Membership Committee

Dear Committee Member:

The Membership Committee meeting will be held **Thursday, January 18**, from **3:00 PM – 5:00 PM** in **DeAnza Ballroom I – Level One** at the **Portola Plaza Hotel** in Monterey. *(Please consult your program to confirm meeting time and location.)*

Be sure to bring an ample supply of business cards to the C.A.R. Business Meetings. This is an excellent opportunity for all to meet and network with other REALTOR® members throughout the state.

You will find a link to the agenda and other meeting materials below. Please print them in the printable format and bring them with you to the meeting.

If you have any questions or concerns, please contact Carmen Petrinca, our Committee Staff Coordinator, at **carmenp@car.org** or (213) 739-8333.

Best regards,

Bobbie Nelson
Chair

Agenda
HML Candidates

Honorary Member-for-Life Candidates

Honorary Member-For-Life Applicants
January 19, 2007 (26)

Arcadia AOR
Elmer Black

Barstow AOR
Carrie Hamilton

Beverly Hills/Greater LA AOR
Shirley Wells

Citrus Valley AOR
Catherine Delva
William Franklin

Conejo Valley AOR
Alexander Manos, Sr.

Delta AOR
Rachel Baldocchi
Nordyn Anderson

Downey AOR
Helen Lancaster
John Waters

Greater Antelope Valley AOR
Michael O'Connor
John Thomas Gardner

Humboldt AOR
Frank Scolari

Kern River-Lake Isabella BOR
Marceile Robbins
Lucille Thornton

Laguna BOR
Genelle McRoberts

Montebello District BOR
Ralph Richard Lopez

Pacific West AOR
Margaret Boyle

Pasadena-Foothills AOR
Beverly Behr
Ljiljana Grozdanic
Ann Elizabeth Pendo
Simi Valley-Moorpark AOR
Helen Schmock
Southland Regional AOR
Barbara Bernhardt
Joseph Carnahan
William Palmer
Sutter-Yuba AOR
Betty Boyd

Membership Agenda

Membership Committee
DeAnza Ballroom I - Level One
Portola Plaza Hotel
Monterey, California
3:00 PM – 5:00 PM
Presiding: West De Young, Chair
Cheryl McFall, Vice Chair
Frieda McReynolds King, Vice Chair
David Barca, Committee Liaison
Staff Coordinator: Carmen Petrinca, Membership Development Manager

I. Welcome and Introductions – West De Young
II. Membership Statistics – West De Young
III. Honorary Member-for-Life Applicants – Frieda King
Requirements:
25 years of C.A.R. membership
75 years old
IV. Membership Qualification for REALTORS®, Principals and Salespersons: Update on October Meeting Motions – Cheryl McFall
C.A.R. model bylaws amended to allow membership denial for felony, etc.: PASSED, Association bylaws can be amended, not automatic.
Associations can deny membership or cancel membership
Moral turpitude and denial of membership, up to 10 years from conviction or 5 years after release from jail, whichever is longer
V. REALTOR® Trademark – Cheryl McFall
Trademark usage rules reiterated
VI. ClientDIRECT™ Presentation – West De Young
Tabled until June meeting.
VII. Roundtable Discussion: Surviving in a Changing Market – Frieda King
What do we do to survive in a changing market
Get back to business
Have a business plan, goal setting and accountability through coaching and training
More education/classes/skills
Spend more time educating clients
Stop using transaction coordinator
Spend more time studying the market and previewing properties
Embrace technology, use it to your advantage
Maintain personal touch
Encourage people to get out of business or retire if it's time
Budget and save

Optimism, attitude
Dress for success
Be proud of your profession
Wear your name badge
Attend top producer panel
Learn how to do short sales and foreclosures
Stay in touch with past clients who are highly leveraged in the past few years
Time management, plan your tomorrow
No one mentioned PROSPECTING

VIII. Other Business – West De Young

IX. Adjournment – West De Young

Pasted from <http://www.car.org/index.php?id=MzAyMzQ=&Qask=1>

Common Interest Development Committee

To: Members, Common Interest Development Committee
From: Steve Delmartini, Chair
Re: Common Interest Development Committee Meeting
Thursday, January 18, 2007 from 10:00 a.m. – 12:00 p.m.

The Common Interest Development Committee meeting will be held on Thursday, January 18, 2007 from 10:00 a.m. – 12:00 a.m. Please consult the C.A.R. Board of Directors January 2007 program to confirm the committee room location. Should you have any questions prior to the meeting, please feel free to call Ron Kingston at (916) 492-5200, or e-mail him at ronk@car.org.

Your electronic meeting packet includes the items listed at the bottom of the cover memo. Simply click on the highlighted/underlined links to individually access your papers or use the quick-print form to print all papers at: **http://www.car.org/index.php?id=MzY4MDQ**= Please remember to scroll to the bottom of the document and click on "print page" to ensure all text will be printed.

To review previous meeting materials please click the following "Archived Meeting Materials" link: **http://www.car.org/index.php?id=MjMy**

Similarly, to see a record of prior actions of the Board of Directors, including motions from this Committee, please click on the following "Summary of Actions" link: **http://www.car.org/index.php?id=MzE2Mjc**

The C.A.R. State Legislative Issues Report is now available on the web. The Report is prepared by the Association's Governmental Affairs staff for use by C.A.R. policy committees as a foundation for policy development. All policy committee members are encouraged to use this document as a resource throughout the year. The 2007 Report can be found by clicking here: **http://www.car.org/index.php?id=MzUwMTQ**=

PLEASE NOTE: This document is in excess of 80 pages. It may be beneficial to only select portions of this document that pertain to the issue area your committee is addressing.

