



# SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

## **REALTORS®: Tax Panel Mortgage Interest Rate Deduction Proposals a Threat to Homeownership**

Homeowners face higher taxes and uncertainty in the wake of recommendations made on November 1, 2005, by the President's Advisory Panel on Tax Reform. California, and the Bay Area in particular, will bear the brunt of the changes proposed to mortgage interest deductibility.

The panel's recommendations, submitted to the Treasury Department on Tuesday, November 1st include: replacing the mortgage interest deduction with a home credit for a taxpayer's residence, eliminating the deduction entirely for second homes and home equity loans, and ending the federal tax deduction for state and local taxes. In response to widespread criticism over the past few weeks, the panel recommends adjusting the Federal Housing Administration loan limit-based cap for the home credit from \$312,895 to \$411,704.

The panel proposed a five-year transition schedule from the mortgage interest deduction to the home credit for all taxpayers. In the first year, the mortgage interest deduction would be limited to \$900,000. The limit decreases to \$700,000, \$500,000, and \$411,704 in transition years two through four. In year five, the deduction is replaced with a home credit capped at the regional limit (\$411,704). Taxpayers could elect to claim the credit earlier during the transition.

Replacing the mortgage interest deduction, a powerful and simple incentive to homeownership that has helped bring ownership levels to an all-time national high near 70 percent, with a complex scheme dependent on transition rules and a checkerboard of adjustable regional limits would have dramatic

consequences for local housing markets and the Bay Area economy; its impact extending far beyond homeowners who rely on the current deduction to afford their home. REALTORS® are on the front line of this battle to preserve this deduction on behalf of all homebuyers and homeowners and are fighting any attempt to abolish this homeownership incentive.

## **REALTORS® Back State Efforts to Curtail Eminent Domain Ruling**

REALTORS® support state efforts to curtail the recent Supreme Court *Kelo v. City of New London* decision that allows local governments to seize private property in the name of enlarging their tax base and promoting economic development. The recent eminent domain ruling was the topic of a forum on land use, property rights and environment at the 2005 National Association of REALTORS® Conference & Expo held on Oct. 28-31.

REALTORS® were surprised that the Supreme Court decided to side with local governments in *Kelo v. City of New London*. NAR filed a friend-of-the-court brief urging the court to apply a higher level of scrutiny and insist that governments provide persuasive and objective evidence to justify its use of eminent domain in cases where property is not taken for public ownership and use.

REALTORS® feel that matters concerning land use, economic development and blight are issues better handled at the local and state level. A recent member survey conducted for NAR underscores REALTOR® opinion that state and local governments are best positioned to render decisions regarding eminent domain. Almost 70 percent of REALTORS® said each state should have the power to make its



own laws about eminent domain, while close to 30 percent said the Congress should establish standards for the proper use of eminent domain, according to a recent member survey conducted by Public Opinion Strategies.

In fully half of US states, a taking such as the one that occurred in New London would not have been legal due to restrictions in the state constitution, statutes or case law. In the wake of Kelo, several states have already amended their laws to further restrict the use of eminent domain, and many other state legislatures are preparing to act next session to toughen their eminent domain laws.

In response to the challenges presented by Kelo, CAR, at their September meeting, created a taskforce to develop CAR policy on eminent domain and provide guidance for taking a position on the 8 separate eminent domain bills that were introduced in the state legislature this year.

NAR and CAR remain committed to ensuring that eminent domain is not misused on the local government level. "Protecting the right of citizens to be secure in their ownership of property is a core value of REALTORS®. Private property rights are the cornerstone of the real estate industry and a key principle of the social contract upon which our democratic system of government relies for legitimacy. Any erosion of private property rights is cause for serious alarm," said NAR President Al Mansell.

### ***House Passes GSE Reforms that Include New Conforming Loan Limits***

On October 26, 2005, the U.S. House of Representatives voted 331-90 to pass H.R. 1461, The Federal Housing Finance Reform Act, which will reform

oversight the Government Sponsored Enterprises (Fannie Mae, Freddie Mac and the Federal Home Loan Banks or GSEs) and increase the conforming loan limit in high-cost areas.

C.A.R., in conjunction with NAR and other high-cost state associations, lobbied in support of this legislation so that all perspective homeowners can have access to the special loan programs offered by Fannie Mae and Freddie Mac. The proposed legislation would maintain the current system of a national conforming loan limit. However, it will give high-cost areas an increased conforming loan limit equal to that area's median home price and capped at 150% of the national conforming loan limit thus increasing the amount that California and Santa Cruz County homebuyers can borrow from Fannie Mae and Freddie Mac.

