



# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

**The following are legislative issues discussed at C.A.R.'s Legislative Day on June 8 (issues are reported as of May 24, 2005). The July edition of Legislative Watch will include reporting on the progress of these issues that was made in Sacramento. In addition, check for updates on the outcomes of votes that are scheduled in the next month on bills that are relevant to the real estate industry.**

### **C.A.R. Sponsored Legislation**

C.A.R. is the sponsor of SB 326 (Dunn) "Local Government Accountability," which passed the Senate Floor on May 16<sup>th</sup>. Two years ago C.A.R. successfully co-sponsored a measure providing 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. C.A.R. is sponsoring SB 326 to expand this law to duplexes, triplexes, and fourplexes. C.A.R. 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.

### **Other Bills of Interest**

**C.A.R. supports AB 62 (Strickland) "Homeowners Exemptions for Property Taxes,"** which was heard but not voted on in the Assembly Revenue and Taxation Committee on May 16<sup>th</sup>. Existing property tax law provides for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a dwelling. This bill would increase the amount of this property tax exemption to 25% of the full value of a dwelling for qualified first time home buyers beginning on January 1, 2006. AB 62 would allow a first time home buyer to use this increased exemption for the first 5 years of their ownership, and would, over the ensuing 5 year period, incrementally decrease the exemption amount down to \$7,000. C.A.R. supports this bill because it clearly would assist first time home buyer's ability to purchase a home by lowering the buyer's tax burden.

**C.A.R. supports AB 304 (Hancock) "Building Standards Reconstruction,"** which passed the Assembly Floor on May 19<sup>th</sup> with a vote of 46-to-2. Existing law authorizes a city, county, or city and county to establish building reconstruction standards for the reconstruction of buildings identified as being hazardous to life if an earthquake occurs. This bill would add wood frame, multiunit residential buildings where the ground floor portion of the structure contains parking or other similar open floor space to the list of buildings that are potentially hazardous if an earthquake occurs. Additionally, AB 304 requires these buildings to undergo seismic retrofit in order to comply with the International Building Code. C.A.R. now supports this measure after initially opposing it. The bill as amended does not require seismic retrofit at point of sale, once retrofit is made private property owners will not face additional retrofit requirements for at least 15 years and the bill does not impose additional or new seismic code requirements.

**C.A.R. opposes unless amended AB 459 (Oropeza) "Disclosure of Supplemental Property Taxes,"** which was scheduled to be heard on the Assembly Floor on May 16<sup>th</sup>, has been re-scheduled for the week of May 23<sup>rd</sup>. AB 459 would require the seller of residential property, or their agent, in addition to all other required disclosures, to deliver to the prospective purchaser, a one page notice that contains a disclosure about a supplemental property tax assessment, along with related statements. C.A.R. opposes this bill because the requirement for a new and separate disclosure report in real estate transactions is both unnecessarily duplicative and looks to the wrong source for detailed tax information.

**C.A.R. opposes AB 802 (Wolk) "Land Use Water Supply,"** which failed passage on the Assembly Floor on May 19<sup>th</sup>. Currently, the Planning and Zoning Law requires a city or county general plan to include specified land use and conservation elements, and requires the city or county to use a water agency's water management plan as a source document upon the adoption or revision of its general plan. Existing law also provides that the conservation element may cover flood control. This bill would require the land use element of the general plan to also consider any urban water management plan prepared and adopted by an urban water supplier that affects the land covered by the general plan, and would require the conservation element of the general plan to cover flood management, and consider the possible means of using flood water to supplement that supply. C.A.R. opposes this measure because it duplicates existing flood risk assessments for life and property, impinges upon local control of land use planning, curtailing the construction of housing in areas designated as flood zones, and finally, would require the general plan to consider water supply planning, independent of water purveyors.

