



SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

URGENT Safety ALERT!

Your safety should always be your primary concern. Recently, a North Bay REALTOR® was attacked in the region. The listing agent received a call from a man who stated he and his wife were from out of town and that they were looking for a home in the area. The caller asked if they could see one of the houses in her listing. The agent went to the house to meet the couple. Instead, she was met there by a man wearing a ski mask and was brutally attacked. The police are currently investigating the case. They were able to trace the attacker's call to a pay phone.

This was at least the second attack or attempted attack against REALTORS® in the Bay Area in the last three months. In the spring, a suspicious man entered an open house in Gilroy when no one else was in the house but the female agent. Fortunately, the agent was able to alert her colleagues, who came to her aid.

Not too long ago, SAMCAR had learned of individuals attempting to lure SAMCAR REALTORS® into compromising situations. Two Peninsula REALTORS® also were robbed while holding open houses, their wallets stolen while they were unaware. There have likewise been recent reports of many robberies in vacant homes in the Bay Area.

Even as the authorities have been notified about these incidents, it is important for all of our members to be vigilant. Please review the following safety precautions from the National Association of REALTORS®.

GENERAL SAFETY TIPS

- Meet clients at the office first. (A real buyer would not mind meeting you at the office, then following you to the listing). Always verify their identity by asking for an address, place of employment, and license number of their car. Introduce them to someone else in the office.
- Keep a cell phone with you at all times. Have your cell phone programmed for one touch local emergency numbers. (Often 911 calls go to a

centralized bureau). Always keep your cell phone fully charged.

- Make sure someone knows where you are at all times, when you will return, and who you are with.
- Have a pre-arranged distress signal that can be used over the phone without alerting the person you are with. Make sure that everyone you work with, as well as your family and friends, knows the signal.
- When you're alone getting into your car, always lock the doors. Be observant when you approach your car - look underneath and in the back seat before entering your car. If you are touring homes with a buyer, try to take separate cars. Always park in a location where you can escape quickly if you must.
- As a precaution, write your NRDS number on a piece of paper and keep it in a secure place. This is all you need for membership services should your NAR Membership and DRE license cards be lost or stolen.
- If you have a strange feeling, DO NOT IGNORE IT.

SAFETY AT OPEN HOUSES

An open house can be a great sales tool, but it also exposes you to numerous unfamiliar people for the first time. Stay safe by practicing these guidelines.

- Call the local police department and ask them to have a squad car drive by during your open-house hours.
- Check your cell phone's strength and signal prior to the open house. Have emergency numbers programmed on speed dial. Carry an extra, fully charged cell phone battery.
- Upon entering a house for the first time, check all rooms and determine several "escape" routes. Make sure all deadbolt locks are unlocked to facilitate a faster escape.
- Once inside, turn on the lights and open the curtains. These are not only sound safety procedures, but also



great marketing tactics.

- Make sure that if you were to escape by the back door, you could escape from the backyard. Frequently, high fences surround yards that contain swimming pools or hot tubs.
- Place one of your business cards, with the date and time written on the back, in a kitchen cabinet. Note on it if you were the first to arrive or if clients were waiting.
- When prospects begin to arrive, jot down their car descriptions, license numbers and physical descriptions.
- When showing the house, always walk behind the prospect. Direct them; don't lead them. Say, for example, "The kitchen is on your left," and gesture for them to go ahead of you.
- Notify someone in your office, your answering service, a friend or a relative that you will be calling in every hour on the hour. And if you don't call, they are to notify the police immediately.
- Inform a neighbor that you will be showing the house and ask if he or she would keep an eye and ear open for anything out of the ordinary.

Excerpt from NAR 2005 REALTOR® Safety Week, "Safety At Open Houses"

CONGRESSIONAL UPDATE

H.R. 4973 passes the House of Representatives

The U.S. House of Representatives passed its version of the Flood Insurance Reform and Modernization Act of 2006 (H.R. 4973) by a vote of 416-4 in mid-July.