Please review these materials before our meeting on January 18, 2007. I look forward to seeing you.

Agenda
Agenda Summary
Occupancy Restrictions

1- Agenda - Common Interest Development Committee

Agenda – Common Interest Development Committee

Marriott Hotel
Monterey, California
San Carlos Room I (Mezzanine Level)
January 18, 2007
10:00am – 12:00pm

Presiding:
Steve Delmartini, Chair
Rana Linka, Vice Chair
Michael Tessaro, Vice Chair
Susan Tilling, Committee Liaison

C.A.R. Staff:
Ron Kingston
Natalie Cardenas

I. Opening Comments

II. 2007 Proposed Legislation

A. Repairs and improvements to condominium units
B. Condominium Conversions
C. Megan's Law

D. Removal of illegally parked cars
E. Property manager certification sunset extension
F. Board of Directors Educational Needs

III. Report from the Working Group on Occupancy Restrictions in Common Interest Development*

IV. Report from the Working Group on Special Assessment Legal Requirements and Practices

V. Common Interest Development Consumers Guide Update*

VI. Other

VII. Adjournment

2- Agenda Summary - Common Interest Development Committee

Agenda Summary – Common Interest Development Committee

Marriott Hotel
Monterey, California
San Carlos Room I (Mezzanine Level)
January 18, 2007
10:00am – 12:00pm

Presiding:

Steve Delmartini, Chair
Rana Linka, Vice Chair
Michael Tessaro, Vice Chair
Susan Tilling, Committee Liaison

C.A.R. Staff:

Ron Kingston
Natalie Cardenas

I. Opening Comments

II. 2007 Proposed Legislation

A. Repairs and improvements to condominium plans – An Assembly Member has expressed interest to re-introduce legislation similar to AB 2851 (DeVore) of 2006. AB 2851 would have allowed amendments to a condominium plan to be approved with less than unanimous vote of the homeowners in order to make necessary repairs and renovations in the common area.

B. Condominium Conversions – Assembly Member Lori Saldana introduced two bills last session to effectively stop condominium conversions statewide. This session, Assembly Member Saldana is the new chair of the Assembly Housing and Community Development Committee and has stated she will introduce legislation similar to her condominium conversion bills from last year. Also in 2006, Senator Denise Ducheny introduced a condominium conversion bill that if signed into law, would have created statewide rent control and just cause eviction for residential rental properties during the last 6 months prior to conversion as well as amend the tenant notification requirements for conversions. C.A.R. defeated these measures last year. A similar bill may be introduced this year.

C. Megan's Law – The California Apartment Association (CAA) and the California Housing Council (CHC) sponsored separate Megan's Law legislation in 2006 to address the issue of landlord liability as it applies to registered sex offenders living in or applying for tenancy in rental property. CAA's two Megan's Law bills were defeated in the Assembly last year. CHC's legislation was passed by the Legislature but vetoed by the Governor. C.A.A. has indicated it will sponsor legislation in 2007 on Megan's Law, similar to the bill introduced last year. In October, the C.A.R. Property Management Committee formed a working group to explore the issues surrounding Megan's Law and landlord liability and potentially develop a new recommended position for C.A.R. The Megan's Law working group is scheduled to meet on

Wednesday, January 17, 2006 from 10:30am to 12:00pm in the Los Angeles Room at the Marriott Hotel, Monterey.

D. Removal of illegally parked cars – Last session, the Governor signed AB 2210 (Goldberg), which substantially altered the process for removal of illegally parked cars in residential rental property. While C.A.R secured several amendments to the bill, one amendment was placed into it during the final days of session which are excessively burdensome and unfair to landlords and property managers. For example, if specific written information about the towed vehicle is not delivered to the tow truck company in a proscribed manner, a landlord will be guilty of a misdemeanor and subject to a fine of $1,000 and penalty of $1,500, even if the failure to make the disclosure was caused by tenant in-action or error. C.A.R. will seek amendments to the new law to remove these provisions.

E. Property manager certification sunset extension – The California Association of Community Managers (CACM) will sponsor legislation to eliminate the sunset clause of the property management certification law adopted by the Legislature four years ago. Several amendments are required to assure the law will not require real estate licensees to hold a certification if they manage home owner associations.

III. Report from Working Group on Occupancy Restrictions in Common Interest Development – The C.I.D. Committee has formed a working group on occupancy restrictions in common interest developments. An Issues Briefing Paper has been prepared for the committee. The findings of the Working Group may result in a request for C.A.R to sponsor or support legislation to address the issues regarding occupancy restrictions and their impacts on sales. The working group will meet on Wednesday, January 17, 2006 from 9:00am to 10:30am in the Los Angeles Room of the Marriott Hotel, Monterey.

IV. Report from Working Group on Special Assessment Legal Requirements and Practices – In October, the CID Committee formed a working group to explore whether special assessments in common interest developments cause operational or functional problems for homeowner associations and/or their members. Findings of the working group may result in a request for C.A.R to sponsor or support legislation in 2008 to develop new requirements for home owner associations when approving special assessments and using the funds raised through special assessments. The working group on special assessment procedures will meet on Friday, January 19, 2006 from 11:00am to 12:30am at the Cottonwood Room II - Level Three, Portola Plaza Hotel, Monterey.

V. Common Interest Development Consumers Guide Update – The C.A.R. Legal Department has reviewed the draft CID Consumer Guide. The CID committee may want to consider the appropriate disposition of the draft CID Consumer Guide.

