



Welcome to the

DRE Forum

CALIFORNIA ASSOCIATION OF REALTORS® Spring Meeting

Thursday, April 28, 2022



Doug McCauley

Real Estate Commissioner



Goals





Excellence

- Strategic Plan Refresh
- Project Portfolio
- Key Performance Indicators
- Divisional Plans
- Business Process Innovation





Resilience

- Right-sizing Operations
- Internal Improvements
- Agility
- Stewardship & Fee Study





Leadership

- Policy Development / Execution
- Leveraging Licensing
- Collaboration





Adaptive Reuse

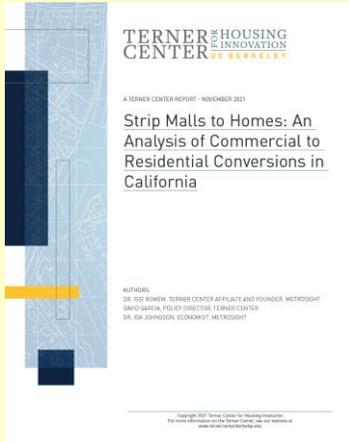
The process of taking an existing structure and updating or adapting it for a new use or purpose



Stockton, California – Vacant Two-Story Office Building Built in 1950’s



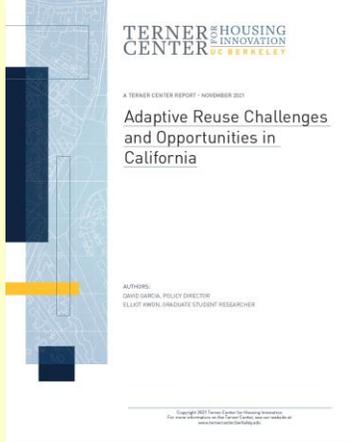
Three-Story Complex Opened in 2021 with 74 Affordable Apartments



2021

UC Berkeley’s
Turner Center for
Housing Innovation

DRE Sponsored Two
Research Reports on
Adaptive Reuse



THE CALIFORNIA BLUEPRINT

Governor Newsom’s 2022-23 Proposed Budget includes \$100 million to expand affordable housing development and adaptive reuse opportunities on state excess land sites



Housing Agenda

- \$12 Billion for Housing & Homelessness
- Equity Building
- ADU Grants
- COVID-19 Mortgage Relief
- Accountability



Meet DRE's Executive Team



Marcus McCarther

Chief Deputy Commissioner



Shelly Wilson

Assistant Commissioner
Administrative Services



Tom Cameron

Assistant Commissioner

Audits



Rick Lopes

Assistant Commissioner
Communications & Publications



Calvin McGee

Assistant Commissioner
Information Technology



Chris Neri

Assistant Commissioner
Subdivisions



Chika Sunquist

Assistant Commissioner
Enforcement



DRE Regulatory Authority

- Real Estate Law & Subdivided Lands Act
 - License Applicants
 - Licensees
 - Unlicensed Persons



DRE Regulatory Authority

- Regulatory/Disciplinary Actions – **APPLICANTS**
 - License Denial
 - Cite & Fine
 - \$2,500 Fine Per Act
 - Desist & Refrain Order
 - Stop Violation Immediately
 - Bar Order
 - Bar Someone from Industry for Up to 3 Years



DRE Regulatory Authority

- Regulatory/Disciplinary Actions – **LICENSEES**
 - Cite & Fine
 - For Minor Violations
 - Maximum \$2,500 Fine Per Investigation
 - Formal Discipline
 - Public Reprimand, Suspension, Restriction, Revocation
 - Desist & Refrain Order
 - Bar Order



DRE Regulatory Authority

- Regulatory Actions – **UNLICENSED PERSONS**
 - Cite & Fine
 - \$2,500 Fine Per Act
 - Desist & Refrain Orders
 - Bar Orders



Audits and Enforcement Visits

Routine, Proactive



Education

Compliance

Investigative Visits



Education

Compliance

Complaint Resolution



Audit Case Study

- Corporate Broker
- Property Management
 - 320 single family residences
 - 2 commercial properties
 - 11 apartment complexes



Audit Case Study

- Trust Fund Shortage of \$332,000
 - Accountability \$232,000
 - Negative Balances
 - Conversion
- Undesignated Trust Account
- No Reconciliations/Separate Beneficiary Records
- Unauthorized Signatory on Trust Account
- Unlicensed Employee
- Failure to Supervise



Audit Case Study

- Corporate Broker revoked to Restricted Broker
- Designated Officer revoked to Restricted Officer
- Continuing education
- Trust fund course
- \$18,000 in audit costs
- \$6,000 in investigative and enforcement costs



