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Mike Tarello - "Loss Prevention" presented by Christensen of LAI

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The Appraisal Institute's Massachusetts Chapter held its spring meeting at the Crown Plaza in Natick, MA on April 12th. The program's topic dealt with "Loss Prevention" presented by Peter Christensen of Liability Insurance Administrators (LIA). LIA is a national insurance administrator specializing in errors and omissions insurance for real estate appraisers with over 24,000 clients. Christensen is the general counsel of the firm. The major topic of the seminar discussed trends in litigation and managing your exposure. The four main topics discussed related to litigation against appraisers, who sues appraisers, what happens when you get sued and what kind of things do appraisers get sued for.

Over the past few years there has been an increase in litigation against appraisers. Some of the main reasons for the increase are:

- * An active market creates more transactions and makes it easier for the appraiser to make a mistake.
- * The presence of errors and omission insurance makes people think they can get a big payout from a law suit.
- * An appraiser is an easy target because a written report is produced
- * Social trends toward refusal to accept responsibility for their own mistakes and actions.

The most common sources of a law suit are from borrowers, lenders and sellers. Most claims from the borrower are for failure to discover and disclose defects. The lender files mostly for overvaluation. After a loan default the property will usually sell for less than the original appraisal. The seller will claim that the appraisal was undervalued and that caused them to lose a sale and this created lost profits.

When you are sued the best way to handle it is to report it to your E&O insurer ASAP or call an attorney if not insured. Failure to report a claim to the insurer in a timely manner could jeopardize coverage. Also before you purchase insurance, ask what the impact claims reporting will have on the premiums and the renewal. You never want to admit liability or that you did anything wrong, don't volunteer information to the claimant and do not agree to settle or return an appraisal fee without advice from counsel or your insurance company. If a settlement is reached make sure the claimant signs a release so they won't come back for more.

The most common law suits deal with failure to discover and disclose defects. Some examples are; a leaky roof, sewer and septic issues, foundation and structural problems, plumbing and electrical issues and termites. The new hot topic for law suits is mold in the house. When doing your appraisal try to incorporate language in your report that can help protect you against a claim being successful. Include a section in your scope of work that states that this is an appraisal not a home inspection. Take a lot of photos and document anything you see. The condition or issue might change after the

date of the appraisal. Finally be careful when selecting others to do your inspections for you. Mike Tarello, MAI, ASA, MRA, is the 2011 president of the Mass. chapter of the Appraisal Institute, and senior appraisal analyst/appeals manager at Vision Appraisal Technology, Northboro, Mass.

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