**C.A.R. supports AB 1351 (Vargas) "Office of Administrative Law Regulations,"** which passed the Assembly Floor on May 16<sup>th</sup>. Existing law prohibits a state agency from enforcing any guideline unless it has been adopted as a regulation and filed with the Secretary of State. If the Office of Administrative Law is notified, or learns on its own, that an agency has not filed the regulation with the Secretary of State, the office may issue a determination as to whether it is a regulation. This bill would provide that any guideline or other rule that is adopted as a regulation and not filed with the Secretary of State constitutes an "underground regulation." AB 1351 would establish a procedure for petitioning the Office of Administrative Law for a determination that an agency action is an invalid underground regulation, and requires the office, within 30 days after receiving a petition, to accept or reject the petition. Additionally, the Office of Administrative Law would be required to determine whether the agency action is an underground regulation within 150 days. C.A.R. supports AB 1351 because it improves the procedure for challenging over-reaching regulations.

**C.A.R. opposes AB 1574 (Jones) "Housing Discrimination,"** which was scheduled to be heard on the Assembly Floor the week of May 16<sup>th</sup>, but has been re-scheduled for the week



of May 23<sup>rd</sup>. This bill would authorize a pilot program in the County of Sacramento, until January 1, 2010, that will allow the county to enact laws prohibiting discrimination in housing that are equal to the protections against discrimination as provided by the Fair Employment and Housing Act, which is currently enforced by the Department of Fair Employment and Housing. C.A.R. opposes this measure because landlords and property managers rely on clear and consistent interpretation, application and enforcement of law and this bill could easily disrupt that by allowing local ordinances which could be different than, or interpreted differently, than state and federal law.

**C.A.R. is watching as amended AB 1595 (Evans) "Public Official Personal Information,"** which was scheduled to be heard on the Assembly Floor the week of May 16<sup>th</sup>, but has been re-scheduled for the week of May 23<sup>rd</sup>. This bill would have prohibited a person, business, or association from selling or trading for value on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association not to disclose his or her home address or telephone number. C.A.R. opposed this measure unless it is amended not to interfere with the legitimate use of the public title records for real estate transactions. C.A.R. was able to achieve amendments that exempt public title records from the scope of this bill, removing C.A.R.'s opposition.

**C.A.R. opposes SB 17 (Escutia) "Property Tax Change in Ownership,"** which was scheduled to be heard in the Senate Appropriations Committee on May 16<sup>th</sup>, but has been re-scheduled for May 26<sup>th</sup>. Existing property tax law specifies the transfer of ownership of a corporation, partnership, limited liability company, or other legal entity constitutes a change in ownership of the real property owned by that entity, and results in a reassessment. C.A.R. opposed SB 17 because it will create a burdensome reassessment rule on non-residential property and lead to a split tax roll that will exacerbate the already unfortunate trend toward the "fiscalization" of land use decisions. Recent amendments taken by the author narrow the bill to property owned by entities that are not publicly traded. C.A.R. continues to oppose this measure because it still subjects some non-residential properties to more frequent re-assessment.

**C.A.R. opposes unless amended SB 137 (Ducheny) "Common Interest Development Assessments,"** which was scheduled to be heard on the Senate Floor on May 16<sup>th</sup>, but has been re-scheduled for the week of May 23<sup>rd</sup>. The Davis-Stirling Common Interest Development Act defines and regulates common interest developments and authorizes the association that manages the development to levy assessments to fulfill its obligations. The act provides that an association is permitted to enforce the lien in any manner permitted by law including a sale by a trustee, also known as nonjudicial foreclosure, for unpaid regular or special assessments. This bill would revise the procedures for collecting delinquent assessments. When an association of a common interest development seeks to collect delinquent assessments of less than \$2,500 the association would be required to file a civil action in small

claims court, or record a lien, upon which it would be prohibited from foreclosing until the amount equals or exceeds \$2,500. Once the amount exceeds \$2500 the association would be permitted to use foreclosure, provided that at an executive meeting of the board a majority of the voting members agree. An owner would have the option of requesting that the association engage in a dispute resolution procedure to resolve the conflict. If it is determined through dispute resolution that an association has filed a lien for a delinquent assessment in error, the association would be required to reverse the charges and take other corrective actions. Finally, a foreclosure by an association would be subject to a 90 day right of redemption. The bill establishes a minimum bid of 65% of the appraised value in a judicial or nonjudicial foreclosure. C.A.R. opposes this measure unless it is amended to delete the right of redemption and appraisal requirements because such requirements will force down bidding, effectively lowering the price at the sale to foreclose the lien.