Common Enforcement Violations

- Misrepresentation, Dishonest Dealing
- Negligence or Incompetence
- Licensing Compliance
- Advertising
- Broker Supervision
- Unlicensed Activity



Broker Supervision

- Transactions Requiring a Real Estate License
- Documents Effecting the Rights and Obligation of the Parties
- Filing, Storage and Maintenance of Documents
- Handling of Trust Funds
- Lack of Policies, Procedures
- Violations Due to Lack of Broker Supervision
- No Affiliate Contracts



Unlicensed Activity

- Wholly Unlicensed
- Licensed but No Broker Affiliation (Salesperson)
- Licensed but No Business Address (Broker)
- Expired License
- Real Estate License, but No MLO Endorsement
- Compensation for Unlicensed Activity



Unlicensed Activity Case Study

- Property Manager
- Former Licensee
 - First Broker revoked to Restricted Broker for audit violations
 - Then revoked to Restricted Salesperson for more audit violations
 - Then revoked outright



Unlicensed Activity Case Study

- DRE received complaint about eviction
- Special Investigator shopped the former licensee
- Discovered continued property management



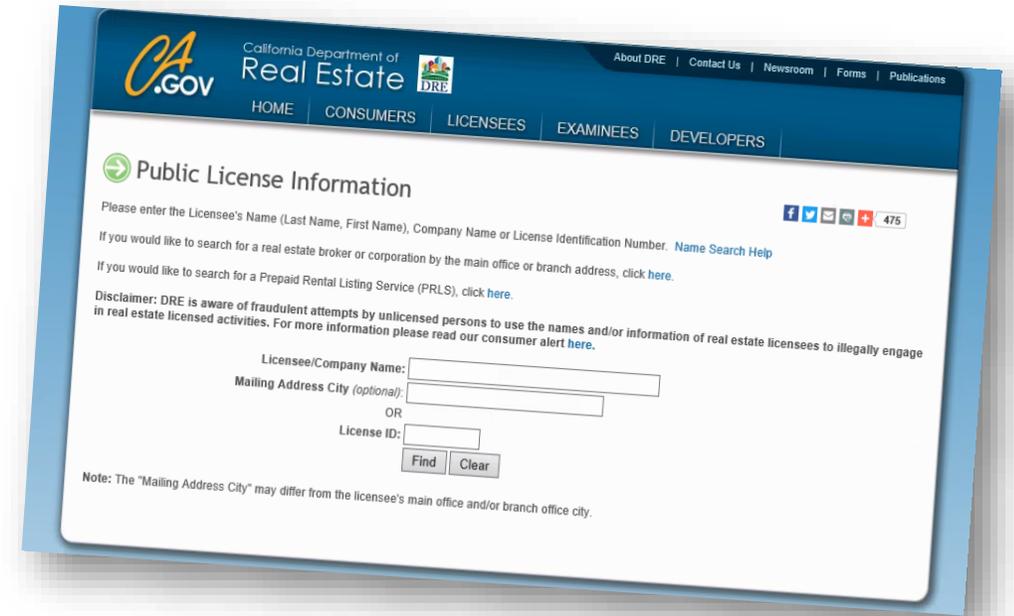
Unlicensed Activity Case Study

- Desist and Refrain Order
- Six Citations totaling \$15,000



Best Practices to Avoid Violations

- Check Your License
- 2022 Real Estate Law Book
- Broker Compliance Manual
- Broker Self Evaluation
- Trust Fund Guide
- Trust Account Reconciliation Power Point
- Remember Fiduciary Duties





Latest Industry Frauds

1. Wire Transfer
2. Contractor
3. Elder Caretaker
4. Investment “Pro”



Wire Transfer

Scammer

->

Sends New Wire Information to Buyer

->

Steals Wired Funds



Contractor

Lowest Bidding Contractor

->

Excessive Down Payment

->

Unlicensed Subcontractor(s)

->

Fraudulent Lien



Elder Caretaker

Caretaker of Elder Who Has Little or No Family

->

Power of Attorney

->

Steal Savings, Sell Properties



Investment “Pro”

Undocumented Victims

->

Referral to Investment Pro

->

“Pro” Steals Money

->

Victim Doesn't Report



Investment “Pro” Case Study

- “Expert Investor” Licensee
- Solicit Co-Investor (victim) to Buy Property to Flip
- Victim Funds \$50,000; Lenders Fund \$200,000
- Investment Property Recorded in Name of Licensee Only
- Funds Used to Renovate Other Properties



Investment “Pro” Case Study

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- Solicit Co-Investor (victim) to Buy Property to Flip
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- Investment Property Recorded in Name of Licensee Only
- Funds Used to Renovate Other Properties
- Disciplinary Action -> Revoked



How to Help Your Clients

Prevent

Education

Research

Ask Questions

Report

Law Enforcement

Licensing Agency

Trade Groups



Cooperative Effort Case Study

- Multi-State MLO Investigation
- Single Course Provider and Broker
- Takes Course for MLO
- MLO Claims In-Person Course

- Disciplinary Action -> MLO settlement to surrender term
- Broker Revoked



What's Next?