In addition to the increase in conforming loan limits, H.R. 1461 will create a new regulator for the GSEs. The new independent regulatory will have the authority to approve new programs, set capital levels, and wind down the operations of a failed GSE. REALTORS® were successful in preventing the Treasury department from taking regulatory control of the GSEs where their use and independence would have been strictly limited.

This bill also creates a new affordable housing fund that is paid from a percentage of the GSE's profits. The funds will be targeted toward hurricane relief efforts for the first two years.

### **Santa Cruz County**

On November 1, 2005 the County Board of Supervisors received comments on and provided direction to staff on the long-range development plan





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Environmental Impact Report (EIR) for the University of California, Santa Cruz (UCSC). As previously reported the University plans to increase total enrollment to 21,000 students with serious potential impacts predicted as a result. In response to requests from Supervisor Wormhoudt, county staff will analyze the Draft EIR and prepare comments, which the board can present to the University during its public comment period. The University held a public hearing on the issue on November 16<sup>th</sup>. The comment period on the draft EIR is expected to end on December 19, 2005.

The County has also taken action to initiate two new tax increment bonds for use by the County Redevelopment Agency (RDA). These bonds would be used in the Live Oak/Soquel Community Improvement Project Area. The first bond would be in the amount of \$55 million and would be used for infrastructure costs and provide for a reserve fund. The second bond would be in the amount of \$25 million and would be used to support the cost of low and moderate-income housing programs used to benefit the RDA area.

## **Santa Cruz City**

### ***Public Hearing on City Watercourse and Riparian Corridor Ordinance***

The Santa Cruz City Planning Commission will hold a Public Hearing on December 1<sup>st</sup> to consider changes to the City Watercourse/Riparian Ordinance. The city has been working on a creeks and wetlands management plan to revise the current requirement for a mandatory 100-foot setback for all development from any and all watercourses. This has been a longstanding and contentious issue with a draft management plan first being released in April of 2002. Subsequent to that release, several workshops and

hearings have been held to provide information on the draft plans and provide the public an opportunity to comment. Once it was realized that significant issues and unintended consequences developed as a result of the plan, city staff were directed to re-evaluate the setback recommendations. The result of that re-evaluation will be presented at the December 1<sup>st</sup> meeting. Staff will discuss the proposed changes and demonstrate the ramifications these changes would have for interested property owners. The following revisions have been suggested and may be included in the revised management plan:

- Areas and types of projects that should be entirely exempt from a Watercourse Development Permit
- Identify areas where it is appropriate to allow setbacks smaller than the current 100-foot setback
- Identify areas where a greater than 100-foot setback should be mandated
- Establish a development setback area where development would be limited
- Establish a designated riparian corridor for each watercourse to protect riparian habitat

### ***Green Buildings Ordinance***

On October 25<sup>th</sup> the City Council held a public hearing on a green building ordinance requiring that new residential development be built using green building standards. The standards would be developed on a point scale basis. While the original proposal had included a "brown fee" which would have charged a fee to new developments that fail to build to green standards, that proposal was removed due to potential legal challenges. The proposed



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program is based on a points system developed by Alameda County and the US Green Building Council's "Leadership in Energy and Environmental Design" program.

If passed the program would mandate compliance with certain environmental standards. Applicants who meet the standards would earn points and the ordinance sets a number of points that would be required relative to the size of the proposed home. For example using water saving irrigation systems earns an applicant two points while using fiber cement siding material garners three points. According to the ordinance, a residential home must receive 10 points for the first 350 square feet and an additional 1.5 points for each additional 100 square feet. For example, 2000 square foot home would need to receive 28 points in order to receive a building permit. Incentives are included in the program with applicants who go sufficiently above and beyond the requirements receiving accelerated processing of their permits and a green building award from the city.

### **HUD Passes REALTOR® Backed Rule for Discount Home Sale Program**

NAR expressed appreciation to the U.S. Department of Housing and Urban Development for requiring the use of real estate brokers in its proposed rules for a discount home sale program for local public servants. The Good Neighbor Next Door Sales Program provides a 50 percent discount to law enforcement officers, teachers, firefighters, and emergency responders on the purchase of HUD-owned single-family homes in distressed communities. In requiring the use of brokers, HUD's program rules recognize the extent

to which the business expertise of real estate brokers benefits participants and facilitates the homebuying process, say NAR analysts. In its comments to the rules, NAR requested that the final rule include a clarifying statement on how the real estate broker commissions are applied at closing to the purchase price. Some NAR members have reported that with all the different players involved in the disposition of HUD-owned single-family properties, including the HUD Homeownership Centers, Management and Marketing contractors, and closing agents, that the closing procedures have not been uniformly interpreted and applied nationwide. The program is slated to be available next year, when the final rule is published.

*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.*

