seller offers cooperating compensation, buyer's agent requests compensation from seller, buyer's agent is paid by buyer or any combination of the same.)

## NYSAR Resources

If a prospective buyer client will not agree to compensate me as a buyer's agent, do I have to work with them?

No, licensees do not work for free. Prior to entering into a buyer agency relationship with a buyer, you must discuss compensation with the potential buyer client. The discussion should include how much compensation you will be paid and who is responsible for such payment. If a buyer does not agree to compensate you if a seller is not offering compensation or the amount of compensation being offered is lower than what would be agreed upon, you are not obligated to represent the buyer. Remember, licensees must have this discussion with the buyer prior to entering into a buyer agency relationship.

## NYSAR Resources

What if my local REALTOR association/board, MLS or brokerage are named in a copycat lawsuit?

You should immediately contact your attorney followed by your insurance provider and notify them of the lawsuit pursuant to the terms of the insurance policy. If an association/board or MLS is sued, such information should also be communicated to the officers and directors under advice of your legal counsel. You should also notify NAR and NYSAR's legal department.

# NYSAR Resources

Does the NYS Standard Operating Procedure (SOP) law apply to brokerages that choose to use Exclusive Buyer Broker /Exclusive Right to Represent Agreements?

Yes. If a broker chooses to require Exclusive Buyer Broker /Exclusive Right to Represent Agreements from buyer clients, the brokers SOP should be updated. The Broker's SOP must be made available to the public by posting them on any public facing websites and/or mobile applications the broker maintains. The broker must also ensure that any of the broker's individual agents or teams that have public facing websites or mobile applications also post the Broker's SOP's on such platforms. The Broker should create a "hardcopy" of the Broker's SOP at every office location and provide them to prospective homebuyers upon request and retain all copies of the various iterations of the Broker's procedures indefinitely, in order to demonstrate what procedures had been required from time to time and when such procedures had been changed. The initial Broker's procedures must be date stamped and notarized as well as posting to public facing websites and mobile applications. If alterations or updates are made to the Broker's procedures, they must be date stamped, notarized and posted to public facing websites and mobile applications within 30 days of the alteration. For more information about complying with the SOP law please click here:

<https://www.nysar.com/standard-operating-procedure-law-effective-april-20-2022-impacts-all-brokerages/>

# PCDS AMENDMENT FLOOD DISCLOSURE & REMOVAL OF \$500 “OPT OUT”

# PCDS Amendment-Flood Disclosure

**Effective March 20, 2024**

# PCDS Amendment-Flood Disclosure

A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE TRANSFER OF TITLE. ~~IN THE EVENT A SELLER FAILS TO PERFORM THE DUTY PRESCRIBED IN THIS ARTICLE TO DELIVER A DISCLOSURE STATEMENT PRIOR TO THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE, THE BUYER SHALL RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPERTY.~~

## PCDS Amendment-Flood Disclosure

**As of March 20, 2024**

**Seller's are no longer able**

**to "opt-out" with a \$500**

**credit to the buyer**

# PCDS Amendment-Flood Disclosure

10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DESIGNATED FLOODPLAIN? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

11. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN THE SPECIAL FLOOD HAZARD AREA ("SFHA"; "100-YEAR FLOODPLAIN") ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA'S) CURRENT FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

12. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN A MODERATE RISK FLOOD HAZARD AREA ("500-YEAR FLOODPLAIN") ACCORDING TO FEMA'S CURRENT FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

# PCDS Amendment-Flood Disclosure

13. IS THE PROPERTY SUBJECT TO ANY REQUIREMENT UNDER FEDERAL LAW TO OBTAIN AND MAINTAIN FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

HOMES IN THE SPECIAL FLOOD HAZARD AREA, ALSO KNOWN AS HIGH RISK FLOOD ZONES, ON FEMA'S FLOOD INSURANCE RATE MAPS WITH MORTGAGES FROM FEDERALLY REGULATED OR INSURED LENDERS ARE REQUIRED TO OBTAIN AND MAINTAIN FLOOD INSURANCE. EVEN WHEN NOT REQUIRED, FEMA ENCOURAGES HOMEOWNERS IN HIGH RISK, MODERATE RISK, AND LOW RISK FLOOD ZONES TO PURCHASE FLOOD INSURANCE THAT COVERS THE STRUCTURE(S) AND THE PERSONAL PROPERTY WITHIN THE STRUCTURE(S). ALSO NOTE THAT HOMES IN COASTAL AREAS MAY BE SUBJECT TO INCREASED RISK OF FLOODING OVER TIME DUE TO PROJECTED SEA LEVEL RISE AND INCREASED EXTREME STORMS CAUSED BY CLIMATE CHANGE WHICH MAY NOT BE REFLECTED IN CURRENT FLOOD INSURANCE RATE MAPS.