H.R. 4973 would increase the amount that the Federal Emergency Management Agency (FEMA) can borrow from the U.S. Treasury to cover expenses of the National Flood Insurance Program (NFIP). Under the legislation, FEMA's borrowing authority would increase from \$20.8 billion to \$25 billion. It is estimated that enacting H.R. 4973 would increase direct spending by \$1.4 billion in

2006 and \$2.8 billion in 2007.

The 2005 disasters brought renewed attention to the National Flood Insurance Program. Astronomical costs associated with claims from Hurricanes Katrina, Rita and Wilma have made the NFIP fiscally unsound. Claims from these hurricanes are expected to top \$25 billion, exceeding the total claims paid in the history of the program. As a result, members of Congress have called for significant reforms to the NFIP.

The National Association of REALTORS® supports FEMA's map modernization program and advocates full Congressional funding of FEMA's budget requests for continuation and completion of the program. NAR supports the imposition of higher flood insurance premiums on repetitive loss properties when owners refuse government offers of mitigation. However, NAR opposes a blanket imposition of higher insurance premiums on vacation homes and rental properties.

With the passage of H.R. 4973, some contend that property owners in areas with numerous repetitive loss properties will be unduly burdened if higher flood insurance premiums are imposed.

What is the impact of this legislation on REALTORS® Affordable and adequate flood insurance for properties located in floodplains is critical to economic growth and development. The financial burden of repetitive loss properties has pressured FEMA to increase flood insurance premiums on properties nationwide. Also, inaccurate flood maps make it difficult to determine whether a home is located in a floodplain; clarifying the situation through administrative means would entail additional cost and delay to the home transaction process.

Through FY2007, Congress has provided FEMA with \$750 million for its map modernization program, including an FY06 appropriation of \$200 million. NAR is working closely with FEMA to assure the accuracy and usability of any new maps.

Congress has passed three bills between September





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2005 and March 2006 that increased the borrowing authority for the NFIP from \$1.5 billion to \$20.775 billion.

H.R. 4973 would reform the NFIP by:

- Increasing the borrowing authority to \$25 billion;
- Phasing in actuarial rates for non-primary residences and non-residential properties by increasing premiums on such properties by 15 percent per annum until the actuarial rate is reached;
- Increasing the coverage limits for residential flood insurance policies from \$250,000 (structure) and \$100,000 (contents) to \$335,000/\$135,000; coverage on non-residential properties would increase from \$500,000 to \$670,000;
- Increasing the amount FEMA can raise premiums from 10 percent to 15 percent;
- Extending the Pilot Program for Mitigation of Severe Repetitive Loss Properties until 2011; and
- Requiring RESPA GFE's to include statements that flood insurance coverage for residential real estate is generally available under the NFIP and that the escrowing of flood insurance payments is required under many loans.

The Senate version of the Flood Insurance Reform and Modernization Act of 2006 requires stricter compliance with mandatory insurance coverage and increased participation in the program. NAR supports many aspects of the Senate bill, including higher flood insurance premiums on repetitive loss properties when owners refuse government offers of mitigation, but also opposes making dramatic changes to the program. NAR has urged increased borrowing authority, the implementation of the repetitive loss mitigation pilot-program, as well as funding for flood map modernization.

Senate Expected to Vote on Estate Tax Bill in July

Estate tax legislation that retains stepped-up basis and provides a \$5 million exclusion (\$10 million per couple

and indexed for inflation) was expected to go to the U.S. Senate floor for a vote when the Senate returns from its Independence Day recess.

The estate tax legislation, which also includes provisions to tax estates of up to \$25 million at 15 percent and amounts over \$25 million at 30 percent, is a compromise worked out between House and Senate leaders to show that the House, which has previously approved permanent repeal, is willing to compromise to create certainty, according to NAR tax analysts. Without action, the tax will change yearly between now and 2011, creating uncertainty. NAR sees the need for changes that would create certainty about estate taxes, since that would benefit REALTORS® with estate planning concerns. In addition, family-held businesses and investments would benefit from reforms allowing these assets to be passed easily from generation to generation.

