



# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

## **Update on Proposed Septic Tank Regulations**

In response to heavy criticism from REALTORS® and local property owners, the staff of the California State Water Resources Regional Control Board (SWRCB) has drafted a new set of regulations regarding the use and maintenance of septic tanks and leech fields. Originally, the SWRCB had proposed the septic systems be monitored and inspected at point of sale. REALTORS® responded with heavy attendance at comment meetings and many phone calls to the SWRCB protesting the proposed regulations. Subsequently, staff has proposed new regulations that do not include the point of sale requirement. Instead, staff has recommended that on-site water treatment system owners conduct septic tank inspections for solids levels every five years and sample/analyze groundwater (domestic wells) every three to five years.

While it is unclear whether or not the SWRCB will adopt the new staff recommendations, California Association of REALTORS® (C.A.R.) staff will continue to monitor this issue. The draft regulations are being studied in an Environmental Impact Report set to be completed in April with final approval and implementation expected by January 2007.

For a copy of the staff-proposed changes to the draft regulations, go to [www.swrcb.ca.gov/ab885/docs/ab885staff\\_recommendations.pdf](http://www.swrcb.ca.gov/ab885/docs/ab885staff_recommendations.pdf)

For information on the proposed minimum lot size, soil depth and monitoring requirements, go to [www.swrcb.ca.gov/ab885/docs/ab885\\_matrix.pdf](http://www.swrcb.ca.gov/ab885/docs/ab885_matrix.pdf)

## **C.A.R. to Seek Changes to Eminent Domain Law**

At its January meetings in Anaheim, the California Association of REALTORS® (C.A.R.) Board of Directors adopted the action items recommended by the C.A.R. Eminent Domain Task Force to tighten state law concerning eminent domain and redevelopment. In the wake of the *Kelo v. City of New London, CT* decision, C.A.R. President

Vince Malta appointed a task force to examine C.A.R. policy and recommend new policies, if needed. The following motions endorsing changes to California's already restrictive laws on eminent domain and redevelopment were recommended by the task force and approved by Board:

C.A.R. "SUPPORTS" legislation concerning eminent domain that would:

- Prohibit the taking of single-family property by eminent domain for any use other than for public use.
- Amend the eminent domain law to make it easier for property owners to transfer their existing property tax base.
- Require courts to award the prevailing plaintiff attorney fees and costs should the plaintiff prevail in an eminent domain proceeding when challenging: a) the validity of the taking of property; or b) the valuation of the property.
- Require a) independent licensed appraisers to be used in eminent domain proceedings; and b) redevelopment agencies to reimburse property owners the cost of an additional appraisal in eminent domain proceedings.

C.A.R. "SUPPORTS" legislation concerning redevelopment law that would:

- Substantially tighten the definition of "blight" used by redevelopment agencies proposing to create or expand redevelopment project areas;
- Reduce the time period during which the initial finding of "blight" may exist in a newly created redevelopment project area;
- Reduce the time period during which redevelopment agencies may take property by eminent domain;
- Require a re-evaluation of the necessity of a redevelopment area on a periodic basis;
- Require redevelopment agencies to disclose to all property owners that they may transfer their property tax base if the qualified replacement property is within



the same county.

**NAR Asks New Fed Chair To Maintain Separation of Banking & Commerce**

The separation of banking and commerce is one of our nation's most fundamental economic policies, the president of the National Association of REALTORS® (NAR) emphasized in a letter to Ben Bernanke, the new chairman of the Federal Reserve Board of Governors.

REALTORS® are troubled by several recent regulatory actions that would lead to the mixing of banking and commerce. NAR is deeply concerned about the pending application before the Federal Deposit Insurance Corp. (FDIC) from Wal-Mart for an industrial loan company (ILC) charter.

"When commercial firms are allowed to engage in banking, the bank functions under an inherent and irreconcilable conflict of interest," said NAR President Thomas M. Stevens.

NAR finds itself in agreement with numerous banking organizations and bank trade associations that have strenuously opposed the Wal-Mart ILC application on the basis that permitting commercial firms to own banks will result in an impermissible mixing of banking and commerce. However, NAR points out that the banking industry is taking hypocritical positions by opposing commercial companies entering the banking business while at the same time seeking to expand permissible bank activities into real estate brokerage and real estate development—activities that by their very nature are commercial. NAR hopes that the irreconcilable clash of commercial and banking industries over these activities in different regulatory forums will compel the Federal Reserve Board to support efforts to have Congress resolve these issues through the legislative process.

"NAR strongly believes that Wal-Mart's effort to obtain a federally insured ILC will establish a dangerous precedent that will inevitably lead to an erosion of the separation

of banking and commerce. We see serious consequences for the continued stability and growth of the nation's financial system if the FDIC approves the application. Accordingly, we ask that, early in your term, you actively oppose approval by the FDIC of deposit insurance for the proposed Wal-Mart ILC," Stevens said in the letter. NAR also stated its belief that recent rulings from the Office of the Comptroller of the Currency (OCC) expanding the authority of national banks to invest in real estate developments are inconsistent with the National Bank Act and the OCC's previous rulings and regulations.

"The new rulings represent another leap forward in the OCC's continued effort to dramatically expand the real estate powers of national banks and undermine the national policy requiring separation between banking and commerce," Stevens said. "The OCC's course of action poses a significant threat to the safety and soundness of the entire banking system, the financial markets, and the whole U.S. economy. The savings and loan scandal of the 1980s and the sluggish Japanese economy, where banks are intertwined with real estate and commercial enterprises, are two dramatic examples of the negative consequences of mixing banking and commerce."