# PCDS Amendment-Flood Disclosure

14. HAVE YOU EVER RECEIVED ASSISTANCE, OR ARE YOU AWARE OF ANY PREVIOUS OWNERS RECEIVING ASSISTANCE, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), THE U.S. SMALL BUSINESS ADMINISTRATION (SBA), OR ANY OTHER FEDERAL DISASTER FLOOD ASSISTANCE FOR FLOOD DAMAGE TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW) FOR PROPERTIES THAT HAVE RECEIVED FEDERAL DISASTER ASSISTANCE, THE REQUIREMENT TO OBTAIN FLOOD INSURANCE PASSES DOWN TO ALL FUTURE OWNERS. FAILURE TO OBTAIN AND MAINTAIN FLOOD INSURANCE CAN RESULT IN AN INDIVIDUAL BEING INELIGIBLE FOR FUTURE ASSISTANCE.

15. IS THERE FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN NA (IF YES, ATTACH A COPY OF THE POLICY)

A STANDARD HOMEOWNER'S INSURANCE POLICY TYPICALLY DOES NOT COVER FLOOD DAMAGE. YOU ARE ENCOURAGED TO EXAMINE YOUR POLICY TO DETERMINE WHETHER YOU ARE COVERED.

# PCDS Amendment-Flood Disclosure

16. IS THERE A FEMA ELEVATION CERTIFICATE AVAILABLE FOR THE PROPERTY? YES NO UNKN NA (IF YES, ATTACH A COPY OF THE CERTIFICATE) AN ELEVATION CERTIFICATE IS A FEMA FORM, COMPLETED BY A LICENSED SURVEYOR OR ENGINEER. THE FORM PROVIDES CRITICAL INFORMATION ABOUT THE FLOOD RISK OF THE PROPERTY AND IS USED BY FLOOD INSURANCE PROVIDERS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) TO HELP DETERMINE THE APPROPRIATE FLOOD INSURANCE RATING FOR THE PROPERTY. A BUYER MAY BE ABLE TO USE THE ELEVATION CERTIFICATE FROM A PREVIOUS OWNER FOR THEIR FLOOD INSURANCE POLICY.

17. HAVE YOU EVER FILED A CLAIM FOR FLOOD DAMAGE TO THE PROPERTY WITH ANY INSURANCE PROVIDER, INCLUDING THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP)? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~24.~~ 31. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT, OTHER.)? ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE A TRANSFERABLE ~~WARRANTEE~~ WARRANTY ON THE ROOF IN EFFECT NOW? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

# PCDS Amendment-Flood Disclosure

~~30.~~ 37. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT RESULTED IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO UNKN NA (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)

~~31. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING WATER? YES NO UNKN NA (IF YES, EXPLAIN BELOW)~~ 38. HAS THE STRUCTURE(S) EXPERIENCED ANY WATER PENETRATION OR DAMAGE DUE TO SEEPAGE OR A NATURAL FLOOD EVENT, SUCH AS FROM HEAVY RAINFALL, COASTAL STORM SURGE, TIDAL INUNDATION OR RIVER OVERFLOW? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

# PCDS Amendment-Flood Disclosure

NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE PROPERTY (E.G. TAX RECORDS AND WETLAND AND ~~FLOOD PLAIN~~ FEMA'S CURRENT FLOOD INSURANCE RATE MAPS AND ELEVATION CERTIFICATES )

# PCDS Amendment-Flood Disclosure

Section 465. ~~Remedy~~ LIABILITY . 1. ~~In the event a seller fails to perform the duty prescribed in this article to deliver a disclosure statement prior to the signing by the buyer of a binding contract of sale, the buyer shall receive upon the transfer of title a credit of five hundred dollars against the agreed upon purchase price of the residential real property.~~ NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED AS LIMITING ANY EXISTING LEGAL CAUSE OF ACTION OR REMEDY AT LAW, IN STATUTE OR IN EQUITY.