1. Increased Cooperative Efforts
2. Technology in Real Estate
 - Cryptocurrency
 - NFTs
 - Blockchain
 - Artificial Intelligence
3. Consumer Issues
 - Equity Scams
 - First Time Homebuyer Targets
 - Bad Loans, Loan Fraud



Stephen Lerner

Assistant Commissioner
Legal Affairs



Legal Affairs

- **Offices**
 - Los Angeles
 - Sacramento
- **Operational Units**
 - Los Angeles Administrative Prosecutions
 - Sacramento Administrative Prosecutions
 - Consumer Recovery Account
 - Special Projects / General Law
 - Legal Support



Legal Affairs - Special Projects/General Law

- Conflict of Interest
- Contracts
- Human Resources / Personnel
- Public Records Act Requests / Subpoenas
- Privacy
- Publications / Forms Review
- Regulations
- Subdivisions



License Discipline Process

- **Complaint Filed with DRE**
 - Initiated on DRE's Own Motion
 - Receipt of Verified Third Party Complaint
- **Complaint Investigated**
 - Enforcement Section
 - Audit Section
- **Legal Section Prosecutes Disciplinary Action**
 - Preparation and filing of Operative Pleading(s)
 - Limited Discovery



License Discipline Process

- **Outcome**
 - Hearing before an Administrative Law Judge
 - Issuance of Proposed Decision
 - Settle Action via Stipulation
 - Dismiss Action
- **Commissioner Action**
 - Adoption/rejection of Proposed Decision
 - Approval/rejection of Proposed Stipulation
- **Request for Reconsideration (Optional)**
- **Petition for Writ of Mandate**



Disciplinary Tools

- Revocation
- Restriction
- Suspension
- Surrender
- Public Reproval
- Corrective Action Letter
- Cite and Fine
- Desist and Refrain Order
- Bar Order



Disposition of Cases

Category	2021 Calendar Year (January 1 through December 31)
Desist & Refrain Orders	39
License Suspensions	115
License Surrenders	45
License Revocations	189
Case Dismissals	63
Public Reprovals	15
Stipulations & Waivers/Agreements	129
Applications Denials	47
License Denials and Restrictions	45
Bar Orders	2
Total	680



Petitions

- Reinstatement of Revoked License
- Removal of Restriction from Restricted License
- Removal of Discipline History from DRE Website



Disposition of Petitions

2021 Calendar Year

(January 1 – December 31)

<i>Category</i>	<i>Filed</i>	<i>Granted</i>	<i>Denied</i>
Reinstatement	155	115	26 (Denied outright)
			19 (Denied w/ right to restricted license)
Removal of Restrictions from Restricted License	77	40	3
Removal of Discipline History from Website	81	63	4
Total	313	218	52



Consumer Recovery Account

Purpose

Last resort victim's fund to compensate innocent members of the public who are victimized by dishonest real estate licensees



Consumer Recovery Account

Historical Background

- Operative on July 1, 1964

- 12% of License Fees

Business & Professions Code §10450.6



Consumer Recovery Account

Who May File

- Consumers
- Innocent Members of the Public



Consumer Recovery Account

Basis for Application

- Final Judgment / Criminal Restitution Order
 - Finding of Intentional Fraud
 - Conversion of Trust Funds
- Licensed Activity
- Actual and Direct Loss



Recovery Account Fund

Coverage Limits

Business & Professions Code §10474.5

- \$50,000 per Transaction
- \$250,000 per Licensee



Consumer Recovery Account

Fiscal Year (July 1 – June 30)	Claims Filed	Total Claims Paid	Total Amount Paid
FY 14/15	159	119	\$4,898,912
FY 15/16	76	81	\$3,396,293
FY 16/17	70	89	\$2,022,602
FY 17/18	66	39	\$1,424,559
FY18/19	160	68	\$3,216,957
FY 19/20	40	41	\$947,411
FY 20/21	40	11	\$308,528
FY 21/22 (Through 4/22/2022)	25	14	\$420,890