**C.A.R. supports SB 422 (Simitian) "Small Claims Court Jurisdiction,"** which was scheduled to be heard in the Senate Appropriations Committee on May 16<sup>th</sup>, but has been re-scheduled for the 23<sup>rd</sup>. Existing law specifies that the jurisdiction of the small claims court includes various actions in which the demand does not exceed \$5,000. This bill would increase the small claims court jurisdiction over actions if the amount does not exceed \$7,500. C.A.R. supports this bill because it makes it easier for consumers to resolve disputes in an inexpensive and informal forum.

**C.A.R. opposes unless amended SB 728 (Escutia) "Title Insurance Solicitors,"** which was scheduled to be heard in the Senate Appropriations Committee on May 16<sup>th</sup>, but has been re-scheduled for the 23<sup>rd</sup>. This bill would prohibit a person from marketing, title insurance unless the person holds a valid certificate of registration as a title solicitor issued by the commissioner. C.A.R. opposes regulatory scheme because it creates a new license that might sweep up in-house escrow coordinators, real estate licensees engaged in office administration or the conduct of escrows on their own transactions, simply because they recommend or facilitate the purchase of title insurance. C.A.R. opposes the bill's requirement for new disclosure language about title company selection in transaction documents.

**C.A.R. opposes SB 1084 (Kehoe) "Upgrading Wildland Fire Precautions,"** which passed the Senate Appropriations Committee on May 18<sup>th</sup>. Under existing law, the State Board of Forestry and Fire Protection has required special fire protection construction on homes in "wildlands." The existing rules apply to all post-1991 homes. SB 1084 applies these regulations to pre-1991 residential, commercial, and industrial building construction, and does so at the "point of sale". While C.A.R. does not object to reasonable measures imposed to increase fire protection, C.A.R. does oppose having those upgrades triggered because a property is "transferred, sold, gifted or exchanged." A point of sale trigger imposes compliance costs at the worst possible time for homebuyers –when they are struggling to deal with downpayments, transaction costs and their first new payments.



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## **Scheduled at the Capitol May 23 - 27**

**C.A.R. opposes AB 399 (Montanez) "Recycling Multifamily Dwellings,"** which is scheduled to be heard on the Assembly Floor the week of May 23<sup>rd</sup>. Existing law requires local jurisdictions to establish recycling programs. AB 399 will require when a local agency issues a building permit to an owner, of a multifamily development (5 units and more), that owner is to provide tenants with a list of specified information about recycling, including the obligation to notify the residents of the dwelling, in writing, of the methods they may use to recycle and reduce solid waste. Owners of multifamily dwelling will further be required to arrange onsite recycling services for their residents, and will allow for local agencies to place additional fees on the owners and managers of these units in order to recover all of the costs that they incur. While C.A.R. supports reasonable recycling programs, this bill proposes to impose a significant financial fee and disclosure obligation on landlords.

**C.A.R. opposes AB 771 (Saldana) "Coastal Commission Communication,"** which is scheduled to be heard on the Assembly Floor the week of May 23<sup>rd</sup>. Current law allows commissioners at the Coastal Commission to engage in ex parte communication as long as they disclose it and give the written materials provided to them to commission staff. This bill would eliminate ex parte communication and makes the Coastal Commission subject to the Administrative Procedures Act (APA). C.A.R. opposes this measure because it would eliminate free and open communications with public agency representatives of the California Coastal Commission. APA generally applies to adjudicatory proceedings and applying this procedure to the Coastal Commission makes the assumption that their communications are limited to formal administrative proceedings. A ban on ex parte communications would deny Commissioners ability to hear both sides of the issue.

