

# The Real Property Committee Report - 2013

By Andrew M. Lieb

The Suffolk County Bar Association's Real Property Committee is proud to report on the activities of our committee and the happenings in the real estate practice throughout this past year.

With respect to the committee, we supported the extension of The Mortgage Debt Relief Act of 2007 on behalf of the Suffolk County Bar Association, by way of drafting a letter to our local and national elected officials, in detailing its vital importance to the local real estate industry and our residents. You see, this act permitted an amount forgiven in a mortgage by way of short sale, modification or otherwise, on an individual's principal residence, to be excluded from that individual's income for tax purposes (cancellation of debt income). We are proud to report of the act's extension

through this year. We also had numerous meetings with terrific local industry leaders and plan to continue this happening into the future. So, come join the committee and take advantage of the opportunity to have your voice heard while gaining access to local leaders.

The greater real estate industry has also had an exciting year with the Court of Appeals hearing issues such as the measure of a seller's damages for a buyer's breach of a contract to sell real property in *White v Farrell*; the standard for punitive damages for intentional diversion of storm water onto a plaintiff's property in *Marinaccio v Town of Clarence*; the precise time of the consummation of the sale for purposes of the accrual of the 90 day limitations period for leave to enter a defi-



Andrew M. Lieb

ciency judgment incident to foreclosure in *M&T Real Estate Trust v Doyle*; and an understanding of Lien Law § 22's priority rules with respect to claims to the foreclosure sale proceeds from an auction as between lenders and various mechanic's lienholders in *Altshuler Shaham Provident Funds, Ltd. v GML Tower, LLC*. One should also be excited by

the United States Supreme Court's recent decision in *Koontz v. St. Johns River Water Management District* limiting a municipality's use of extortion in the land use arena. Plus, everyone should understand the effects of *United States v. Windsor* on same-sex spouse's tax treatment, in both lifetime gifts and estate planning of real estate holdings, because the Defense of Marriage Act (DOMA), which defined "marriage" and "spouse" federally to be between a

man and a woman, has been held unconstitutional.

This issue of *The Suffolk Lawyer* displays the breadth of the field of real estate aside from these crucial decisions. I am delighted to see articles on such divergent topics as Buyer Brokerage; Landlord / Tenant; Flood Insurance; and Regulatory Law. Every day real estate is changing. The practitioner needs to stay abreast of these changes in order to properly counsel their clients. So, join the Real Property Committee, participate in our meetings, write an article and share your knowledge. Let's learn together.

*Note: Andrew M. Lieb is the Managing Attorney at Lieb at Law, P.C., a law firm with offices in Center Moriches and Manhasset. Mr. Lieb serves as a Co-Chair of the Real Property Committee of the Suffolk Bar Association and is the Special Section Editor for Real Property to the Suffolk Lawyer.*

**FOCUS ON  
REAL  
PROPERTY**  
SPECIAL EDITION