VI. Other

VII. Adjournment

3- Occupancy Restrictions in Common Interest Developments IBP

Occupancy Restrictions in Common Interest Developments

December 26, 2006

Common Interest Development Committee

Legislative Committee

The following is for study only and has NOT been approved by the Common Interest Development, Legislative or Executive Committees or the Board of Directors.

Issue:

Should Homeowner Associations be limited with respect to adopting restrictions on the number of non-owner occupied units in a complex?

Action:

If C.A.R. is to sponsor a bill in 2007, it must act at this meeting.

Options:

1. Sponsor legislation requiring HOA's that adopt restrictions on the number of non-owner occupied units in a complex to: 1).Adopt the restrictions at a "public" meeting of the unit owners; 2). Adopt written findings and declarations concerning such restrictions which are recorded; 3). Limit restrictions to be no stricter than the FNMA underwriting guidelines
2. Study this issue further soliciting input via an email survey from members of this committee
3. Sponsor legislation prohibiting homeowner associations from adopting and enforcing any restriction that imposes a limitation on the number of properties that can be non owner occupied.
4. Support legislation outlined in option 4
5. Other

Status/Summary:

During the past year, several local associations of REALTORS® have asked C.A.R. to investigate this issue. The Common Interest Development Committee considered this matter at the January 2006 directors meeting and concluded that more research was necessary and a "work group" was appointed.

Discussion

Under existing law HOAs can adopt "reasonable restrictions". The "reasonable restrictions" standard is addressed in case law. The definition of which has been considered on a case-by-case basis. It has been argued that such restrictions are discriminatory. The courts however have not addressed this issue. It would, however, seem unreasonable under current law for a HOA to adopt restrictions stricter than the FNMA guidelines.

It would seem that REALTOR®s as well as unit owners in common interest developments can argue on either side of his issue. Some may want the flexibility to rent units without restrictions while others may prefer an entirely owner-occupied complex. C.A.R has advocated private property rights which include the right of an owner to "rent" or "not" as the unit owner wishes. Conversely, it is argued that ownership interests are adversely impacted when properties are not owner occupied.

During the past year, six local associations of REALTORS® retained a law firm to represent them on this matter before various homeowner associations. In the judgment of some of those associations, there is a significant and developing trend for homeowner associations to adopt restrictions that limit the number of dwellings that may be non-owner occupied (note that in some cases, homeowner associations flip the matter and adopt a restriction that sets a minimum percentage of homes that must be owner occupied).

Is it appropriate to impose statutory restrictions on HOAs or simply leave the current law (no "unreasonable restrictions") in place?

Would legislation imposing restrictions on HOAs limiting their flexibility be an "invitation" to HOAs to adopt such restrictions?

Would doing nothing be seen as an "invitation to HOAs to act arbitrarily?

Is it appropriate for C.A.R. to sponsor or support legislation or study the issue further before proceeding?

Land Use and Environmental Committee

To: Members, Land Use and Environmental Committee
From: Carol Banner, Chair
Re: Land Use and Environmental Committee Meeting
Thursday, January 18, 2007 from 8:00 a.m. – 9:50 a.m.

Greetings Land Use and Environmental Committee members.

Our committee meeting will be held on Thursday, January 18, from 8:00 a.m. – 9:50 a.m. Please consult your program to confirm the Land Use and Environmental Committee room location.

Should you have any questions prior to the meeting, please feel free to call Elizabeth Brode at (916) 492-5200, or e-mail her at **elizabethb@car.org**

Your electronic meeting packet includes the items listed at the bottom of the cover memo. Simply click on the highlighted/underlined links to individually access your papers or use the quick-print form to print all papers at: **http://www.car.org/index.php?id=MzY4MDQ**= Please remember to scroll to the bottom of the document and click on "print page" to ensure all text will be printed.

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PLEASE NOTE: This document is in excess of 80 pages. It may be beneficial to only select portions of this document that pertain to the issue area your committee is addressing.

Please review these materials before our meeting on January 18. I look forward to seeing you in Monterey.

Agenda
Agenda Summary
Land Use & Environmental Glossary of Terms
Rural Forum Speaker Invitation
Disclosure of Private Transfer Taxes IBP

1- Agenda - Land Use and Environmental Committee

Agenda - Land Use and Environmental Committee

Marriott Conference Center
Colton Room I/II/III – Level Three
Monterey, California
Thursday, January 18, 2007
8:00 a.m.-9:50 a.m.

Presiding:
Carol Banner, Chair,
Richard Tegley, Vice Chair
Lenny Sciacca, Vice Chair
Frank Nelson, Committee Liaison
Bradley Garbutt, Rural Forum Chair

C.A.R. Staff:
Elizabeth Gavric, Legislative Advocate

I. Opening Comments: Chairman Banner

II. Discussion/Information Items

A. New Point of Sale Booklet - Home Energy Efficiency Handbook
B. Report from Onsite Wastewater Disposal “Septic” Working Group: Current Status of SWRCB AB 885 Draft Statewide Regulations for Septic Systems
C. Report from REALTOR® Committee on Air Quality
D. Coastal Building and Remodeling Restrictions in Santa Cruz County
E. Flood Control
    1. AB 5 (Wolk) – Flood Protection: local: central valley: plans
    2. AB 26 (Nakanishi) - Flood control: natural community conservation plan
    3. AB 70 (Jones) – Flood liability
    4. SB 5 (Machado) – Flood management
    5. SB 6 (Oropeza) – Flood control
    6. SB 17 (Florez) –Flood protection
    7. SB 34 (Torlakson) – User fees and assessments: Sacramento – San Joaquin Delta flood control
F. Water Quality and Supply
    1. AB 19 (DeVore) – Water quality: Santa Ana region
    2. AB 41 (La Malfa) – Water resources: bond proceeds
    3. SB 8 (Kuehl) – California Bay-Delta Authority Act
    4. SB 27 (Simitian) Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007
    5. SCA 2 (Simitian) – Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007
G. Planning and Zoning
    1. AB 29 (Hancock) – Infill development: incentive grants
    2. AB 31 (De Leon) – Murray-Frommer Urban Parks and Renewal Act
    3. AB 82 (Evans) – Local planning: agricultural land
H. Eminent Domain
    1. ACA 2 (Walters) Eminent Domain

