



SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

DECEMBER MEETING OF STATE GOVERNMENT AFFAIRS DIRECTORS (GADS) IN SACRAMENTO FOR PREVIEW OF 2005 CAR AGENDA

Risk Management

Alex Creel and Stan Weig, CAR's legislative advocates and lobbyists will be working on developing the legislation for 2005 that was mandated at the October CAR meetings. Risk management is the order of the day, and in fact, CAR will sponsor a mandatory continuing education requirement that will include a four-hour course in risk management. Total number of hours still remains at 45 hours. The other bills have to do with encouraging settlement of lawsuits at the onset, creating a 60-day cooling off period of a "prospective" lawsuit and a 60-day period to resolve issues before a claim is filed with the insurer. Another bill will require a "Certificate of Merit" requirement before a lawsuit is actually filed against a real estate licensee. The "Certificate of Merit" is intended to "validate" a lawsuit in order to differentiate between frivolous lawsuits that would be thrown out. This legislation will be modeled after a similar law in effect for architects and engineers.

CAR Legal is preparing translations for its members of the CAR Residential Lease/Month-to-Month Rental Agreement (CAR Form LR) in five languages, as required by Civil Code Section 1632, in Spanish, Chinese, Korean, Tagalog and Vietnamese. CAR is also working on the creation and translation, in those same languages, of a non-technical, non-legal publication for the Residential Purchase Agreement and other CAR standard forms typically used in the sale of residential property. (Check www.car.org as some of these documents may be available now.)

Housing Opportunity

CAR will co-sponsor legislation amending the state's density bonus law to provide further incentives to the current housing crisis. The direction will be to seek more ministerial approvals, rather than the "discretionary" approvals, which stall housing developments. The premise is to ask local governments to plan very carefully so that when zoning stipulates a certain density, use and specific criteria, a development application that meets those guidelines would then receive a ministerial approval. This type of planning determines a "Build by Right," as created by the Zoning and General Plan designations.

GAD Questions about Pertinent Issues

1. Will we see changes to the Proposition 13 voter threshold of 66/23 percent?

Answer: Very difficult to see changes here, but continuing attempts to reduce the threshold to 55 percent will most likely appear by various interest groups.

2. What is CAR's position about state mandates over local control?

Answer: Alex Creel answered, "CAR is for local control unless locals are out of control."

NAR Report Regarding Conforming Loan Limits

The following information is provided by NAR. Many times, in our area, due to the higher prices, owners and REALTORS® do not utilize conforming loans or VA loans. However, some agents are encountering conservative clients with large cash down payments, and these clients wish to borrow fixed rate 30-year loans so that they have "known" fixed low monthly payments. It is their thinking that real estate is a safe place for their money, and rather than opt for leverage and higher payments, these types of loans can become an option.

New FNMA Conforming Loan Limits

On November 30, 2004, Fannie Mae and Freddie Mac increased conforming loan limits on single-family properties from \$333,700 to \$359,650, effective January 1, 2005. This loan limit increase reflects the October-to-October changes in average house prices, as published by the Federal Housing Finance Board, and complies with the Supervisory Guidance issued by the Office of Federal Housing Enterprise Oversight (OFHEO). Loan limits will also increase on other properties as follows:

Two-family properties: \$460,400 (up from \$427,150);

Three-family properties: \$556,500 (up from \$516,300); and

Four-family properties: \$691,600 (up from \$641,650).

Under the Fannie Mae and Freddie Mac charters, loan limits in states and territories designated high-cost areas—Alaska, Hawaii, Guam, and the U.S. Virgin Islands—are 50 percent higher than the amounts above.

Increase in the VA Loan Guaranty Limit

On Friday, December 10, 2004, the President signed S. 2486, the Veterans Benefits Improvement Act of 2004, which increases the loan limit under the VA Home Loan Guaranty Program to 25 percent of the Freddie Mac/Fannie Mae conforming loan limits.



Effective December 10, 2004, the maximum VA guaranty will increase to \$83,425 from the current \$60,000, and the maximum loan amount will increase to \$333,700 from the current \$240,000.

On January 1, 2005, the Freddie/Fannie conforming loan limit will increase to \$359,650. The VA guaranty will also increase to \$89,913, and the maximum loan amount will go up to \$359,650.

The Veterans Benefits Improvement Act of 2004 contains other provisions supported by NAR including extending the authority for VA Adjustable Rate Mortgages (ARMs) until 2008, extending the authority for VA hybrid ARMs until 2008 and providing the Secretary the discretion to limit interest rate increases for hybrid ARMs of more than four years.

NAR worked closely with the bill sponsors during committee consideration and provided key technical research assistance to the House and Senate VA Committee staffs. NAR aggressively urged support of this critical legislation in the House and Senate. Additionally, NAR worked with industry partners (the National Association of Home Builders and the Mortgage Bankers Association of America) to garner the appropriate support in both chambers for passage of the bill.