2022 Proposed Regulations

- **Audits**
Section 2831.2 – Trust Account Reconciliation
- **Enforcement / MLOs**
Setting deadlines for submission of reports
- **Enforcement / Legal**
Section 2780 – Non-Discrimination Practices
- **Licensing / Education**
Senate Bill 263 – Adds implicit bias to continuing education courses
- **Subdivisions**
Cleanup regulations to address renumbering of Davis-Sterling Act



2022 Proposed Regulations

Section 2780

- Adopted in 1977 and last amended in 1980
- Amends existing regulation to incorporate legislative changes since 1980 to:
 - Federal Americans with Disabilities Act
 - Federal Fair Housing Act
 - California Disabled Persons Act
 - California Unruh Civil Rights Act



2022 Proposed Regulations

Section 2780

- Updates list of protected classes
- Clarifies permissible allowable differences in situations involving persons with physical disabilities
- Clarifies prohibited efforts to encourage discrimination may target entire protected class rather than specific individuals from a protected class



2022 Proposed Regulations

Section 2780

- Clarifies allowed advertising practices
- Expands applicability of protections at multiple listing or other real estate services to include implementation of rules with the purpose of discrimination



Implicit Bias – Love Letters

- Written messages from potential buyers to sellers
 - Intended to make potential buyer stand out from others
- Tend to share why potential buyer may be interested in property, including information about potential buyer's:
 - Connection to local civic and religious communities
 - Kids' activities
 - Race, religion, and sexual preferences
- Using factors (other than price and terms) could violate the Fair Housing Act



Dual Agency

- Same broker represents seller and buyer in a transaction
- Permissible in California
 - See Civil Code section 2079 et seq.
 - Requires disclosure and client consent
 - Dual agent prohibited from
 - Disclosing to buyer that seller is willing to sell at a price less than the listing price without express consent of seller
 - Disclosing to seller that buyer is willing to pay a price greater than the offering price without express consent of buyer



Dual Agency

Avoiding Pitfalls When Undertaking Dual Agency

- Exercise caution
- Disclose more rather than less information
 - Liability typically arises when not enough information is disclosed
- Obtain written consent from buyer and seller
- Remember your fiduciary duties are owed to both buyer and seller
 - Negotiate for client's best interest
 - Placing client's interest above the agent's own interest



