



SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

Members of the Santa Cruz Association of REALTORS® --

I want to thank you all for allowing me the opportunity to write the "Legislative Watch" and for your support all these years. This is the last issue I will author. In the future, if you have questions relating to government issues, please call Philip Tedesco at (831) 464-2000. To quote Margaret Mead, a great anthropologist, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it's the only thing that ever has." I believe that statement sums up just what REALTORS® do.

-- **Rose Marie McNair, REALTOR®**

Remember these local city and county disclosures along with state and federal mandated disclosures when working with clients (Check with SCAOR for current forms and updates!):

- Agriculture Disclosure -- Required in unincorporated areas of Santa Cruz at time of sale.
- City of Santa Cruz Tenant Notification -- Requires ten days written notice to tenants prior to listing property for sale.
- Water Conservation Ordinances -- Make sure you know who the water purveyor is, as each ordinance is different:
 - City of Santa Cruz: At time of sale, requires Disclosure, Inspection and Certification of installation of low flow fixtures;
 - City of Capitola: At time of sale, requires Disclosure and Certification (includes Soquel Creek Water District and City of Santa Cruz Water District as purveyors of water to customers in Capitola). Requires disclosures and certification of installation of low flow fixtures;
 - Unincorporated Areas in the County of Santa Cruz: At time of sale, requires Disclosure and certification of installation of low flow fixtures;
 - Monterey County has several different jurisdictions, each with potential ordinances;
 - The cities of Scotts Valley and Watsonville do not have ordinances.

Some of the bills discussed at the Government Affairs meeting in Sacramento on March 18th include:

- **AB712 Canciamilla Planning Accountability:** This is a CAR sponsored bill. If a City or County effectively denies the density level of low or moderate income housing, it must identify sufficient additional, adequate and available sites so no net loss in density occurs. This CAR co-sponsored bill allows landowners to sue local governments and recover their attorney's fees and costs should they prevail. This provision will expire January 1, 2007. CAR is sponsoring AB 712 to repeal the sunset date of this attorney fee provision.
- **SB326 Dunn Local Government Accountability:** This bill expands a prior bill that CAR successfully co-sponsored two years ago. That bill stated that low and moderate rental housing developments of 100 units or less can not be denied a permit if they comply with local government development standards and receive a negative declaration or a mitigated declaration under the California Environmental Quality Act. SB 326 expands this law. CAR embraces policy that allows property owners the right to develop their property with the certainty that local government cannot change the rules in the process. Currently the bill is in the Senate Transportation and Housing Committee.
- **AB 323 (Gordon) 60 Day Pre-Filing Notice:** Sponsored by CAR, this measure will create a statutory requirement for 60 days notice of a claim to a broker who is a prospective defendant before a lawsuit can be filed. Such a mandated delay in filing will probably need to be accompanied by a tolling of the applicable statute of limitations so that underlying legal rights will not be lost. The key goal of the proposal is to attempt to allow an employing broker to intervene in a dispute before the parties have to retain their own lawyers and become committed to litigation. Currently the bill is in the Assembly Judiciary Committee.
- **SB 530 (Kehoe) Insurance: Underwriting** - In connection with AB 323 (above), CAR is also sponsoring SB 530 in order to create a change in requirements for the tracking of losses by



insurers so as to allow a 60 day "window" period in which to resolve a claim before it can be counted against a broker's or real estate firm's claims/loss history, provided the settlement does not result in payment by the insurer. If the claim is resolved within the 60-day period the real estate office would then be able to preserve a clean claims history and thus a lower premium. This bill is currently in the Senate Banking, Finance and Insurance Committee Legislative Days will take place in Sacramento this year on Wednesday, June 8th. This is the day when thousands of REALTORS® descend on the State Capitol to talk to our legislators about upcoming bills that CAR sponsors as well as those we oppose. If you can make it, it's a wonderful opportunity to see government in action and to actually participate in the process! "Watch" for bulletins about the SCAOR sponsored bus trip!