2. Any seller who provides a property condition disclosure statement or provides or fails to provide a revised property condition disclosure statement shall be liable only for a willful failure to perform the requirements of this article. For such a willful failure, the seller shall be liable for the actual damages suffered by the buyer in addition to any other existing equitable or statutory remedy.

# Unknowns

- What if a seller fails to fill out the PCDS?
- Can the seller and buyer agree to waive the PCDS?
- Is there any penalty for not filling out form?
- What will lenders do?
- Do you have any liability if the seller does not fill out a PCDS?
- Resolved through court or legislative action

# ARTIFICIAL INTELLIGENCE

# What is AI

- Simulation of human intelligence by machines using algorithms.
- Learning, reasoning, self correction and creativity.
- AI systems use large amounts of data to find correlations and patterns
- AI then makes predictions using the data
- Can be used for graphics, videos and music

# What Can AI Do For Me?

- **Property Valuation:** AI-powered tools can analyze historical data, market trends, and property features to estimate property values more accurately. This helps brokers provide clients with realistic pricing recommendations.
- **Predictive Analytics:** AI algorithms can predict future property values and market trends, allowing brokers to make informed investment recommendations to clients.
- **Property Search and Recommendation:** AI-driven search engines can help brokers quickly find properties that match a client's criteria by analyzing vast databases of property listings.
- **Chatbots and Virtual Assistants:** Chatbots can handle routine client inquiries, schedule appointments, and provide property information 24/7, freeing up brokers' time for more complex tasks.

# What Can AI Do For Me?

- **Lead Generation:** AI can identify potential leads by analyzing online behavior, social media activity, and other data sources, helping brokers focus their marketing efforts effectively.
- **Market Analysis:** AI can provide real-time market analysis, including supply and demand data, competitor insights, and pricing trends, helping brokers make informed decisions.
- **Customer Relationship Management (CRM):** AI-powered CRMs can help brokers manage client relationships more effectively by tracking interactions, sending personalized follow-ups, and identifying potential upselling opportunities.
- **Property Management:** AI can assist with property management tasks like maintenance scheduling, tenant communication, and monitoring property conditions remotely.

# What Can AI Do For Me?

- Natural Language Processing (NLP): NLP algorithms can analyze text data from property descriptions, client emails, and social media to identify emerging market trends and sentiment.
- Property Inspection: AI can be used for property inspection tasks, such as identifying maintenance issues through image recognition and providing detailed reports to clients.
- Investment Analysis: AI can assist in evaluating potential real estate investments by analyzing factors like cash flow, return on investment, and risk assessment.
- Pricing Strategy: AI can help brokers adjust pricing strategies in real-time based on market conditions and competitive analysis.

# What Can AI Do For Me?

- **Fraud Detection:** AI can identify potential fraud or scams in real estate transactions, helping brokers protect their clients.
- **Legal Compliance:** AI tools can assist in ensuring that all legal and regulatory requirements are met during real estate transactions, reducing the risk of legal issues.
- **Marketing and Advertising:** AI can optimize marketing campaigns by targeting specific demographics, analyzing ad performance, and suggesting improvements.
- **Document Management:** AI-powered document management systems can help organize and categorize transaction-related paperwork, reducing administrative workload.

# How Should I Use AI?

- AI should be viewed the same as a personal assistant
- All work product from AI must be reviewed by licensee
- AI isn't always correct
- Sometimes AI makes things up
- 3<sup>rd</sup> party products provide a wide variety of AI powered tools
- You may be using AI and don't realize it

# Property Descriptions

- A great starting point
- Do not rely on AI to get it right
- Ask AI to write description in a certain style

# Property Description-Straight Up

- Welcome to 130 Washington Ave, a charming and historic property nestled in the heart of Albany, New York. This beautifully maintained **residence** offers a unique blend of classic architectural features and modern amenities, making it the perfect place to call **home**. Conveniently located in Albany's vibrant downtown area, this property provides easy access to the city's rich **cultural**, dining, and recreational offerings.
- *Key Features:*
- **Historic Charm:** This property boasts a rich history and architectural character, featuring intricate detailing, **original hardwood floors, and elegant moldings** that harken back to a bygone era.
- **Spacious Layout:** With generous **living spaces**, this **home** offers room for both comfortable **living** and entertaining. **The open floor plan enhances the flow of natural light, creating a warm and inviting atmosphere throughout.**
- **Modern Updates:** While preserving its historic charm, the property has been thoughtfully updated to meet the demands of modern **living**. You'll find a fully equipped kitchen with stainless steel appliances, granite countertops, and ample cabinet space.
- **Master Suite:** **The property includes a spacious master bedroom with an en-suite bathroom, providing privacy and convenience.**
- **Ample Storage:** A basement **and attic** offer plenty of storage space, ensuring you have room for all your belongings.
- **Outdoor Space:** Enjoy the outdoors in the comfort of your own **backyard**, perfect for gardening, barbecues, or relaxation.