COUNTY OF SANTA CRUZ

County Adopts 2005 Growth Goal

Each year the county is required, through implementation of their Growth Management System, to set an annual growth goal for the upcoming year. As part of that process, staff prepares a Growth Goal Report for consideration by the Planning Commission and the Board of Supervisors. The Year 2005 Growth Goal Report was considered by the Planning Commission at a public hearing on October 27, 2004. The Year 2005 Growth Goal Report recommends a continuation of the 2004 growth rate goal of 0.5 percent for 2005.

The Year 2005 Growth Goal Report provides a discussion of a series of factors critical in establishing the annual growth rate goal for the county. The report contains a number of findings including the following:

Population Trends: The State Department of Finance (DOF) estimates that during the last year (2003), the county's unincorporated population declined at a rate of -0.22 percent. This rate is significantly lower than the 2003 adopted percent growth goal of 0.50 percent. The county, as a whole, grew at a 0.5 percent rate in 2003, which is significantly less than the

1.49 percent growth rate for the State of California.

Growth Impacts: The most significant development impact on resources in the county consists of the potential and actual water supply shortfalls countywide. Water agencies countywide are attempting to address these concerns. Urban service impacts of existing and new development are being addressed by a number of county initiatives to plan, finance and construct capital improvements.

Housing Goals: Over the last 24 years, 15.1 percent of the new residential development in the unincorporated area has been constructed as affordable housing.

Affordable housing production in the first eight months of 2004 is **3.3 percent**, but the building permit application for the "McGregor" project is expected and could increase the percentage to 19.8 percent if all the available building permits are allocated.

GROWTH GOAL SETTING

The Year 2005 Growth Goal Report recommends a continuance of the 0.5 percent growth rate goal established for 2004. Taking into account current population, household size and vacancy rates, staff has determined that a 0.5 percent growth rate for 2005 would equate to an allocation of 267 total building permits, at least 15 percent of which would be for affordable units (i.e., 40 affordable units and 227 market rate units).

The Board therefore approved the following 2005 Growth Rate Goal and Distribution of Building Permit Allocations:

1. A population growth rate goal of 0.50 percent be established for 2005;
2. Reservation of 15 percent of the Building Permits for affordable units;
3. A distribution of the remaining Building Permit allocations be established and based on the following criteria:
 - Division of the 2005 growth between urban and rural portions of the unincorporated county on a 67-33 ratio;
 - Allocation of urban and rural permits without regard to project size or affordability;
4. The unused 2004 market rate permit allocations to be held for possible use as carry over permits subject to the approval of the Board of Supervisors; and,





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5. The continued exemption pursuant to County Code Section 12.02.020 of new affordable units from the requirement to obtain a Building Permit allocation under the county's growth management regulations in order to allow attainment of the housing goals in the County Housing Element. **"Watch!"**

January 11, 2005, Public Hearing to Establish a County Service Area (CSA) Tax to Fund a Park

The McGregor property, located at the northwest corner of Sea Ridge Road and McGregor Drive in Aptos, is 2.95 acres of relatively flat land with no improvements. Currently zoned to allow visitor accommodations and ancillary commercial uses, the Board of Supervisors has identified it as a potential park site. In order to provide such extended services in the Seacliff area, the Board must create a new County Service Area to fund the purchase and maintenance of such a park. A funding mechanism must be established to acquire and develop the McGregor property—specifically, a special tax to be determined by the registered voters in the new subzone; and the county must successfully negotiate the acquisition of the McGregor property. Some Seacliff community members have proposed the levy of a special tax within that area. The special tax is proposed to be in the annual amount of \$98 per residential unit. The special tax levy will "sunset" in 30 years from the date the debt service payments are scheduled to begin, which is the time the property should be paid for. Extensions beyond the 30 years would require approval by the voters in the CSA. The special tax will require the approval of two-thirds of the registered voters within Subzone M voting in the election. Because of the limited size of Subzone M (approximately 1,900 registered voters), it is proposed that a special election be conducted on May 3, 2005, entirely by mail, with drop off centers for the in-person return of mail ballots. The cost for this election will be borne by the County Parks Department, which will be repaid from the proceeds of the successful tax measure. It is anticipated that the election will cost approximately \$5,000. One gentleman spoke on behalf of seniors who would ask for an exemption of this new tax. This will be considered at a later date. Since the area has a substantial number of tenants, it is possible that this ballot measure, if conducted in this fashion, would create a \$98 annual tax obligation on parcels for 30 years, without the approval of the property owner, who may not reside in that CSA. **"Watch!"**

Amendments to County's Second Unit Ordinance

Since July 2003, two-story second units have not been allowed inside the USL unless a variance is obtained. Because variance findings can only be made under very limited circumstances, no two-story second units have been approved in the urban area since this requirement has been in place. Since there are locations in the urbanized area in which two-story second units might be appropriate, Planning staff proposed a change to the approval process so that instead of a variance being required, the approval of two-story second units inside the USL would be subject to the Development Permit review process with a Level V approval (i.e., public hearing before the Zoning Administrator, appealable to the Planning Commission). The county believes that this switch to a Level V Development Permit review process can adequately address neighborhood concerns since it would require findings of neighborhood compatibility, a public hearing, and a discretionary approval for any two-story second unit inside the USL. Recent state legislation (AB 1866) now requires that second units receive ministerial approval (with no public hearings). In this case, the county has decided that single story second units in urban areas must comply with AB 1866, with no public hearing required—but second units in urban areas must be processed with a public hearing before the Zoning Administrator, appealable to the Planning Commission.