**C.A.R. opposes AB 528 (Frommer) "Civil Actions,"** which is scheduled to be heard in the Assembly Appropriations Committee on May 25<sup>th</sup>. This bill would authorize any person with a beneficial interest in the outcome to commence a civil action to enforce laws that provide for the protection or enhancement of public health or the environment. AB 528 will re-open the possibility of extortionate lawsuits purporting to represent the public that were so decisively disapproved by voters in Proposition 64. The wide ranging and relatively imprecise list of causes of action in the bill almost guarantees extensive litigation just to define its parameters.

**C.A.R. supports AB 1078 (Keene) "Contaminated Property,"** which is will be heard in the Assembly Appropriations Committee on May 25<sup>th</sup>. Existing law requires the Department of Toxic Substances Control to take removal actions with respect to hazardous substances that are intended to be used in the unlawful manufacturing of controlled substances. The department is also authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose. AB 1078 would establish uniform state standards for site: inspection; assessment; remediation; disclosure; and the certification of contractors concerning real property that has been

contaminated by methamphetamine. This bill directs local health officers to take immediate action once notified of a potential contamination, and requires local government to record a lien and the issued order on the property within 10 days of the determination of contamination. The recorded instrument shall remain until the property owner pays the local government for its actual costs and until the property is determined to be habitable as determined by the local government, and the measure would prohibit anyone from occupying the property until it is deemed to be safe. C.A.R. supports this measure because of its comprehensive approach to remediation of property contaminated by methamphetamine. This will promote needed clean-up and eliminate unnecessary liability.

**C.A.R. opposes AB 1360 (Hancock) "Institutional Control Sites,"** which will be heard in the Assembly Appropriations Committee on May 25<sup>th</sup>. AB 389, enacted into law last year, gave agencies the discretion to determine who was best positioned to be the lead on the cleanup of a Brownfield site. AB 389 also streamlined the process and liability protections for those conducting the cleanup. AB 1360 would require that all residential sites that necessitate ongoing engineering or land use controls be overseen by the Department of Toxic Substances Control (DTSC). C.A.R. opposes AB 1360 because it allows any agency or member of the public to ask DTSC to determine whether a Brownfield site should be a "public health priority site," which bypasses all of the due process protections and ignores both the local land use process and the public participation process recognized in AB 389. Finally, all of the incentives to redevelop Brownfield sites would now be inapplicable to a wide range of sites at the discretion of the agency without the consent of the party who entered into the cleanup agreement. AB 1360 is the very type of legislation that ensures Brownfield sites won't be redeveloped.

**C.A.R. supports AB 1459 (Canciamilla) "Small Claims Court Jurisdictions,"** which will be heard in the Assembly Appropriations Committee on May 25<sup>th</sup>. Existing law specifies that the jurisdiction of the small claims court includes various actions in which the demand does not exceed \$5,000. This bill would increase the small claims court jurisdiction over actions if the amount does not exceed \$10,000. C.A.R. supports this bill because it makes it easier for consumers to resolve disputes in an inexpensive and informal forum.

**C.A.R. supports AB 1664 (Gordon) "Elder Abuse Reporting,"** which is scheduled to be heard on the Assembly Floor the week of May 23<sup>rd</sup>. This bill would authorize an officer, employee, or agent of a financial institution to report incidents of suspected financial abuse of an elder or dependent adult. The bill would require a depository institution to provide training to its employees regarding financial abuse of an elder or dependent adult, and creates an exemption to the California Right to Financial Privacy Act to authorize a county adult protective services office to request and receive, from a financial institution, financial information of a customer. C.A.R. supports AB 1664 because it utilizes voluntary mechanisms such as safeharbor to incentivize reporting of possible elder financial abuse, but without



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creating new liability.

**C.A.R. opposes ACA 7 (Nation) "Local Government Taxation,"** which will be heard in the Assembly Appropriations Committee on May 25<sup>th</sup>. The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of 2/3 of the voters of the city, county, or special district voting on that tax. This bill would allow any special district to impose a special tax with the approval of 55%, rather than the current 2/3 vote threshold, of its voters voting on the tax. C.A.R.'s Vote Threshold Reduction Task Force Report (adopted January 2005) recommended that vote requirements reductions be considered on a case-by-case basis, but preserve the general 2/3 rule; ACA 7 is a wholesale change.