# Property Description-Straight Up

- **Convenient Location:** Situated on Washington Ave, this property offers easy access to Albany's downtown amenities, including shops, restaurants, entertainment venues, and government buildings. It's also close to parks and public transportation options.
- **Off-Street Parking:** A dedicated off-street parking area provides convenience and peace of mind in this city setting.
- **Historical Significance:** If you appreciate history, you'll love being part of a neighborhood with a rich historical background and proximity to landmarks like the New York State Capitol.
- **Community:** Join a vibrant and welcoming community of residents who take pride in their historic surroundings and urban lifestyle.
- *Additional Information:*
- **Schools:** The property is within the Albany City School District, which offers a range of educational options for students of all ages.
- **Transportation:** Convenient access to major highways and public transportation makes commuting a breeze.
- **Utilities:** The property is equipped with modern utility services, including heating, cooling, and updated electrical systems.
- *Don't miss this opportunity to own a piece of Albany's history while enjoying the comfort of modern **living**. Contact us today to schedule a viewing and experience the charm and convenience of 130 Washington Ave for yourself.*

# Property Description-John Grisham Style

In the quiet streets of Albany, New York, a hidden gem awaits your discovery at 130 Washington Avenue. This property, nestled in the heart of the historic city, is more than just bricks and mortar; it's a canvas for the vivid tales that unfold within its walls. Allow me, in the style of John Grisham, to unveil the secrets and allure of this remarkable residence.

As you approach this stately structure, its timeless elegance becomes apparent. A regal facade, adorned with intricately carved details, whispers of a past filled with both grandeur and mystery. The entrance, **flanked by ancient oaks**, promises sanctuary and refuge from the bustling world beyond.

Step inside, and you'll be transported to a world where secrets lurk in the shadows and intrigue fills the air. The foyer, resplendent with its **polished marble floors** and soaring ceilings, invites you to explore further. To the right, **an expansive living room bathed in the soft glow of sunlight filtering through silk curtains**, beckons you to unwind. It's a room where secrets are shared, alliances are forged, and where the undercurrent of suspense hangs palpably.

**The dining room, with its dark oak paneling** and flickering candlelight, sets the stage for clandestine meetings and whispered confidences. Imagine the clinking of glasses and hushed conversations as deals are brokered and alliances are sealed.

Moving through this enigmatic **residence**, you'll discover a **library lined with volumes of legal tomes and dusty case files**. It's a sanctuary for those who seek knowledge, power, and the means to shape the course of events. **Here, the echoes of countless legal battles resonate through the mahogany shelves, each book a testament to the pursuit of justice.**

Ascend the **grand staircase**, and you'll find the **master suite**—a haven of luxury and opulence. A sanctuary where rest is elusive and where the weight of the world can be momentarily shed. The **master bath, with its deep, claw-footed tub**, provides a refuge from the trials of the day, where secrets are pondered in the solitude of steam and scented oils.

Outside, a **meticulously landscaped garden** offers a peaceful respite from the intrigue within. A place where you can escape the machinations of the legal world and reflect upon the choices that brought you here.

130 Washington Avenue in Albany, New York, is not merely a property; it's a setting for the unfolding drama of human existence, a stage upon which the stories of power, intrigue, and suspense play out. It's a **residence** that captures the essence of a John Grisham novel, where the line between truth and fiction blurs, and where the pursuit of justice intertwines with the pursuit of one's desires. If you're ready to step into a world of mystery and allure, this property awaits your discovery.