City Of Capitola

New Capitola City Councilmember Kirby Nicol Requests Review of Zoning Regulations -- Kirby Nicol, REALTOR®, recently elected to the Capitola City Council, expressed concerns over inconsistencies in administering the General Plan and Zoning Ordinances. He commented on public hearings regarding similar project applications for homes located next door to one another on McCormick Avenue. One of the applications was approved 3-1, while the other was continued. As the minutes state, "He thinks this is a classic example of inconsistencies of zoning regulations, and he would like to see the City Council meet with the Planning Commission to discuss this and to decide whether it is the city's goal to arrive at conformity. Council Member Nicol discussed non-conformance and the need to bring properties into conformance when possible. Council Member Termini commented that he had suggested having joint meetings with the Planning Commission every three months during the Council's goal setting session."

Staff was then directed to schedule a special joint meeting of the City Council and the Planning Commission to discuss the city's non-conforming and variance regulations. It was suggested this meeting be scheduled following the effective date of the Title 17 Zoning Ordinance/LCP Amendment, which will occur the end

of April. **"Watch!"** for the proposed changes regarding non-conforming properties and current variance regulations.

County Of Santa Cruz

Chapter 7.69 Water Conservation Retrofit Ordinance Amended by Board of Supervisors

March 15th -- This ordinance, adopted in January, 2003, has been cited by the County to be the "County's single most effective water management program" which they contend has resulted in substantial conservation of water and energy and reduces the burden on septic tank systems and sewer systems. At the time of sale, Sellers are required to install low flow showerheads having a maximum flow rate not exceeding 2.5 gallons per minute (gpm) and ultra low-flush toilets, not exceeding 1.6 gallons per flush (gpf). These requirements will continue on sales in the unincorporated areas of Santa Cruz. These ordinance changes came about as a result of a recent real estate transaction, in which the cost to retrofit the plumbing system was estimated to be in excess of \$10,000. Therefore new language was needed to identify which properties might be exempt from the requirements of the low flow fixture installations. Initially, "significant structural modifications" was included as an exemption, but since there was no clear definition, the Board of Supervisors asked staff to provide a definition and/or to create a better way of dealing with costs associated with "significant structural modifications."

So, the new ordinance completely strikes "significant structural modifications" and now defines "Significant Expense": the cost for retrofitting any single fixture is estimated to be more than one-half of one percent of the market value of the property subject to transfer. Therefore, if the market value of a property is \$700,000, an exemption would require the cost of installation to be \$3500 or greater per fixture. For further information, please contact Bruce LaClergue at (831) 454-2816, or go to our web site at www.co.santa-cruz.ca.us and click on the Public Works Department. In the future, the ordinance may also appear on the Environmental Health Department as well.





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City of Scotts Valley

Guidelines for Inclusionary Units in Redevelopment

Areas Discussed -- Chapter 14 of the Scotts Valley Municipal code (SVMC) establishes requirements for the production of affordable housing in the Redevelopment Plan area. This Chapter sets forth the procedures and requirements to ensure compliance with the "inclusionary housing" requirements for housing projects within the Redevelopment Plan area. New housing developments would require that 15% of the units must be affordable housing units.

The regulations, under the guidance of the City Council and the Redevelopment Agency Board, establish procedures and provide direction to staff and the Affordable Housing Subcommittee for payment of "in-lieu" fees for projects with fractional numbers of housing units. To provide routine policy direction for administration of the Scotts Valley Affordable Housing programs, the City Council/Agency Board established the Affordable Housing Subcommittee (Mayor Pro Tem Aguilar and Council Member Bustichi), which meets on an as needed basis to review issues, provide policy direction on program administration issues, and to negotiate affordable housing agreements with development projects subject to Chapter 14 of the SVMC.

Over the last 2 years, the Subcommittee reviewed various issues associated with the calculation for in-lieu fees which are paid when a project has a fractional unit housing production requirement and issues regarding the calculation of the fee, the amount of the fee and related issues. In addition, the subcommittee made several recommendations including the following:

- 1) Update the "for sale" portion of the in-lieu fee calculation to correct the property tax issue by utilizing the Agency's Sales Price calculation formula.
- 2) Housing production is preferred over simple payment of fees.
- 3) Retain current formula and adjust it to correct the property tax calculation only.

