



owners construct fences for all outdoor pools and hot tubs. The proposals may also include mandatory requirements that county officials inspect the fences and ensure that they are compliant with current state Uniform Building Code Standards prior to the sale of the property.

### **Santa Cruz County to Study Green Building Program**

In response to a letter from Ecology Action, a local environmental group, the County is examining the implementation of a green building program for all new development. The suggestions by Ecology Action are based on a similar program being developed by the City of Santa Cruz. Green building mandates are problematic from a development standpoint and can often be cost prohibitive. The end result of such mandates is a marked decrease in housing affordability, higher costs for homeowners, and a sharp decrease in housing construction. At their August 2 meeting, the Board of Supervisors directed the County Planning Director to evaluate the merits of the program and report back to the Board with policy recommendations.

## **STATE OF CALIFORNIA**

### **Victory For REALTORS® In C.A.R. Septic Tanks Battle**

After intensive responses from REALTORS® in Santa Cruz County and across California, the California State Water Resources Control Board temporarily suspended its efforts to create mandatory point of sale regulations for the upgrading and retrofitting of septic tanks. These regulations, if passed, would

have placed an enormous burden on REALTORS® and created several delays in the transaction process. REALTORS® made the effective argument both at the four statewide scoping meetings and via phone calls and emails to state officials that point-of-sale regulations are an incredibly inefficient method of replacing and retrofitting septic tanks.

As a result of these and other arguments against the desired point of sale regulations, C.A.R. and State Water Board Officials will now meet together along with representatives from the Regional Council of Rural Counties (RCRC) to discuss C.A.R.'s comments and opposition to the study and regulatory proposals.

### **CALIFORNIA ASSOCIATION OF REALTORS®**

While Washington, D.C. is on vacation for the month of August, members of the state legislature in Sacramento are getting back to work. Their legislative session began on August 15. In addition to the pressing statewide issues of Governor Arnold Schwarzenegger's initiatives which are expected to continue to consume Sacramento, there are several C.A.R.-sponsored legislative items that are expected to be up for consideration before the end of the legislative term.

### **AB 223 (Negrete McLeod) "Real Estate License: Education Requirements"**

This bill passed the Senate Appropriations Committee on July 11. Prior to license renewal, every licensee must take 4 required courses (agency, ethics, fair housing, and trust fund management) as 12 of their 45 hours of continuing education. C.A.R. is sponsoring AB 223 to designate a 3 hour mandatory continuing education course in Risk Management as part of



that 45 hours. The proposal is a recommendation that grows out of the fact that the current market has undergone dramatic changes, and has created an explosive growth in numbers of new licensees, who may not be steeped in the best practices of the industry and vulnerable to lawsuits. It also gives existing licensees an opportunity to keep current with the increasingly complex demands of documentation, newly required disclosures and the newest options available to shield themselves from avoidable liability. Finally, having taken Risk Management training may entitle a licensee to lower cost "E&O" insurance coverage.

### **AB 712 (Canciamilla) "Attorney Fees"**

Two years ago C.A.R. was successful in amending the state's Anti-NIMBY law, which allows the successful plaintiff (developer) to recover attorney fees when they prevail in demonstrating to the court that the local government arbitrarily denied a residential development that was in compliance with the government's development standards. This provision will sunset January 1, 2007. C.A.R. is sponsoring AB 712 to repeal the sunset date of this attorney fee provision.

### **SB 326 (Dunn) "Local Government Accountability"**

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 four-plexes. The bill has passed the Local Government Committee and is awaiting consideration on the Assembly Floor.

### **SB 435 (Hollingsworth) "Housing: Density Bonus"**

SB 435 passed the Assembly Appropriation Committee on July 13 and was sent to the Assembly Floor for a vote. Last year, C.A.R. successfully sponsored a bill to improve the use of the state's density bonus law. This year, C.A.R. is sponsoring SB 435 to provide the economic incentives that builders need, such as increasing the floor area ratio and height of the development to accommodate the additional housing. Additionally, C.A.R. will seek to delete requirements in existing law that allows cities and counties to determine economic viability of housing developments that are built as a result of a density bonus allocation.

### **NATIONAL ASSOCIATION OF REALTORS®**

As Congress enters its summer recess period, the National Association of REALTORS® (NAR) has successfully advocated the enactment of legislation benefiting REALTORS® and their clients. NAR achieved enactment of Do-Not-Fax legislation protecting REALTORS® from unfair and costly changes to their marketing practices. REALTORS® also successfully enacted legislation safeguarding property owners and real estate from abuses associated with the Bankruptcy Code. In addition, NAR was instrumental in successfully encouraging Congress to enact transportation policies vital to real estate interests and the well-being of communities.