# Property Description-Beastie Boys Style

- (Verse 1) Well, listen up, y'all, here's the lowdown scoop, About a property in Albany that's straight up da bomb, it's true! 130 Washington Ave, where it's all going down, Let me break it to you smooth, don't you dare frown!
- (Chorus) This crib's got the flavor, it's got the style, It'll make you wanna stay here for quite a while. So kick back, relax, and let me narrate, The tale of this pad, it's gonna be great!
- (Verse 2) It's a three-story joint, brick and stone on the outside, A classic look, my friends, that'll fill you with pride. Step inside, and you'll be in for a treat, **Hardwood floors** shining, can't be beat!
- (Verse 3) The kitchen's got the stainless, the appliances all gleam, Cook up a storm, like you're in a foodie dream. Countertops so smooth, you'll wanna chop all day, Open concept **living**, where you can chill and play.
- (Chorus) This crib's got the flavor, it's got the style, It'll make you wanna stay here for quite a while. So kick back, relax, and let me narrate, The tale of this pad, it's gonna be great!
- (Verse 4) Upstairs you'll find the **bedrooms**, cozy and inviting, **Closets for days**, you'll never stop delighting. And when it's time to unwind, check out the backyard scene, A **garden oasis**, like you've never seen!
- (Bridge) In the heart of Albany, the location's just right, Close to everything, day and night. Bars, parks, and shops, all in the mix, This is the spot where you can get your kicks!
- (Chorus) This crib's got the flavor, it's got the style, It'll make you wanna stay here for quite a while. So kick back, relax, and let me narrate, The tale of this pad, it's gonna be great!
- (Outro) So there you have it, 130 Washington Ave, in the Beastie Boys way, A property that'll rock your world every day. If you want a slice of Albany living that's fine, This spot's the ill communication, it's a goldmine!

# Use of AI Graphics in Advertisements

- If picture is not the same as property appears now:
  - Use of AI graphics must be disclosed clearly and conspicuously
  - If fixtures etc. are not there when closing happens, disclose it
  - Try not to use AI photos that show major structural changes
  - Include original photo

# Use of AI Graphics to Show Potential to Clients

- What would a facelift do to a property
  - Glass, brick, etc.
- Interior planning
  - Offices, retail, dining, entertainment
- Interior structural changes
  - Be careful as AI is not an engineer
  - Instruct AI to show “open floor plan” may remove structural columns etc.

# AI and Staging, Remodel Etc.



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# AI and Staging, Remodel Etc.



# AI and Staging, Remodel Etc.



# Use of AI-Potential Liability

- Do not use AI to draft legal documents
  - Unauthorized practice of law
  - Not drafted or reviewed by an attorney
  - Same as licensee hiring non-attorney to draft contract
  - Licensees who prepare simple fill-in-the-blank purchase and sale contract can avoid the unlawful practice of law by including in the contract a condition making it subject to approval by each party's attorney. Alternatively, brokers and salespersons can utilize a fill-in-the-blanks form that has been approved by a joint committee of the bar association and realtors association of his or her county. Such an approved form would only require that the licensees fill in non-legal provisions such as the names of the parties, the date and location of the closing, a description of the property, the consideration for sale and any other relevant facts.

# Use of AI-Potential Liability

- Licensees are responsible for reviewing all AI produced content
- AI is still learning about Fair Housing/Human Rights Law
- Remember is AI is not perfect
- Copyright issues
  - AI draws its data from various sources some of which may be copyrighted
  - Test cases are beginning to make their way through the legal system

# Recommendations

- If you haven't used AI yet, you really should try it
- Best way to learn is to experiment with various AI providers
- A useful tool to help you get started on a task
- A large number of 3<sup>rd</sup> party platforms utilize AI
- What works for one may not work for others

# The Dark Side of AI

- AI can be used for criminal activity
- AI can convincingly recreate audio/video of individuals
- In March, the FTC warned of an increase in AI voice scams
- A recent study found that out of 7,000 people surveyed, one in four indicated they had experienced an AI voice scam or knew someone who had. The same study reported that 77% of those who received an AI voice call lost money.
- Remember caller ID can be spoofed

# The Dark Side of AI

- AI has been used to create “deepfake” video on Zoom calls
- Criminals use AI to scour the web to find personal information on individuals to make the “deepfake” believable
- Hacking of email and an AI search of emails can be used to create a “personality” for the “deepfake” video victim similar to their own
- Responses would be similar to language used in emails or from publicly available video

# Best Practices for Licensees

- Use a secondary means of identifying clients/customers
- If contacted by client/customer to perform something substantive, follow up with a text message or phone call to the known number
- Please verify that you instructed me to do XXXXXX by responding to this text