Numerous banking experts see the OCC's actions as a significant expansion of real estate powers of national banks. Two former comptrollers, Eugene Ludwig and John D. Hawke, Jr., have publicly acknowledged that the OCC letters move the bar. By passing legislation each year in the past four years barring issuance of the final Federal Reserve Board-Treasury Department rule that would permit financial holding companies and financial subsidiaries to engage in real estate brokerage and management, Congress has clearly stated its view that banking organizations must not be permitted to engage in these activities.

"If Congress does not want banks to engage in real estate brokerage or management, it is inconceivable that it intends to permit national banks to engage in real





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estate development, which is a much riskier activity. NAR is urging Congress to conduct hearings and take action to address the OCC's continued efforts that breach the wall separating banking and commerce and threaten to destabilize the nation's banking system," Stevens explained.

NAR strongly disagrees with the proposed Fed-Treasury rule that would allow financial holding companies and financial subsidiaries to engage in real estate brokerage and real estate management. "In our view, these activities are purely commercial, not financial, activities," Stevens said. "The fact that banks are involved in real estate financing and other related activities cannot be a basis for concluding that real estate brokerage and management activities are financial or related to financial activities. Such false reasoning leads to the conclusion that banking organizations may broker any product whose sale they may finance—appliances, automobiles, airplanes, artwork, etc."

## ***The Homeowners' Property Tax Exemption – An Important Benefit for Your Clients***

Homeownership is an important societal value and helps build communities, but owning a home also provides significant financial and tax advantages. California, for example, provides for a Homeowners' Property Tax Exemption. This \$7,000 reduction in the taxable value of a qualified owner-occupied home could save at homeowners at least \$70 each year on their property taxes and is one of the many benefits of homeownership that REALTORS® can advertise to prospective clients. Courtesy of the office of Acting California Board of Equalization Member Betty Yee, here are some frequently asked questions regarding the exemption and information about how to apply for the exemption if REALTORS® or their clients are not already receiving it.

**Q: Who is eligible for the homeowners' exemption?**

A: Homeowners who own and occupy a home in California as their principal residence on January 1st of the year for which they are claiming the exemption.

**Q: What type of dwelling units can qualify for the homeowners' exemption?**

A: Any of the following can qualify if it is your principal residence and is subject to property tax: a single-family residence, a condominium, a unit in a cooperative housing project, a houseboat, a manufactured home, or a mobilehome. However, manufactured homes and mobilehomes that are subject to the California vehicle license fee instead of local property tax do not qualify for the homeowners' exemption.

**Q: How do I know if I am already receiving the homeowners' exemption?**

A: Your annual property tax bill should reflect a \$7,000 reduction in the taxable value of your home if you are receiving the exemption. It is always a good idea to double-check your tax bill each year, even if you have received the exemption for many years.

**Q: How do I apply for the homeowners' exemption if I am not already receiving it?**

A: Your county assessor will provide you with a simple form to complete, free of charge. Santa Cruz County residents should contact Gary Hazelton, the County Assessor at 831-454-2002 or email him at [asr010@co.santa-cruz.ca.us](mailto:asr010@co.santa-cruz.ca.us). If you were receiving the exemption for your home in previous years but did not receive it this year, contact your county assessor to make sure your exemption was not removed in error. However, if you failed to apply for the exemption in previous years, it cannot be granted retroactively.

**Q: What is the deadline for filing a homeowners' exemption claim with the county assessor?**



# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

A: To receive 100% of the allowable exemption, you must file an exemption claim form with your county assessor by February 15th. If you file between February 16th and December 10th, you can still qualify for a partial exemption of the lesser of \$5,600 or 80% of the taxable value of your principal residence.

**Q: Will I need to reapply for the homeowners' exemption each year?**

A: No. Once you have qualified for the homeowners' exemption, you should automatically receive the exemption for each year you remain eligible. You should double-check your annual property tax bill just to be sure.

**Q: Can I receive two exemptions if I own two homes?**

A: No. Only your principal residence can qualify for the homeowners' exemption. If you are receiving the exemption for a home that no longer qualifies, it is your responsibility to notify your county assessor in a timely manner that your home is no longer eligible for the exemption.

**Q: Can I receive a homeowners' exemption if I receive Homeowner Property Tax Assistance?**

A: Yes. If you otherwise qualify for the homeowners' exemption, you can receive both benefits. Homeowner Property Tax Assistance is provided to qualified homeowners based on the amount of property tax assessed and paid on their home. You may be eligible for property tax assistance if you are 62 years of age or older, blind or disabled, own and live in your own home, and meet certain household income limitations. For additional information regarding homeowner property tax assistance, contact the California Franchise Tax Board at 1-800-868-4171.

**Q: My home was damaged or destroyed in a recent natural disaster. Can I still qualify for the exemption**

**even though I am not currently living in my home?**

A: Yes. Recent law changes allow you to continue receiving the exemption even if you are not presently living in your home as a result of specific natural disasters for which the Governor has declared a state of emergency. However, it is best to check with your county assessor as to whether the natural disaster that damaged or destroyed your home was included in the recent law changes. As you can see, the homeowners' property tax exemption can be an important and valuable benefit to qualifying homeowners. If you are unsure about whether you qualify for the exemption or if you have additional questions, Santa Cruz County residents should contact Gary Hazelton, the County Assessor at 831-454-2002 or email him at [asr010@co.santa-cruz.ca.us](mailto:asr010@co.santa-cruz.ca.us).

*Please Note: The Legislative Watch is prepared by the Santa Cruz Association of REALTORS®. The Legislative Watch is only a summary not intended to provide legal advice and should always be verified for accuracy. For more information on a local agency, please call SCAOR at (831) 464-2000 to contact the Local Governmental Relations Liaison assigned to that agency or municipality.*