III. Other

IV. Adjournment

2- Agenda Summary - Land Use and Environmental Committee

Agenda Summary - Land Use and Environmental Committee

Marriott Conference Center
Colton Room I/II/III – Level Three
Monterey, California
Thursday, January 18, 2007
8:00 a.m.-9:50 a.m.

Presiding:

Carol Banner, Chair
Richard Tegley, Vice Chair
Lenny Sciacca, Vice Chair
Frank Nelson, Committee Liaison
Bradley Garbutt, Rural Forum Chair

C.A.R. Staff:

Elizabeth Gavric, Legislative Advocate

I. Opening Comments: Chairman Banner

II. Discussion/Information Items

A. New Point of Sale Booklet - Home Energy Efficiency Handbook - A verbal report will be given at the meeting.

B. Report from Onsite Wastewater Disposal "Septic" Working Group: Current Status of SWRCB AB 885 Draft Statewide Regulations for Septic Systems – A verbal report will be given at the meeting.

C. Report from REALTOR Committee on Air Quality – A verbal report will be given at the meeting.

D. Coastal Building and Remodeling Restrictions in Santa Cruz County – A verbal report will be given at the meeting.

E. Flood Control

1. **AB 5 (Wolk) – Flood Protection: local: central valley: plans**

This bill would create the Central Valley Flood Protection Plan to address flood protection in the Central Valley, authorize local agencies to create local plans of flood protection, and would require priority for state funds to be given to local agencies that have adopted a local plan of flood protection. The bill would also create the Local Flood Protection Plan Assistance Fund to award grants to agencies to develop local flood protection plans. The bill would also prohibit local governments in the Central Valley from approving new developments within high-risk flood prone areas, unless conditions are met to ensure appropriate levels of flood protection. **CAR position**: NRF.

2. **AB 26 (Nakanishi) - Flood control: natural community conservation plan**

This bill would require the California Department of Fish and Game to enter into a planning agreement with the State Reclamation Board, in consultation with appropriate federal, state, and local agencies, to prepare a natural community conservation plan that encompasses the Sacramento and San Joaquin Drainage Districts to provide comprehensive management and conservation of multiple wildlife species. The bill would exempt flood control or flood management activity identified in a plan implementation agreement from the above-described notification and lake or streambed alteration agreement requirements. **CAR position**: NRF.

3. **AB 70 (Jones) – Flood liability**

This bill would subject a city or county to joint liability with the state, whether or not the city or county directly participates in the operation or maintenance of a flood control project. The liability would be for property damage sustained in a flood in which a new development was approved in a previously undeveloped area that is protected by a project levee where flood levels are anticipated to exceed 3 feet for a 200-year flood event. **CAR position**: NRF.

4. **SB 5 (Machado) – Flood management**

This bill would make legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood management, clarifying the roles and responsibilities of the state, local flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy. This bill would also integrate the flood-related funding authorized by flood bond acts with the integrated flood policy and flood management program. The bill would state the intent of the Legislature to establish and clarify the roles and responsibilities of specified entities for managing flood risk and to invest bond funds made available by the bond acts consistent with those roles and responsibilities. **CAR position**: NRF.

5. **SB 6 (Oropeza) – Flood control**

This bill would require the consideration of existing climate predictions regarding ocean levels in the approval of a tentative map or a parcel map for which a tentative map was not required, and for the mapping and identification of flood risk for local land-use planning to avoid or reduce future flood risks and damages. **CAR position**: NRF.

6. **SB 17 (Florez) –Flood protection**

This bill would rename and revise the membership of the Reclamation Board. The bill wouldauthorize the board to collaborate with state and federal agencies, if appropriate, regarding certain multi-objective flood management strategies and would require the California Department of Water Resources to prepare reports on the status of the State Plan of Flood Control and to submit the report to the Governor, Legislature and the board. The bill would require the department to inspect the project levees, as defined, and to include certain components in reports. The bill would require the board, on or before December 31, 2010, to prepare and adopt a strategic flood protection plan that would be updated every 5 years, and would include standards for levee construction, operation, and maintenance. The bill would require the board to review local and regional land use plans to ensure their compliance with flood protection and public safety standards adopted by the board. The bill would require the board to review, and authorize the board to make recommendations regarding, flood control plans adopted by local public agencies, and prohibit the board from allocating any funds to a local public agency for a flood control project unless the board determines that project ensures adequate flood protection consistent with existing law. The bill would establish procedures for the decertification of locally maintained flood control facilities as a part of the State Plan of Flood Control. **CAR position**: NRF.