As one citizen wrote in a letter to the Board of Supervisors, instead of this proposal, the second unit regulations should allow a "use-by-right," which is contained with the height limit and setbacks for a main dwelling unit on the parcel. He explained that when a person builds a single family dwelling in the urban area, it can have a second story and meet every obligation of height and setbacks; but if an "identical" structure is built containing a second unit, then a public hearing is required! According to the citizen's letter, he continued: "It should not matter whether the expansion is part of the main dwelling unit or is a second unit" (when it meets setbacks and other zoning regulations). Meanwhile, the county does not have an approved housing element or updated General Plan. And the citizen continued to state that without the legal basis of an approved housing element and General Plan, the county's second-unit ordinance may not be legal. **"Watch!"**



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LOCAL INTEREST ON SECURITY DEPOSITS FOR 2005

The Cities of Santa Cruz, Watsonville, and Capitola and the County of Santa Cruz all require that the interest rate paid on tenants' security deposits for residential rental property be established—usually at the end of each calendar year—to be effective for the following calendar year. The interest rate is based on the recommendation of the Santa Cruz County Treasurer-Tax Collector. These three cities and the county have tacitly agreed to be consistent in creating a standard rate for each year so that the same regulations apply throughout the county without regard to the jurisdiction in which a particular piece of residential rental property might be located—except for Scotts Valley, which does not currently have such an ordinance. The rate for 2005 is 0.32 percent. Contact the Department of Consumer Affairs at the County Office at (831)-454-2128 for prior years, as they have varied widely since this was first established by the City and County of Santa Cruz in 1992.

CITY OF SANTA CRUZ

Inclusionary In Lieu Fee on Development Application Estimated to be \$700,000

In response to a Notice of Funds Available (NOFA) issued by the California Department of Housing and Community Development (HCD), the City Council established the Santa Cruz Affordable Housing Trust Fund in October 2003. In February 2004, the city received a matching Local Housing Trust Fund grant from HCD for \$1,022,000. Housing in-lieu fees were designated as a dedicated source of revenue for the fund. However, at that time, there was an inadequate amount of housing in-lieu fee funds available to meet HCD's minimum requirement of one million dollars. So in addition to existing in-lieu fee funds, the Council committed \$530,000 from the City's Public Trust Fund with the intention that the \$530,000 would be replaced by future in-lieu fees.

On December 9, 2003, the City Council unanimously approved a 149,600 square foot, three- to four-story residential/commercial condominium building on a site located at 125 River Street/2050 N. Pacific Avenue. The proposed development includes 29 one-bedrooms and 41 two-bedrooms for a total of 111 bedrooms. The inclusionary requirement for this proposed development is either 10 units or 16 bedrooms. The inclusionary requirement may also be met by paying a housing in-lieu fee.

For the proposed project at 125 River Street/2050 N. Pacific Avenue, Council voted to delay specifying how the inclusionary requirement would be met. The condition of approval, which is shown below, required the owner to return to Council to specify how the inclusionary requirement would be met. Condition #48 stated that:

The applicant shall comply with the inclusionary housing provisions of Section 24.16.010 of the Zoning Ordinance. Prior to issuance of a building permit, the City Council will review and approve how the inclusionary housing ordinance requirement will be met. A Participation Agreement establishing compliance with the inclusionary housing requirements shall be entered into following City Council approval and prior to issuance of a building permit.

The owner, who is currently in negotiations to sell the property, has requested that the requirements to meet this condition be defined at this time to facilitate the sale. It is expected that escrow will be opened at the end of December 2004.

Although the current owner, River Pacific Associates, designated the proposed locations for inclusionary units, both the current owner and the buyer have indicated a willingness to pay a housing in-lieu fee to meet all or part of the inclusionary requirement. The proposal is to substitute housing in-lieu fees for up to six of the ten required inclusionary units. Although the in-lieu fee amounts cannot be established until an appraisal of the proposed development is done, preliminary estimates indicated that housing in-lieu fees for these six units would be about \$700,000. This would replace the City's Public Trust Fund monies as well as part of the existing housing in-lieu fees that were used both as a match for the Housing Trust Fund and were designated for the Accessory Dwelling Unit Loan Program. The Accessory Dwelling Unit Loan Program would not qualify as a project under the HCD Local Housing Trust Fund Grant. This is one to **"Watch!"**

Please Note: The Legislative Watch is prepared by Rose Marie McNair, Governmental Affairs Director, and is only a summary, not intended to provide legal advice, and should always be verified for accuracy.