



SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

PRESIDENTIAL TAX PANEL TAKES ON MORTGAGE INTEREST DEDUCTION

President Bush's advisory tax commission is likely to recommend changes to the tax deduction for mortgage interest that could dramatically impact homeowners in the Bay Area and other high housing cost regions across the country.

The President's Advisory Panel on Tax Reform, created by the President at the start of the year to reexamine and simplify the federal tax code, is scheduled to issue its recommendations by November 1. Its proposal must be revenue neutral. The nine-member panel, chaired by former Senators Connie Mack and John Breaux, is considering reductions in the deductible amount of mortgage debt, including proposals to cap deductibility at the maximum mortgage amount insured by the Federal Housing Administration; convert the interest deduction to a credit; or limit the deduction to percentage of a taxpayer's mortgage interest. Any recommendation will likely include a grandfather clause for current homeowners, but would still negatively impact the residential real estate market. The commission previously recommended abolishing the alternative minimum tax (AMT) for individuals and must now propose offsets for projected lost revenue over 10 years.

While it is uncertain what President Bush will recommend, as well as what Congress would adopt, the idea has been put in play. The recommendations will likely be part of the President's FY 2007 Budget request to be transmitted to Congress in February 2006. It is important that REALTORS® remain vigilant and stay tuned for further updates on the development of this issue. NAR representatives are muted in their current responses awaiting the final report, which is expected no later than November 1st. Once a final

recommendation has been made, NAR plans to take full public action to oppose significant restructuring of the current deduction.

Government Accountability Office Releases Study on Competition in Real Estate Industry

On September 28, 2005, House Banking Committee Chairman Michael Oxley (R-OH) and Rep. Barney Frank (D-MA) released a Government Accountability Office (GAO) study entitled "Real Estate Brokerage: Factors That May Affect Price Competition." The report was issued in response to requests from Chairman Oxley and other Members of Congress to ascertain the level of competition that exists within the real estate industry. The false perception of a lack of competition in the industry has been a driving factor in attempts by banks to engage in real estate transactions.

Congressmen Oxley and Frank had asked GAO to report on (1) factors affecting price competition in the brokerage industry; (2) the status and use of the Internet and potential barriers to its use; and (3) the effect on competition and consumers when state-chartered banks engage in real estate brokerage activities. The study found that the real estate brokerage industry is competitive, competition is based more on non-price factors such as quality, level of service, and reputation. Second, it found that the Internet has increased consumer access to information and has created new ways to buy and sell real estate, both by traditional firms and new Internet-oriented firms whose business models depend on the Internet. GAO raised some concerns about possible obstacles to the use of the Internet by Internet-oriented firms. Finally, the study noted that only a few state banks authorized to engage in real estate brokerage have chosen to do so, and as such, the



effect on competition and consumers has been minimal. A copy of the GAO study can be downloaded at the GAO website at: <http://www.gao.gov/new.items/d05947.pdf>.

Justice Department Amends Antitrust Lawsuit Against NAR

On October 4, 2005, the US Department of Justice amended its antitrust complaint against the National Association of REALTORS®. In the initial complaint, the Justice Department had targeted NAR's virtual office website policy (VOW). While the VOW policy was never implemented, NAR instituted new proposed guidelines under its Internet Listing Display (ILD) policy. The policy was an attempt to institute guidelines that would satisfy the anti-trust concerns of the Justice department. DOJ still contends that NAR's new ILD policy does not satisfy its concerns and filed its amended anti-trust complaint. NAR officials contend that the new policy does not discriminate against Internet brokers and will strongly contest the newly filed lawsuit. NAR officials content they will do everything possible to protect the viability of Multiple Listing Services and their ability to provide high quality services to REALTOR® members.

State of California

CAR Sponsored Legislation Signed into Law

Governor Schwarzenegger recently signed several C.A.R.-sponsored housing bills into law. On October 4, the Governor signed SB 435 (Hollingsworth), "Housing Density Bonus," a bill created to improve the use of the state's density bonus law. SB 435 will ensure that the current density bonus law will be more easily understood, implemented and functional by applying it to all forms of common interest developments. This will assure that units

built as a result of a density bonus may also extended to moderate income buyers; and allowing localities to recover any initial subsidy for moderate income units upon sale.

The governor also signed SB 326 (Dunn), "Local Government Accountability." SB 326 expands a previous measure that ensures local governments cannot deny building permits to low and moderate rental housing developments of 100 units or less if they comply with local government development standards and receive a negative or mitigated declaration under the California Environmental Quality Act. REALTORS® were prominent in promoting a policy that allows property owners the right to develop their property with the certainty that local government cannot change the rules in the process. C.A.R. sponsored SB 326 to expand the existing law to duplexes, triplexes and fourplexes.

In September, the Governor also signed C.A.R.-sponsored AB 223 (Negrete McLeod), "Real Estate Licensure Education Requirements," into law. The measure requires all licensees to fulfill 12 of their 45 continuing education hours with courses on agency, ethics, fair housing and trust fund management prior to license renewal.

New Title 24 Energy Efficiency Standards Take Effect

On October 1, 2005, the new state energy efficiency construction and building guidelines (known as Title 24) went into effect. These new requirements primarily affect new construction, however there are provisions that can affect remodels of residential property. One area, in particular, of significant change is a new requirement that homeowners have their contractors test a home's ducts for leaks whenever a new central air conditioner or furnace is installed. If the ducts leak 15 percent or more the airflow, they must be repaired.





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owner. As a result, the council is considering a fee that could be used to reimburse property owners who make improvements.

At its October 19th meeting the City Council received a report on streamlining initiatives in an attempt to reduce fees and costs to the City of providing services. Specifically, the staff has been successful in reducing or holding fees in four specific areas. They are:

- Sign permits
- Tree removal permits
- Special permits
- Use permits and design review

The reductions are the result of streamlining and simplification of procedures which reduce the processing time needed to grant the permits. In some instances the reductions were the result of allowing approval of the permits at the staff level instead of requiring that the permits receive a public hearing and planning commission review. By making the process administrable, permitting costs and processing times will be reduced.

Similar changes are expected in the building division where certain permits will be granted on an over the counter basis instead of the more extensive review process that is currently required. Specifically, the following permits will be made available to applicants over the counter:

- Water Heaters
- Windows
- Electrical Panels

Capitola

At its October 13 meeting, the Capitola City Council held a public hearing on an emergency ordinance to establish

a temporary moratorium on condominium conversions. Although the city adopted an ordinance regulating condominium conversions in 1979, the original ordinance was not clear to the applicability of the ordinance to conversions that would result in less than five condominium units. Historically, city staff had applied the ordinance uniformly to all residential multi-family properties regardless of the number of units. This all changed when a property owner who wished to convert his four unit apartment building into condominiums submitted an application with a letter from his attorney clarifying the ordinance.

In response, the City Council held a public hearing to address concerns about the potential loss of rental housing stock. In the last year, a total of 11 units have been converted into condominiums and there is increasing interest from owners of two- and four-unit complexes. As a result of these concerns, the council voted to establish an emergency moratorium banning condominium conversions on apartments with four units or less. The moratorium will remain in place for 90 days at which point the city may pass a new ordinance, establish another emergency ordinance, or allow the current ordinance to stand.

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.