7. **SB 34 (Torlakson) – User fees and assessments: Sacramento – San Joaquin Delta flood control**

Under existing law, various levee or conveyance system maintenance programs are undertaken by federal, state, or local public agencies. Proposition 1E, approved by the voters at the November 7, 2006, general election, enacted the $4.1 million Disaster Preparedness and Flood Prevention Bond Act of 2006. This bill would declare legislative intent to authorize the Reclamation Board, in consultation with the Department of Water Resources, to establish a "beneficiary pays system" and to collect user fees and assessments for levee maintenance and other flood control purposes in the delta. This bill would further declare legislative intent that a significant portion of the state bond funds approved in Proposition 1E be prioritized in conjunction with the "beneficiary pays system." **CAR position**: NRF.

F. Water Quality and Supply

1. **AB 19 (DeVore) – Water quality: Santa Ana region**

This bill would establish the Santa Ana Regional Water Quality Improvement Fund and would authorize the developer of a development project, if the developer has become subject to regulation by the Santa Ana Regional Water Quality Improvement Board (SARWQIB), to agree to pay a fee to the appropriate city or county, based on the acreage and density of the proposed development project, for deposit in the fund. The bill would authorize the SARWQIB to expend these funds for research relating to urban runoff. The research is to be conducted by certain educational institutions, as specified, for formulation of mitigation measures for proposed development projects, and for mitigation projects that are approved by that board for the purposes of improving water quality within the region, including projects to mitigate the impacts of urban runoff. **CAR position**: NRF.

2. **AB 41 (La Malfa) – Water resources: bond proceeds**

The $4.09 billion Disaster Preparedness and Flood Prevention Bond Act of 2006, was approved by the voters at the November 7, 2006, statewide general election to finance disaster preparedness and flood prevention projects. The $5.4 billion Safe Drinking Water, Water Qualityand Supply, Flood Control, River and Coastal Protection Bond Act of 2006, was approved by the voters at the November 7, 2006, statewide general election to finance a safe drinking, water quality and supply, flood control, and resource protection program. This bill would declare that it is the intent of the Legislature that the funds derived from these bond acts, consistent with the intent of the voters, be expended in the most cost-efficient and effective manner and, to the greatest extent possible, to address this state's critical lack of adequate surface water storage. **CAR position**: NRF.

3. **SB 8 (Kuehl) – California Bay-Delta Authority Act**

This bill would add Environmental Justice to the program elements of the California Bay-Delta which currently consist of Levee system integrity, Water quality, Water supply reliability, Ecosystem restoration, Water use efficiency, Water transfer, Watershed, Storage, Conveyance, Science, and Environmental water account. **CAR position**: NRF.

4. **SB 27 (Simitian) Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007**

This bill would enact the Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007 which, if approved by the voters would authorize, for purposes of financing a water conveyance and environmental improvement program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of $5,000,000,000. **CAR position**: NRF.

5. **SCA 2 (Simitian) – Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007**

Existing provisions of the California Constitution prohibit the creation by the Legislature of debts in excess of $300,000 except for a single object or work specified in a law creating the debt, which is approved by the people by a majority of the votes cast in a statewide general or direct primary election. This measure would establish requirements for the amendment or repeal of SB 27 (Simitian), a bond measure designated as the "Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007". This measure would provide that it would become operative only if the described bond measure is approved by the voters at an unspecified statewide election, and would provide, in that event, that it would become operative commencing on an unspecified date. **CAR position**: NRF.

G. Planning and Zoning

1. **AB 29 (Hancock) – Infill development: incentive grants**

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of $2.85 billion. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related toinfill development, Brownfield cleanup that promotes infill development, and housing-related parks. This bill would require certain of those funds to be made available to the Secretary of Business, Transportation and Housing for distribution to designated councils of governments to fund competitive infill incentive grants for local public agencies that meet certain, listed criteria. **CAR position**: NRF.

2. **AB 31 (De Leon) – Murray-Frommer Urban Parks and Renewal Act**

This bill would change definitions in the Urban Park Act of 2006, for the term "heavily urbanized county" to include counties with a population of 350,000 or more people and a density of at least 900 persons per square mile. **CAR position**: NRF.

3. **AB 82 (Evans) – Local planning: agricultural land**

The Planning and Zoning Law requires that the general plan of a city or county include specified elements, including a land use element that designates the proposed general distribution and general location and extent of the uses of the land for, among other things, housing, business, industry, and open space, including agriculture, and an open- space element. The Planning and Zoning Law defines the local open-space plan as the open-space element and that open-space use includes, among other things, open space used for the managed production of resources, including, but not limited to, agricultural lands and areas of economic importance for the production of food and fiber. This bill would declare the intent of the Legislature to enact legislation that would encourage the preservation of agricultural land and would encourage local governments to enhance, through the local planning process, the recognition of the importance of agricultural production to the state and local economy. **CAR position**: NRF.

H. Eminent Domain

1. **ACA 2 (Walters) Eminent Domain**

The California Constitution authorizes private property to be taken or damaged for public use only when just compensation has been paid to, or into court for, the owner of the property. This measure would instead permit private property to be taken or damaged only for a stated public use and only when just compensation has been paid to, or into court for, the owner of the property. The measure would also prohibit, with respect to both new and pending eminent domain projects that involve the exercise of the power of eminent domain, a community redevelopment agency, community development commission, or joint powers agency that has the power of eminent domain from exercising that power to acquire any real property if ownership of the property will be transferred to a private party or private entity, except as specified. **CAR position**: NRF.

III. Other

A. Motion to consider amending C.A.R. standard form Buyer/Seller/Advisory Form to include Williamson Act text, going to Standard Forms Committee next, motion carries unanimously

IV. Adjournment

3- Land Use & Environmental Glossary of Terms

Glossary of Land Use and Environmental Terms

Land Use and Environmental Committee

The leadership of C.A.R.'s Land Use and Environmental Committee offers this glossary of terms to help familiarize the committee with some of the acronyms it frequently uses. While this is not an exhaustive list, it reflects most of the laws, agencies, general terms and interest groups with which the committee deals.