To pursue the recommendations of the Subcommittee, amendments to Chapter 14 of the SVMC are required. The primary function of the amendments is to correct the in-lieu fee calculation issue for the "for sale" portion of the calculation. Additionally, staff review of Chapter 14 found that the following additional amendments are needed to improve clarity of City/Agency procedures and policy and to update definitions.

- Clarified all references of low/moderate housing to "affordable housing;"
- Incorporated references to income categories to include all levels of very-low, low, and moderate-income housing;
- Clarified and updated definitions, added new terms appropriate to context of the Code, and removed unused terms;
- Updates to the process for developments to obtain approval of affordable housing requirements to reflect actual practices;
- Changed the "for sale" portion of the in-lieu fee to reflect the changes recommended by the Affordable Housing Subcommittee.

For further information, contact Laura Kuhn, Community Development Director at (831) 440-5630.

City Of Watsonville

New Ordinance Requiring Undergrounding of Utilities in all New Developments

-- A new Chapter 16 is added to Section 7 of the City's Municipal Code states that all new construction, which involves design review, use permit, minor land division, subdivision, or a building permit will be required to install underground utilities on private projects or on extensions of public utilities. Exemptions from construction of undergrounding will include an in-lieu fee established from time to time by the City Council, under any one of the following circumstances:

- The parcel is zoned commercial, institutional, public or industrial and involves the addition of 500 square feet or less of new or additional floor area to a substantially developed property;



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- The parcel is zoned residential and involves the addition of 350 square feet or less of new floor area to a substantially developed site;
- The width of street frontage for an existing parcel is less than 100 feet;
- For a building located on a corner lot, the shorter of the two frontages shall be used for the determination;
- Where the cost of underground installation exceeds five percent of total project costs. (Total project costs include building and private site improvements such as grading, parking, landscaping, frontage improvements and improvements within the public right of way. Total project costs shall not include development-related fees such as building fees and development impact fees or design related costs. If a project fronts multiple public streets, places or ways which contain existing overhead utilities, the in-lieu fee amount shall be based upon the frontage of the utility providing service to the parcel or structure.)

For more information, go to www.ci.watsonville.ca.us

City Of Santa Cruz

Mayor Rotkin Asks for City Council Endorsement of SB, the Million Solar Roofs Initiative at the March 22nd Council Meeting

-- Senate Bill 1 (SB 1) would establish the Million Solar Roofs Initiative, with the goals of placing 1,000,000 solar energy systems on new and existing residential and commercial customer sites, establishing a self-sufficient solar industry in 10 years, and placing solar energy systems on 50% of new home developments in 13 years. The bill would also establish a trust fund for a program to award incentives to support the installation of eligible solar energy systems.

Mayor Rotkin's letter to the City Council states:

Air pollution is one of California's most urgent health and environmental problems. While everyone is adversely affected by air pollution, children, the elderly and asthmatics suffer the most from California's persistent air pollution. Every year, air pollution sends thousands of Californians to emergency rooms and triggers hundreds of thousands of asthma attacks.

Asthma costs the state of California millions of dollars each year, including medical care and lost school and workdays.

Over the next ten years, over a million new single-family homes will be built in California. If this new energy demand is met through fossil-fuel power plants, approximately 8-10 new power plants will be built dumping an additional 16 million tons of pollution into our air—equivalent to more than 2 million cars. In contrast, for every megawatt of solar installed, 127 pounds of smog-forming pollution and more than 2 million pounds of global warming pollution is reduced the equivalent of 150 cars.

SB1, Rotkin believes, provides the solution to air pollution problems from power plants. Air pollution can be reduced by shifting to solar power into residential and commercial construction to reduce the demand for energy from polluting power plants. SB1, the Million Solar Roofs Initiative, is written to create the mechanisms to do this.

The only question that is not answered in the bill is where the funding/grants will come to produce one million new solar roofs on newly constructed single family homes. The bill states that "mechanisms" will be provided. Will there be increased taxes and increased developer fees resulting in increased housing costs? Will a special agency have to be established to manage the program? What exactly is the cost and what will be the mechanism?

As we go to press, this issue will go before the City Council on March 22nd. Meanwhile go to www.sen.ca.gov and check on SB1, the Million Solar Roofs Initiative. **"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.