Jeff Oboyski

Assistant Commissioner
Licensing



California's Real Estate Industry

Number of Licensees – As of April 1, 2022

434,511

+ 734

+ 5,179

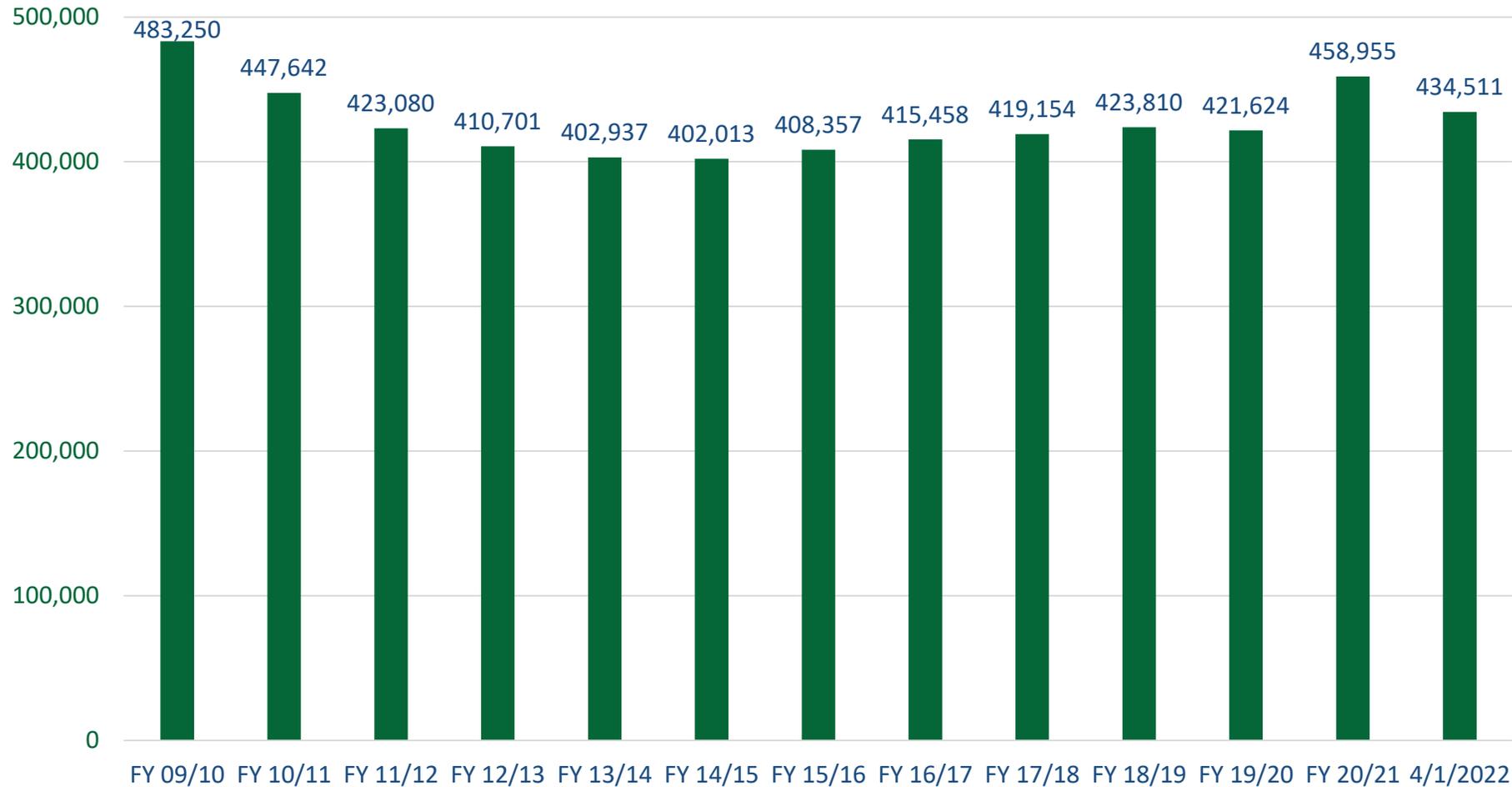
Brokers: 30%
Salespersons: 70%