### **Banks in Real Estate**

When Congress returns in September, NAR will be well positioned in regards to key priority issues. The House and Senate Appropriations Committees have taken steps to once again ensure banks are prohibited from engaging in real estate activities -- the House has approved another one-year prohibition,





# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

## CITY OF SANTA CRUZ

### ***Santa Cruz General Plan Update***

Santa Cruz is beginning its process to update their General Plan. The General Plan is the City's guiding document that serves as the road map for all future development in the city. Such decisions can have important and long ranging consequences for REALTORS® and their clients. General plans set the development standard and chart the course for future housing construction in a municipality. The last General Plan update for Santa Cruz was completed in 1994 and is set to expire at the end of this year. When adopted, the plan will be in force from 2005-2020.

In order to solicit community opinion of growth trends in Santa Cruz, city officials held two public input festivals entitled "Cruz to the Future," where residents were invited to provide input and public comment on the process. Those comments and other criteria will be used by the General Plan Advisory Committee (GPAC) to create a draft document of the city's general plan. The first meeting of the GPAC was August 11. Future meetings are scheduled for the second and fourth Thursdays of each month and will be held at the Police Community Room on 155 Center Street.

## CITY OF SCOTTS VALLEY

Due to changes in state law, Scotts Valley has fallen behind in providing development sites to qualify for state certification of their housing element. On August 17, the City held a special meeting to discuss options and alternatives of which areas to rezone and alternatives to not complying with the state housing

element law. While the City has submitted two draft elements in the past, both were returned by the State Department of Housing and Community Development with comments that the City needed to provide more sites to accommodate the 804 allocated units that are required under state housing element law. Among the areas being considered is the west side of Scotts Valley Drive, where there are a total of 7.43 developable acres.

These mandated changes are the result of a significant change to state law, which became effective January 1, 2005, resulting from C.A.R. sponsored legislation AB 2348. AB 2348 placed new requirements on how cities are required to identify sites for housing and provides for minimum densities. The city is considering rezoning presently vacant land to high density and/or mixed use zoning classifications in order to comply with state law. Once the City Council has provided direction on the rezoning issue, the completed housing element will be submitted to the state for final review and certification.

## COUNTY OF SANTA CRUZ

### ***Santa Cruz County to Study Point of Sale Requirements for Pools, Hot Tubs***

At their August 23 meeting, the County Board of Supervisors is expected to consider a proposal to change the requirements for pool and hot tub fencing guidelines. While the intent of this proposal was to provide clarity to the ordinances and remove obsolete portions of the County Code, it has been proposed that additional point of sale requirements be placed on property owners with pools and hot tubs. These proposed point-of-sale requirements may include mandatory requirements that



# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

the Senate Appropriations Committee has adopted language permanently barring banks from engaging in real estate. NAR has worked with the House and Senate banking committees to fashion GSE (government sponsored enterprises) reform legislation that promotes the safety and soundness of Fannie Mae and Freddie Mac but preserves their important housing mission.

### ***RESPA Reform***

On the regulatory front, REALTORS® are actively working with HUD regarding its efforts to solicit industry input on RESPA. HUD is currently in the process of reexamining the issue of RESPA reform by convening roundtable meetings with industry and consumer group representatives. REALTORS® participated in all Roundtable sessions, which concluded August 18. At the roundtable sessions, NAR advocated for a market-based approach to RESPA reform that encourages fair competition, protects consumer choice and provides "transparency," or full disclosure of costs and services in the mortgage transaction. NAR believes that the first step to RESPA reform should be to improve the Good Faith Estimate by making it a more certain document that will prevent unexpected charges to consumers at settlement.

### ***Interstate Telemarketing***

On July 29, 2005, NAR submitted comments to the Federal Communications Commission (FCC) in support of a ruling that the FCC has regulatory jurisdiction over interstate telemarketing calls. NAR's comments indicated that persons engaged in interstate activity and who comply with federal telemarketing rules continue to be subject to numerous state telemarketing restrictions. As a result, real estate professionals that make calls across state lines incur substantial costs to comply with the patchwork of confusing and incompatible state telemarketing rules. NAR also advocated

that the FCC's jurisdiction should be limited to interstate calls and not intrastate telemarketing, and urged the Commission to conclude that states have authority over intrastate calls.

### ***"Design Compatibility Checklist and its Impacts" Forum, Friday, September 16, 2005, 9:00am,***

### ***Santa Cruz Association of REALTORS®***

The September 16 meeting of the Santa Cruz Association of REALTORS® Local Government Relations Committee will host a forum featuring a panel of County Supervisor Ellen Pirie, County Planning Director Tom Burns, and Cove Britton of the Architects Association of Santa Cruz County on the Design Compatibility Checklist and its Impacts. The County Planning Department is in the process of developing a Design Compatibility Checklist to aide coastal property owners in identifying any development issues prior to designing building plans. All SCAOR members are invited to attend the forum, which will begin at 9am.

***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.***