SUPREME COURT UPDATE

Supreme Court to Hear OCC Preemption Case

The National Association of REALTORS® is applauding a U.S. Supreme Court decision to grant a hearing on a case based on preemption of state banking laws under a regulation by the Office of the Comptroller of the Currency (OCC).

In the case, the U.S. Court of Appeals for the Sixth Circuit ruled that Wachovia Corp. had the right to conduct business in Michigan through its operating subsidiary, a mortgage unit of the national bank, and that the subsidiary was not subject to Michigan statutes and regulations, which include mortgage lending laws.

"We're glad the U.S. Supreme Court is taking a look at this case. The OCC went too far when it created a new standard to exempt operating subsidiaries of national banks," said NAR President Thomas M. Stevens. "We believe that the OCC has misused its power and misinterpreted federal law by extending preemption privileges to operating subsidiaries, such as mortgage companies, allowing them to circumvent state real estate



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lending and licensing laws.”

NAR opposes the OCC preemption regulation because it creates an uneven playing field. REALTORS® involved in real estate lending related activities, such as appraisal, home inspection, mortgage and title services are at a disadvantage with national banks and their operating subsidiaries, which do not have to abide by and bear the costs of state licensing and compliance regulations.

NAR and the Michigan Association of REALTORS® filed a joint “friend of the court” brief in this case when it was brought to the Sixth Circuit. Since then, more than 30 state attorneys general have urged the Supreme Court to take up the case.

The case, *Watters v. Wachovia Bank*, is an appeal from the Sixth Circuit decision brought by Linda M. Watters, the commissioner of the Michigan Office of Insurance and Financial Services. Ms. Watters’ case also raises a constitutional issue, specifically the Tenth Amendment regarding states rights.

U.S. Supreme Court Limits Federal Control of Wetlands

The U.S. Supreme Court recently voted 5-4 to limit the federal government’s efforts to control all domestic wetlands, reversing lower courts’ decisions against two Michigan men who sought to develop property they owned and ran afoul of federal regulators. The decision came in *Rapanos v. United States* and *Carabell v. Army Corps of Engineers*.

The five separate opinions issued in this environmental case underscore the High Court’s lack of a governing consensus on this matter. Four justices were in favor of sharply limiting the scope of the Clean Water Act, while four justices believed federal regulations apply to land adjacent to tributaries, including seasonal streams and man-made drainage ditches. Justice Anthony Kennedy provided the swing vote, voting to overturn lower court rulings against John Rapanos and Keith Carabell but arguing that federal regulations can apply if a “significant

nexus” exists between a wetland and a navigable waterway. His vote is considered a moderate triumph for property rights.

“Today’s decision is a victory for balanced environmental protection – common sense and the rule of law have prevailed,” said Reed Hopper, a principal attorney for the Sacramento-based Pacific Legal Foundation, which represented Rapanos. “The Court rejected the idea that there are no limits on the federal government’s regulatory authority under the Clean Water Act. It is not the role of the federal government to micromanage every pond, puddle, and ditch in our country.”

The Michigan property where Rapanos planned to build a shopping center, and which the federal government claimed contained wetlands, is 20 miles from any navigable water.

“The Court has repudiated overreaching by the federal government,” Hopper said. “The federal government for too long has trampled on the authority of state and local governments to make land use decisions.”

Hundreds of water agencies that deliver clean drinking water to tens of millions of Americans supported Rapanos’ position because they have seen the continuing encroachment of the federal government over water—areas left to state and local governments for the last 200 years.

“This case was about the abuse of the law by federal agencies,” Hopper said. “It was never about clean water.”

“Local agencies on the front lines of providing clean water joined us in this case because they have seen the continuing encroachment of the federal government over local water use by the federal government,” Hopper said.

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.