Laws, Agencies and General Terms

ARB-Air Resources Board, also called CARB-California Air Resources Board-the state-level body that oversees air quality regulation.

AQMD-Air Quality Management District, the regional entities that regulate air quality.

BCDC-Bay Conservation and Development Commission, the regional entity that oversees all activity along the coastline of the San Francisco Bay--the only area of the coast where the CCC does not have jurisdiction.

BOF-Board of Forestry, the state-level body that regulates timber harvesting and oversees certain aspects of fire protection implemented by CDF.

CAA-Clean Air Act, exists at both the state and federal levels.

CALFED-The state/federal process established to find a long-term solution to the state's water supply problems and a "fix" for the San Joaquin/San Francisco Bay-Delta.

CCC-California Coastal Commission, the state-level body responsible for overseeing land use decisions in the 1100-mile Coastal Zone of California.

CDF-California Department of Forestry, formerly known as the California Department of Forestry and Fire Protection, responsible for fire protection in the SRA.

CEQA-California Environmental Quality Act, the state's law providing for public notification and environmental review of projects.

CESA-California Endangered Species Act, the state's law providing for the protection of endangered, threatened and candidate species.

CIEDB-California Infrastructure and Economic Development Bank, the state level entity within the Trade and Commerce Agency, which provides low interest loans to local governments for infrastructure development.

COG-Council of Governments, the regional entities responsible for assigning housing numbers to jurisdictions based on information from the state Department of Finance. Many of them also serve as regional transportation authorities.

CWA-Clean Water Act, exists at both the state and federal levels.

DFG-Department of Fish and Game, the state-level department responsible for implementing CESA and regulating activities that have an impact on species. Overseen by the Fish and Game Commission.

DWR-Department of Water Resources, the state entity responsible for flood protection and water supply issues.

EIR-Environmental Impact Report, prepared under CEQA if the lead state or local agency determines a project will have a significant impact on the environment.

EIS-Environmental Impact Statement, prepared under NEPA if the lead federal agency determines a project will have a significant impact on the environment.

LAFCO-Local Agency Formation Commission, city-county regional entities throughout the state with jurisdiction over new city incorporations, annexations and detachments.

LCP-Local Coastal Plan, required of cities and counties in the Coastal Zone of California, and must be approved by the CCC.

NAHC-Native American Heritage Commission, the state-level body that identifies and catalogs places of special religious or social significance to Native Americans, which also may bring an action to prevent severe and irreparable damage to such Native American sites.

NEPA-National Environmental Policy Act, the federal law providing for public notification and environmental review of federally related projects.

PUC-Public Utilities Commission, also referred to as the CPUC-California Public Utilities Commission-the state body that oversees the rates and operations of private, investor-owned energy utilities.

RWQCB-Regional Water Quality Control Board-there are nine of these, which regulate water quality pursuant to direction from the SWRCB and state law.

SMA-Subdivision Map Act, the state law that governs small land divisions. Lot line adjustments, parcel mergers and certificates of compliance are often discussed in conjunction with the SMA.

SRA-State Responsibility Area--those areas of the state where the state-level CDF is responsible for fire protection, primarily in rural counties.
SWRCB-State Water Resources Control Board, the state-level entity that oversees the regulation of water quality, including sewer and septic systems.
UGB-Urban Growth Boundary, a growth control tool where a line is drawn on a map to constrict development, also called ULL-Urban Limit Line.

Interest Groups

AGC-Associated General Contractors, a normal ally of C.A.R.'s on land use and environmental issues, which represents the people and companies who build bridges, roads, and other infrastructure.
CBIA-California Building Industry Association, a normal ally of C.A.R.'s on land use and environmental issues, which represents primarily residential builders.
CBPA-California Business Properties Association, a normal ally of C.A.R.'s on land use and environmental issues, which represents primarily commercial and industrial builders and shopping center owners.
CCA-California Cattlemen's Association, a normal ally of C.A.R.'s on land use and environmental issues, which represents cattle ranchers throughout the state.
CCCS-Coalition for the Conservation of Coho and Steelhead, a coalition of state-level groups that was formed in 1997 to deal with the proliferation of salmon and steelhead endangered species listings in Northern and Central California. C.A.R. joined the coalition in 1998.
CCDEH – California Counsel of Environmental Health Directors, the author of the alternate set of Onsite Wastewater Treatment System regulations that will be considered by the State Water Board and an ally of C.A.R. on most septic issues.
CELSOC-Consulting Engineers and Land Surveyors of California, a normal ally of C.A.R.'s on land use and environmental issues, which represents the people and companies who provide land use consultations and design infrastructure projects.
CFA-California Forestry Association, a normal ally of C.A.R.'s on land use and environmental issues, which represents timber companies throughout the state.
CFBF-California Farm Bureau Federation, an ally of C.A.R.'s on most environmental issues, but not always on land use issues, representing agricultural interests throughout the state.
Chamber-California Chamber of Commerce, a normal ally of C.A.R.'s on land use and environmental issues, which represents large and small businesses of all types throughout the state.
CNRG-California Natural Resources Group, a coalition of state-level groups that was formed in late-2000 to deal with the proliferation of critical habitat designations proposed by the U.S. Fish and Wildlife Service (USFS). C.A.R. joined the coalition in December 2000.
COF-California Oak Foundation, an oak tree preservation group.
CSAC-California State Association of Counties, a normal ally of C.A.R.'s on land use-related local control issues, made up of county supervisors and county staff.
FSC-The State Fire Safe Council, a public-private partnership of groups dedicated to mobilizing all Californians to make their homes and neighborhoods fire safe, and serving as a model for local fire safe councils. C.A.R. has been a member since its inception in 1993.
League-League of California Cities, a normal ally of C.A.R.'s on land use-related local control issues, made up of city councils, mayors and city staff.
NRDC-Natural Resources Defense Council, an environmental group.
PCL-Planning and Conservation League, an environmental group.
PLF-Pacific Legal Foundation, the national legal group that fights for property rights in the courts.
RCRC-Regional Council of Rural Counties, a normal ally of C.A.R.'s on land use-related local control issues, made up of rural county supervisors and staff.
RLC-Resource Landowners Coalition, a normal ally of C.A.R.'s on land use and environmental issues, made up of large landowners throughout the state.
The Club-The Sierra Club, an environmental group.
TNC-The Nature Conservancy, a land preservation/environmental group.
--End--

