



Real Estate Bulletin

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS • BUREAU OF REAL ESTATE

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Wayne S. Bell
Commissioner

Commissioner's Message

This is a notable year for the licensing of real estate practitioners, and for the California Bureau of Real Estate (CalBRE), whose dedicated employees work to help safeguard and promote the public interests in real estate matters through licensure, regulation, education, the issuance of public reports (when applicable), and enforcement.

2017 is significant because it was 100 years ago, in 1917, that the first real estate licensing law in the United States went into effect in California. As I have mentioned in prior Bulletin messages, the idea of real estate licensure was first proposed by the predecessors of the California Association of Realtors with a goal of elevating and improving the practice of real estate in this State.

Every day I am in my office I walk past a wall containing the photographs of all the Real Estate Commissioners who have preceded me, going back to the first, who was appointed in 1917 (I will write more about him, and provide some interesting information about a couple of the earliest Commissioners, in the next Bulletin message). In looking at the photos, I often think of how fast time passes, how it escapes our grasp, and then think of a verse from "Get Together", one of my favorite anthems of the 1960s. The words from the song that resonate and stay with me are:

"Some will come and some will go
And we shall surely pass
When the one that left us here
Returns for us at last
We are but a moment's sunlight
Fading in the grass."

As we at CalBRE make note of the centennial of real estate licensing in California, we reflect on our history, and how it has broadened and evolved, and look forward to the future with a clear vision and focus. Moreover, we are committed to having a positive impact with respect to protecting the public, and laying a foundation for those who follow us in State service.

In doing our work, we will continue to enhance and improve (and add value to) our licensing, public report, rulemaking (regulatory), prosecutorial, and adjudicatory functions, using creativity, innovation, and common sense, and continue to advocate for greater consumer protection, and to be actively engaged with those who are interested and impacted by what we do.

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COMMISSIONER'S MESSAGE (CONTINUED FROM PAGE 1)

To illustrate the application of common sense and the engagement of those affected by our regulatory function, I offer the following. As you know, there are many who argue that all government regulations are unnecessarily intrusive or burdensome, and damage the health of business. We at CalBRE are mindful that our licensees, and the subdividers and timeshare developers we oversee, are conducting business which is essential for them, their families, their associates, their communities, and the economic well-being of the State. CalBRE certainly does not plan to interfere with any business conducted in compliance with California law. In doing our regulatory function, we endeavor to only propose practical, relevant and appropriately-tailored regulations – with clear and comprehensible language -- when a legislative enactment requires that we do so, or when a statute is in need of clarification or refinement, and we actively involve the representatives of the industries and businesses potentially impacted in the development of our regulations and rules.

In addition to the above, I am intent, as is our Executive Committee, to use various, multiple, and changing strategies, including the prioritization of our work and the shifting of our resources and/or focus, and the appointment of resourceful teams and work groups, in order to most effectively and efficiently perform and complete the work that is articulated in our statutes, regulations, mission, and vision.

Please know that we at CalBRE look forward to what we will accomplish together as we move forward, and that we thank you -- as always -- for your commitment and support.

Master-Planned Developments and Their Associations

By Chris Neri, Assistant Commissioner, Subdivisions

Common interest developments in California, such as condominiums and planned developments, may consist of as few as two residential units or as many as several thousand homes. No matter how many or few the number of members in a homeowner association, all owners within the development are obligated to manage and maintain all common areas and amenities in the overall project. However, the management needs will vary depending on the project type and size.

Usually larger projects containing in excess of 500 homes with a diversity of residential unit types are known as “master-planned developments” and are governed by the owners through a “master association” structure. These large developments are commonly being used in order to assure there is a sufficient owner base to provide for the maintenance of expensive infrastructure, central recreational areas, landscaping, private roads and possibly golf courses, all of which benefit the entire community. Due to a variety of dwelling types within the overall project, including attached condominiums along with detached single-family homes, maintenance and management needs may necessitate additional associations known as “sub-associations” to be created to effectively meet the needs of specific neighborhoods. For example, by their nature, condominium units require specialized maintenance and management oversight more adequately performed by an association of only the condominium owners. Thus, those owners will gain total control of the administrative decisions regarding their units without interference by the other members in the master association. In addition, it may be preferable to create a second sub-association to maintain amenities benefiting only a portion of the single-family homeowners in the development. For example, certain neighborhoods may include a swimming pool or guard gate with private streets for the exclusive use of those owners.

Multiple associations within a development may result in some owners belonging to more than one association, while other owners in the same overall community belong

only to the master association. Buyers should be aware that by belonging to two associations, they are obligated for two different homeowner assessment amounts.

Some master planned developments do not contain the diversity of residential types to necessitate the creation of sub-associations. Instead, the master association may be responsible for maintenance of private streets and guard gates benefiting only one neighborhood within the overall development and assess only those neighborhood owners for the affiliated costs. This is known as cost centering. Generally the owners within a designated cost center will be given the opportunity to vote on matters affecting their neighborhood separate from the general voting issues brought before all of the master association members. Although the governmental structure in this instance is not complicated due to multiple governing bodies, the master association is burdened with additional administrative duties due to the formation of the cost centers.

Large master associations typically differ in their operation from smaller associations. For instance, usually the developer will retain control of the master association governing body for an extended period of time due to the continued annexation of new phases of development into the project. Additionally, the sheer number of association members, coupled with possible multiple sub-associations, dictates the creation of a delegate voting system. A delegate is a member representative of a group of owners within a neighborhood designated for the purpose of voting on certain issues at the master association level.