**C.A.R. opposes SB 44 (Kehoe) "General Plans,"** which is scheduled to be heard on the Senate Floor the week of May 23<sup>rd</sup>. Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. This bill would require the legislative body of each city and county to adopt an air quality element as part of its general plan, or to amend the appropriate elements of its general plan to include feasible implementation strategies intended to improve air quality no later than one year from the date of the next housing element revision. C.A.R. opposes SB 44 because it creates an additional hurdle to urban and infill development.

**C.A.R. oppose unless amended SB 223 (Torlakson) "Infill Housing,"** which is scheduled to be heard in the Senate Appropriations Committee on May 26<sup>th</sup>. Existing law requires the Department of Housing and Community Development, along with other state and local agencies, to administer programs to provide affordable housing through incentives to developers, rental housing assistance, and loans or grants for downpayment, interest subsidy, and other home purchase assistance. This bill would establish the Job-Center Housing Planning Program to be administered by the Department of Housing and Community Development for the purpose of providing loans to cities, counties, and cities and counties to adopt specific plans that provide for additional infill housing opportunities. As a condition of loan eligibility, plans must cover an area that is predominantly urbanized, served by public transportation and that it allows for the development of at least 200 new housing units in a nonmetropolitan area or 500 new housing units in a metropolitan area. Finally, this bill would limit the amount of a loan from the fund to \$1,000,000 for a term of not more than 10 years at 3% simple interest. C.A.R. is opposed this measure because it promotes planning priorities which are written to include protecting, preserving and enhancing the environment and recreational areas of the state, and may come at the expense of affordable housing.

**C.A.R. opposes SB 409 (Kehoe) "General Plans Conservation Element,"** which is scheduled to be heard on the Senate Floor the week of May 23<sup>rd</sup>. The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development

of the county or city, and of any land outside its boundaries that bears relation to its planning. This bill would require that the water supply portion of the conservation element be prepared, adopted, and correlated with the land use element no later than one year from the date specified for the next revision of the housing element. C.A.R. opposes this bill because it duplicates existing requirements set forth in SB 221 (Kuehl) of 2001, SB 660 (Costa) of 2001 and AB 2552 (Bates) of 2000. Additionally, this bill would create another opportunity for NIMBY interests and no-growth advocates to stop critically needed projects and other developments by requiring a revision of general plans, such that they consider the "correlation" of water between the conservation and land use elements.

**C.A.R. opposes SB 929 (Kehoe) "Coastal Commission Lobbyist Registration Requirements,"** which is scheduled to be heard in the Senate Appropriations Committee on May 23<sup>rd</sup>. This measure would require anyone who earns \$2,000 in a calendar month, who communicates with the Coastal Commissioners, to conform to lobbyist registration requirements of the Political Reform Act of 1974. Architects, general contractors, civil engineers, biologists, permit expeditors and others who periodically accompany applicants and their representatives to meetings with the commissioners to explain technical reports, under this measure, would be required to register as a lobbyist and pay additional fees that are required by the FPPC. C.A.R. opposes SB 929 because it is unnecessary, and discourages applicants for coastal development permits from hiring representation by creating burdensome paperwork and additional fees for applicants and their technical consultants. SB 929 discourages the Coastal Commission and their staff from interacting with experts and will hinder the commission's ability to make well-informed decisions.

**C.A.R. opposes unless amended SB 1087 (Florez) "Housing Element Services,"** which is scheduled to be heard on the Senate Floor the week of May 23<sup>rd</sup>. The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general that contains a housing element, and requires an assessment of the resources and services needed for reaching the localities share of the regional housing need for lower income households. This bill would provide that a provider of water or sewer services may not deny or condition the approval of an application for those services, or reduce the amount of the services applied for, if the proposed development includes housing affordable to lower income households. SB 1087 would require the local planning agency or the legislative body to deny an application for any residential or nonresidential development if it makes a written determination that these provisions have not been complied with. C.A.R. opposes this measure unless it is amended because it could easily be used as a no growth tool in moderate and high priced areas.

*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.*