Change in Past Month

Change in Past Six Months

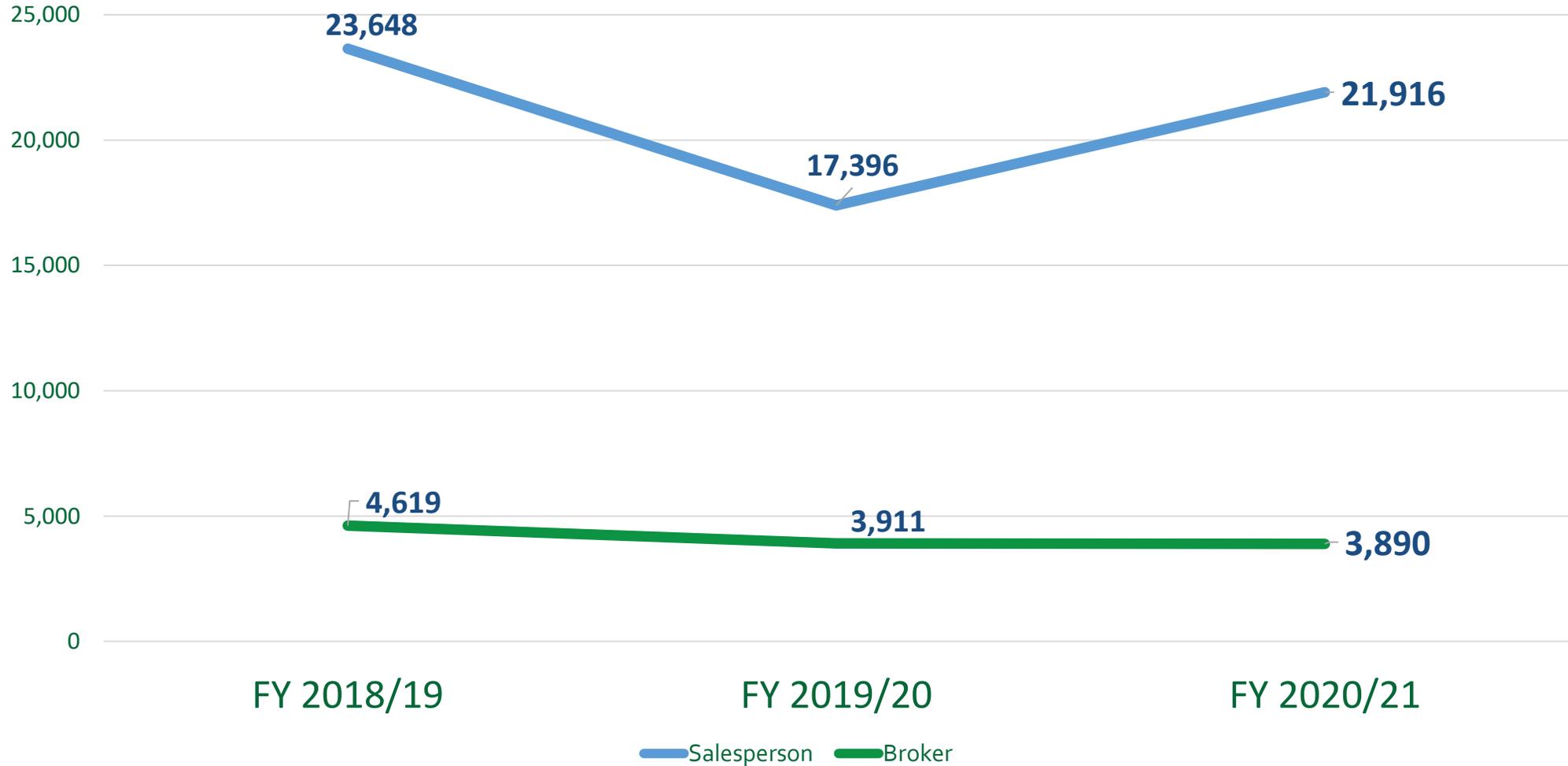


DRE Licensee Population



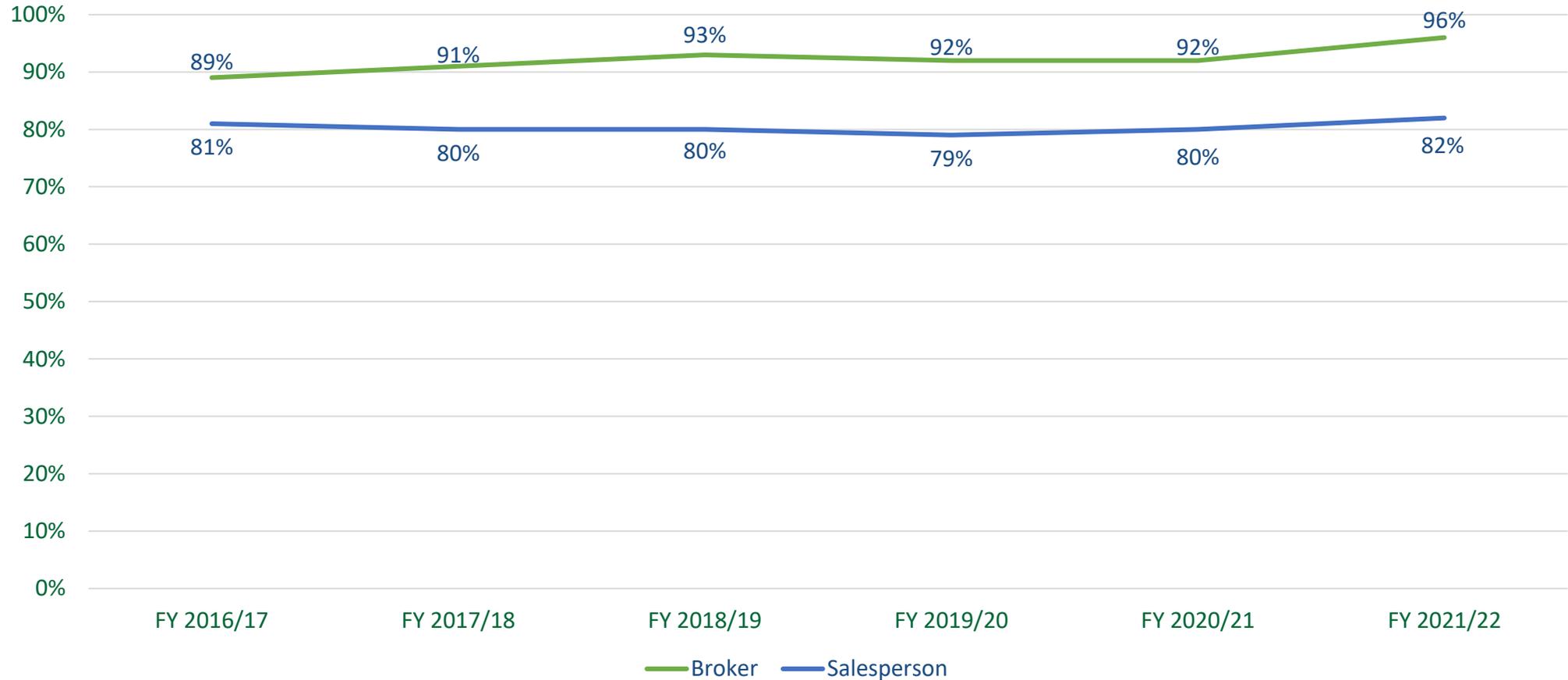


Licenses Issued





Licensee Renewal Rates (%)