4- Rural Forum Speaker Invitation

Rural Forum Meeting Invitation

To: Land Use and Environmental Committee Members
From: Bradley Garbutt, Rural Forum Chairman
RE: Rural Forum Meeting Invitation

You are cordially invited to attend the **Rural Forum** meeting on Wednesday, January 17th, 2007, from 3:30 pm to 5:00 pm at the Monterey Conference Center Colton Room I/II/III – Level Three (please check program to confirm room location).

Our guest speaker will be **Lynn Scarlett, Deputy Secretary, United Sates Department of the Interior**. Ms. Scarlett coordinates Interior's environmental policy initiatives to implement the President's executive order on cooperative conservation, serving on the White House Cooperative Conservation Task Force. From June 2003-2004, she chaired the federal Wildland Fire Leadership Council, an interagency and intergovernmental forum for implementing the National Fire Plan and 10-Year Implementation Plan. She co-chairs the President and First Lady's Preserve America initiative on historic preservation and heritage tourism. She also co-chairs the Recreation Fee Leadership Council, a federal interagency group to coordinate recreation fee policy and practices on federal lands. She serves on the Board of Trustees of the Udall Foundation as the Department of the Interior representative.

Prior to joining the Bush Administration in July 2001, she was President of the Los Angeles-based Reason Foundation, a nonprofit current affairs research and communications organization.

Deputy Secretary Scarlett will be presenting a discussion on the federal Cooperative Conservation program, a voluntary and incentive-based conservation program carried out through the efforts of landowners, communities, conservation groups, industry, and governmental agencies utilizing tools and programs available from various federal agencies. This presentation will be followed by a Q & A session.

Please join us for this insightful discussion. We hope to see you there!

5- Disclosure of "Private" Transfer Taxes IBP

Disclosure of “Private” Transfer Taxes

December 20, 2006

Legislative Committee

Taxation Committee

Land Use and Environmental Committee

The following is for study only and has NOT been approved by the Legislative, Taxation, Land Use and Environmental, Executive Committees or the Board of Directors.

Issue:

Should C.A.R. take action to insure the Private Transfer Taxes (PTTs) that have already been imposed are appropriately disclosed to consumers?

Action:

Optional.

Options:

1. Sponsor legislation to require a separate disclosure to potential home buyers as to whether the home they are considering purchasing requires the payment of a PTT, the percentage of the home price constituting the PTT (possibly with dollar amount examples), and/or the duration of the PTT and, potentially, a warning that the subsequent buyer may seek a lower home price to offset the cost of the PTT.
2. Do nothing.
3. Other.

Status/Summary

“Private” transfer “taxes” are increasingly being used to settle disputes between environmentalists and builders or, in the alternative, by builders to proactively avoid a lawsuit by environmentalists or to smooth development negotiations with the local government. Typically, in return for an agreement by the environmental group to not pursue a lawsuit based on one of the state’s environmental protection acts, the builder agrees to the imposition of one or more PTTs through a covenant included in the covenants, conditions and restrictions (CC&Rs). These PTTs have totaled as much as 1.75 percent of the purchase price of a home and is paid by every buyer of a home in the development for 20 to 25 years or, even, in perpetuity. At the October business meetings, the Board of Directors adopted the final report of the PTTs Task Force which included a recommendation that the Legislative Committee determine in January 2007 whether legislation is needed in connection with the disclosure of PTTs already imposed. C.A.R. is sponsoring legislation to prohibit the imposition of a PTT; however, PTTs established prior to the effective date of that legislation will remain in place and the task force believed that consideration should be given to statutorily requiring disclosure of those PTTs.

Discussion

In late March, the Placer County Association of Realtors (PCAR) approved a resolution requesting C.A.R. staff "to explore legislative remedies, limitations or prohibitions on reconveynce fees agreed upon by parties to a lawsuit settlement which are paid by subsequent homeowners …" The association believes that these fees "undermine the public planning process and accountability of elected officials, by allowing special interest groups an ability to further their interest behind closed doors without the consent of public officials …"

The resolution approved by PCAR was precipitated by an out of court settlement reached by a developer, an environmental group and the City of Roseville which is located in Placer County. Originally, a lawsuit was brought by the environmental group against the developer and the city alleging that the project planned by the developer was going to detrimentally impact fairy shrimp habitat. Ultimately, the developer, the environmental group and the city reached an out of court settlement. The settlement required that every home buyer, after the first buyer, purchasing a home in the development pay an additional one-half of 1 percent of the purchase price of the home into a fund. This requirement will be included in the covenants governing each home in the project and, for a period of 20 years, require everyone purchasing a home in the development to pay the PTT. The monies in the fund will be used to purchase open space to mitigate the loss of fairy shrimp habitat.