License Renewals by Mail / In-Person

- Licensees Get Renewal Notice 90 Days Prior to Expiration
- Applications Process in Order Received
- No Process for Expedited Processing
- Business & Professions Code (B&P) Section 10156.2
 - Eligible Renewal Applicants Submit Application Before Expiration Date
 - Including Proper Fee
 - Good Faith Evidence of Completing Continuing Education
 - Licensee Can Continue Operating Until DRE Notifies Otherwise



New Continuing Education Requirements

For licenses that expire starting January 1, 2023

Continuing Education (CE) Courses (Senate Bill 263)

- a. Adds Interactive Participatory Component to Fair Housing Course
- b. Adds Two-Hour Implicit Bias Course
 - Component regarding impact of implicit bias, explicit bias, and systemic bias on consumers & historical & social impact of those biases
- c. Updates Survey Course from Eight to Nine Hours to Allow for New Implicit Bias Content



Continuing Education Audits

- Licensee are randomly selected each day
- Must submit copies of CE course completion certificates
 - Regulation 3013
- Failure to provide the information may result in a fine or potential disciplinary action
- Course providers required to maintain information for 5 years
 - Regulation 3012.2
- Licensee can notify DRE of course providers violating CE regulation
 - RE 340 Form

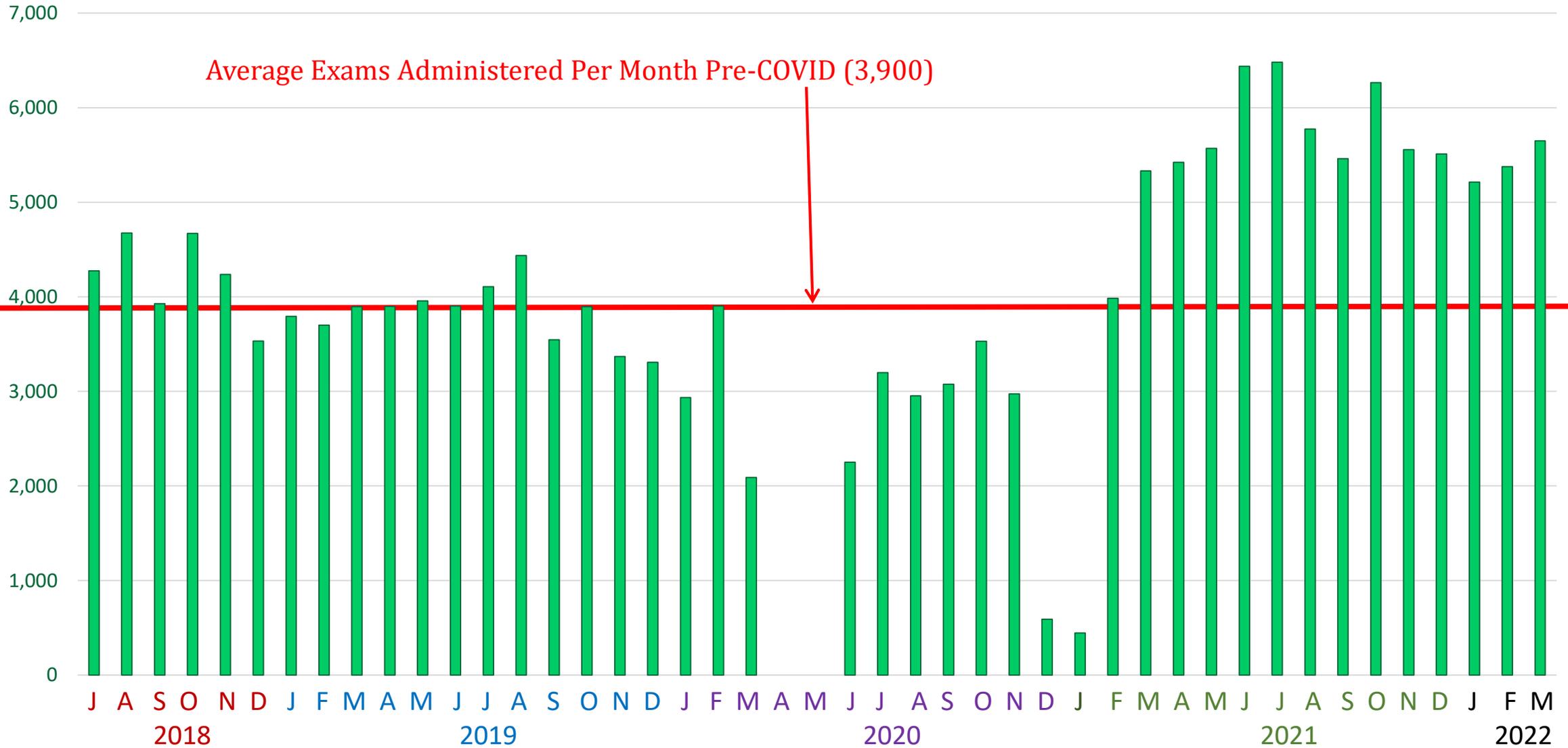


COVID-19 Effects - Exam Centers

- Since March 2020
 - Five Exam Centers Operating at 50% Capacity
- On March 14th
 - La Palma Expanded to 75% Capacity
- On April 1st
 - La Palma Expanded to 100% Capacity
- Since April 15th
 - All Exam Centers Operating at 100% Capacity



Exams Administered – July 2018 – March 2022





Exam Development

- Ensure DRE Exams:
 - Test for the Practical Knowledge Levels Required for Entry/Advancement in Profession
 - Are Legally Defensible
- License Exams Should Be Updated Every 5-7 Years
- Four Phases
 1. Occupational Analysis
 2. Examination Development
 3. Final Development & Review
 4. Implementation



Exam Development

- Relies on Industry Members
 - Industry Members: Thousands Responded to Survey on Minimum Competency to develop Occupational Analysis
 - SME: Hundreds Participated
 - Reviewed & Revised Items / Developed Exam Questions
- Project Delayed, in Part, Due to COVID-19
 - Most Work Done Virtually
 - 72 Item Review / Writing Workshops
- Now Complete
- New Content to be Integrated into Exams this Summer



eLicensing System

Four Applications are Now Online

1. Salesperson Exam Only
2. Salesperson Exam / License Combo
3. Broker Exam Only
4. Broker Exam / License Combo

CA.GOV California Department of Real Estate DRE

HOME CONSUMERS LICENSEES EXAMINEES DEVELOPERS

2022 Real Estate Law Book Available Online Now!

Click to Read

COVID-19 UPDATES

Ask DRE Licensing

eLicensing

Apply for Your Exam/License

Schedule Your Exam

Update Your License

Renew Your License

The Fastest Way to Apply for or Manage Your Real Estate License!

Help us remodel this website! CLICK HERE

HOUSING IS KEY MORTGAGE RELIEF CA COVID-19 RENT RELIEF

DRE Enforcement Actions are Online

Connect With Us

SAVE OUR CALIFORNIA GRANTS



eLicensing System

Saves Time for Applicant

- No Longer Have to Print and Mail Application Packet
- Deficiencies Are Addressed Through Email
- Applicants Can Check Their Status

The screenshot displays the California Department of Real Estate (DRE) website. At the top, there is a navigation bar with links for HOME, CONSUMERS, LICENSEES, EXAMINEES, and DEVELOPERS. A prominent banner for the "2022 Real Estate Law Book" is available online, with a "Click to Read" button. Below the banner, there are sections for "COVID-19 UPDATES", "Our Mission", and "Essential Information". A red arrow points to the "Ask DRE Licensing" button, which is highlighted in yellow. The "eLicensing" section includes buttons for "Apply for Your Exam/License", "Schedule Your Exam", "Update Your License", and "Renew Your License". A "Help us remodel this website!" banner with a "CLICK HERE" button is also visible. The footer contains social media links and logos for "SAVE OUR" and "CALIFORNIA GRANTS".



eLicensing System

Saves Time for DRE

- Less Paper Received, Processed and Filed
- Step-by-Step Online System Reduced Deficiencies
- Faster to Process – Everything is Electronic
- Reduced Phone Calls to Check Status and Address Deficiencies

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Contacting DRE Licensing

Ask.DRELicensing@dre.ca.gov

- General Licensing & Exam Questions
- Emails Answered in Order Received – 3,000+ Per Month
- Three Business Days to Respond

(877) 373-4542

- Monday to Friday, 8:00 a.m. – 5:00 p.m.
- Call First Thing in the Morning
- Average of 30,000 Calls Per Month



Connect with us...

By Email

Administrative Office: *Administration@dre.ca.gov*
Licensing/Exam Questions: *Ask.DRELicensing@dre.ca.gov*

By Phone

Contact Center: (877) 373-4542

Monday-Friday, 8:00 a.m. – 5:00 p.m.

Administrative Office	(916) 576-8100
Subdivisions – North	(916) 576-3374
Subdivisions – South	(916) 576-6983

On Social Media

Facebook	@CaliforniaDepartmentOfRealEstate
Twitter	@CA_DRE
Twitter – Commissioner McCauley	@DougMcCauleyDRE
YouTube	CA Dept. of Real Estate



DRE Forum

Thank you for joining us!