Subsequently, several other similar arrangements came to light. In one development, the builder had imposed three PTTs with a total cost to the home buyer of 1.75 percent of the purchase price of the home. And, while many PTTs are in effect for only 20 or 25 years, other PTTs are in place in perpetuity. Finally, the uses to which PTT funds are put have evolved to include a variety of subjects beyond environmental mitigation, for example, the development of affordable housing and providing assistance to the homeless.

Due to the issues raised by the imposition of PTTs by builders, a C.A.R. task force was appointed in July with the following mission statement:

A. Become familiar with how various forms of private transfer taxes (PTTs) operate. Generally, PTTs are fees imposed on sellers and/or buyers by way of a deed restriction requiring the payment of a fee based on some percentage of the purchase price each time the home transfers.

B. Determine what, if any, problems PTTs present for REALTORS® in their role as agents for sellers and buyers.

C. Make recommendations as to what, if any, actions (legislative or otherwise) C.A.R. should take with regard to PTTs and report to the C.A.R. Board of Directors at their October Board meeting.

After studying the issue for several months, the task force made the following recommendations in its final report which was adopted by the Board of Directors in October:

1. C.A.R. should sponsor legislation to prohibit the imposition of any PTTs.
2. C.A.R.'s Legislative Committee should determine in January 2007 whether legislation is needed in connection with the disclosure of existing PTTs to avoid real estate licensee liability associated with that disclosure.
3. C.A.R.'s Standard Forms Committee should determine whether a separate form is needed that would be provided by sellers to buyers at the time a home is listed (or, if not listed, at the same time at which the Transfer Disclosure Statement is required to be provided) disclosing to the buyer the existence, cost and duration of any PTTs. In addition, the Standard Forms Committee should determine if information relating to PTTs should be included in the statewide advisory and/or in the buyer advisory.

This issue briefing paper will concern itself with the second recommendation. While C.A.R. is sponsoring legislation to prohibit the imposition of PTTs, all of the PTTs established prior to the adoption of that legislation will remain in effect. As a result, the task force believed that consideration should be given to statutorily required disclosures to inform potential home buyers when there is a requirement to pay a PTT that is already in place.

Among the problems which the task force concluded PTTs present – and which point to items which should be considered for disclosure – are the following:

1. A PTT can be imposed by a developer for an excessive number of years. Generally, the minimum length of time that PTTs are currently being imposed ranges from 20 to 25 years; however, many are imposed in perpetuity.
2. The cost of a PTT can be prohibitively expensive for home owners and buyers. PTTs of up to 1.75 percent of a home's sales price have been seen; however, there is no upper limit on the percentage of a home's sales price at which a PTT can be set.
3. The requirements for disclosing the existence of a PTT are limited at best. In addition, the PTT requirement can be masked by the developer by not having it apply to the first buyer but having it, instead, apply to only subsequent buyers.

Many of the PTT Task Force members were troubled by lack of a clear disclosure. For example, the CC&Rs for the Gray's Crossing development run to almost 120 pages with the existence of the three PTTs that home buyers in that development are required to pay disclosed on page 112. However, the particulars of each PTT – amount, duration, etc. – can only be ascertained by obtaining each of the separate benefit fee agreements.

If a PTT exists, that fact will be disclosed in the Department of Real Estate's subdivision report. However, it is not clear that a potential home buyer would recognize the dollar cost of a PTT. For example, the subdivision report for the Martis Camp development near Lake Tahoe, mentions a "1 percent fee" but doesn't indicate that the fee is 1 percent of the sales price of the home. Also, the subdivision report makes no mention of the continuing nature of the fee (i.e., that when the buyer becomes the seller, the new buyer will also have to pay the fee).

A more clear disclosure could provide home buyers with information relating to the percentage of the home purchase price constituting the PTT, as well as the duration of each of the PTTs the home buyer will be required to pay should they choose to purchase a home in a development. Since the price of a home is negotiable, consideration should also be given to including a dollar example or examples so that the prospective home buyer has a better idea of the actual dollar amount he or she could end up paying. Finally, the disclosure could inform the home buyer of how the PTT may affect the net income that they may realize when they later sell their home – namely, that the next buyer may attempt to negotiate a reduction in the price of the home to offset having to pay the PTT. Such a disclosure would be analogous to the disclosure now required to be provided to prospective purchasers of homes in Mello-Roos communities which seeks to alert buyers of the additional costs associated with buying a home in such a community.

An additional issue that warrants consideration is the point at which the disclosures should occur. For example, should they occur in all advertising related to the development? Or, should the disclosures be made at the same time the law requires that the Transfer Disclosure Statement (TDS) disclosures be made? Current law requires that the TDS be provided "as soon as practicable before transfer of title." However, if the TDS is provided after the execution of the offer to purchase, the buyer has 3 days after personal delivery of the disclosure form, and 5 days after delivery by mail, to terminate the purchase agreement.

One method of making these disclosures that should be considered is that contained in Assembly Bill 2922 (Jones, 2006). That measure – which, was vetoed by the Governor for reasons unrelated to the manner in which the required disclosures were going to be made – would have required redevelopment agencies, in cases where such agencies are already required to record affordability covenants or restrictions on a property, to also record a separate document that specifies any affordability restrictions and the date on which these affordability restrictions will expire. The intent of the measure was to ensure that potential purchasers of a property are made aware of any affordability covenants. These covenants may be buried in a lengthy document and, thus, may be difficult for title companies and prospective buyers to locate.

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