Since master-planned developments vary greatly in housing types and amenities, their management and maintenance needs also differ, occasionally resulting in complex governing structures in order to effectively administer the necessary services to promote a comfortable lifestyle for their residents. Therefore, taking the time to understand the various complexities of a master-planned development, including the rights and obligations of the homeowners, can provide a great benefit to both you and your clients.



Update from CalBRE's Mortgage Loan Activities Section

By Chika Sunquist, Supervising Special Investigator I, Mortgage Loan Activities

The mortgage loan originator (MLO) license endorsement renewal period ended on February 28, and compliance reviews for those renewals were paramount for the Mortgage Loan Activities section (MLA). In the 2016 calendar year, approximately 130 citations were issued for failure to submit Mortgage Call Reports, a significant decrease from the approximately 340 that were issued in the 2015 calendar year. MLA has also seen an increase in the number of private money brokers filing threshold reports, which is a good sign for the mortgage loan industry.



MLA is an arm of CalBRE's Enforcement section. MLA is responsible for a variety of functions associated with real estate brokers engaged in the mortgage business. The primary functions include the following:

- **Mortgage Loan Investigations** – Complaints regarding mortgage loan transactions and servicing that are within the jurisdiction of CalBRE are reviewed and investigated by MLA special investigators. Mortgage loan transactions may range from residential loan brokering to private money lending.
- **Background Investigations** – MLA performs background investigations for those individuals applying for a MLO license endorsement with respect to prior criminal convictions, disciplinary actions, civil litigation, and other financial responsibility issues to determine if issuing an endorsement to that licensee would be a risk to the public.
- **Mortgage Loan Advertising** – MLA performs reviews of mortgage loan advertisements submitted voluntarily by brokers requesting to have their advertisements approved by CalBRE. Brokers may submit their advertisements to MLA using the Mortgage Loan Advertising Submittal Form, RE 884, along with a fee for the review. MLA also reviews advertisements that have been referred to CalBRE by the public that may fail to comply with appropriate laws and regulations.
- **Report Reviews** – Residential mortgage brokers are required to file reports such as Business Activity Reports and Mortgage Call Reports. MLA tracks, monitors, and reviews these reports. MLA also monitors the activities and reports of brokers who meet a prescribed level of activity in specified types of mortgage transactions, primarily with private, individual investors.
- **Industry and Consumer Resource** – Each day, MLA receives numerous phone calls and correspondence from both licensees and consumers regarding various compliance issues as well as questions concerning specific mortgage loan transactions. MLA also has a Complaint Resolution Program representative to assist consumers and licensees in attempting to resolve simple disputes or minor issues.

To contact MLA, please call (916) 263-8941 or send correspondence by mail to P.O. Box 137015, Sacramento, CA 95815.

Relevant Information About Subdivisions

By Chris Neri, Assistant Commissioner, Subdivisions

The Public Report

Before a subdivision can be marketed in California, the subdivider must obtain a Subdivision Public Report (for a California project), a permit (for an out-of-state timeshare), or a confirmation of their registration (for a non-California project located within the United States) from the California Bureau of Real Estate (CalBRE). The public report/permit discloses to prospective purchasers pertinent information about the subdivision. Such information includes the availability of fire protection, water supply and quality, vehicular access, latent natural hazards, reservations of mineral rights and easements, and community association assessments.

Prior to issuance of a public report/permit, the subdivider must submit evidence to CalBRE that adequate financial arrangements have been made for completion.

Through the public report process, CalBRE oversees the subdivider's compliance with legal standards and the appropriate disclosure of pertinent information regarding new standard, common interest and timeshare developments. To illustrate, in order to protect purchasers from fraud and misrepresentation in subdivision sales, CalBRE maintains uniform minimum statewide standards for site suitability, financing of improvements and facilities, sales agreements, purchase money handling, the release of blanket encumbrances, and the informative disclosures like those set forth above.

CalBRE's subdivision program also seeks to ensure that the intricate arrangements required for managing common interest developments, including association budgets and governing instruments, are established in a way which balances the needs of the builder/subdivider with those of purchasers.

In the Spring 2016 edition of the *Real Estate Bulletin*, we included an article entitled "Common Interest Developments Require Special Care by Agents," an

important piece for real estate licensees — who are engaged in selling properties in subdivisions — to read.

It is always prudent for licensees to carefully read the final public report issued for the relevant subdivision(s) in which they conduct transactions. Any variances noted between the subdivision as it exists physically and how it is offered for sale to the public in marketing materials and/or how it is actually described in the public report should be questioned by licensees, and contact should be made with CalBRE's Subdivisions section to determine if the subdivider has complied with the legal requirements or if further compliance (e.g., additional financial arrangements, an amended public report, etc.) is necessary.

Statistics from the Subdivisions Section of CalBRE

CalBRE received 3,171 Final Subdivision Public Report (Final) applications in Fiscal Year 2015/16. This was an increase of 21.5% compared to the previous Fiscal Year total of 2,609. To put these numbers in perspective, over the last 20 years, the highest number of Final applications received occurred in 2005/06 (4,538) and lowest in 2008/09 (1,262). Final applications received in Fiscal Year 2015/16 were slightly above our historical average of 3,000 per year.

Amended Subdivision Public Report (Amendments) applications declined 8.2% in Fiscal Year 2015/16, while Renewed Subdivision Public Report (Renewals) applications declined 32.2%. These numbers reflect an improving housing market. Generally, an increase in the number of Final applications combined with fewer Amendment and Renewal applications indicates more new projects are coming online and strong new home sales.

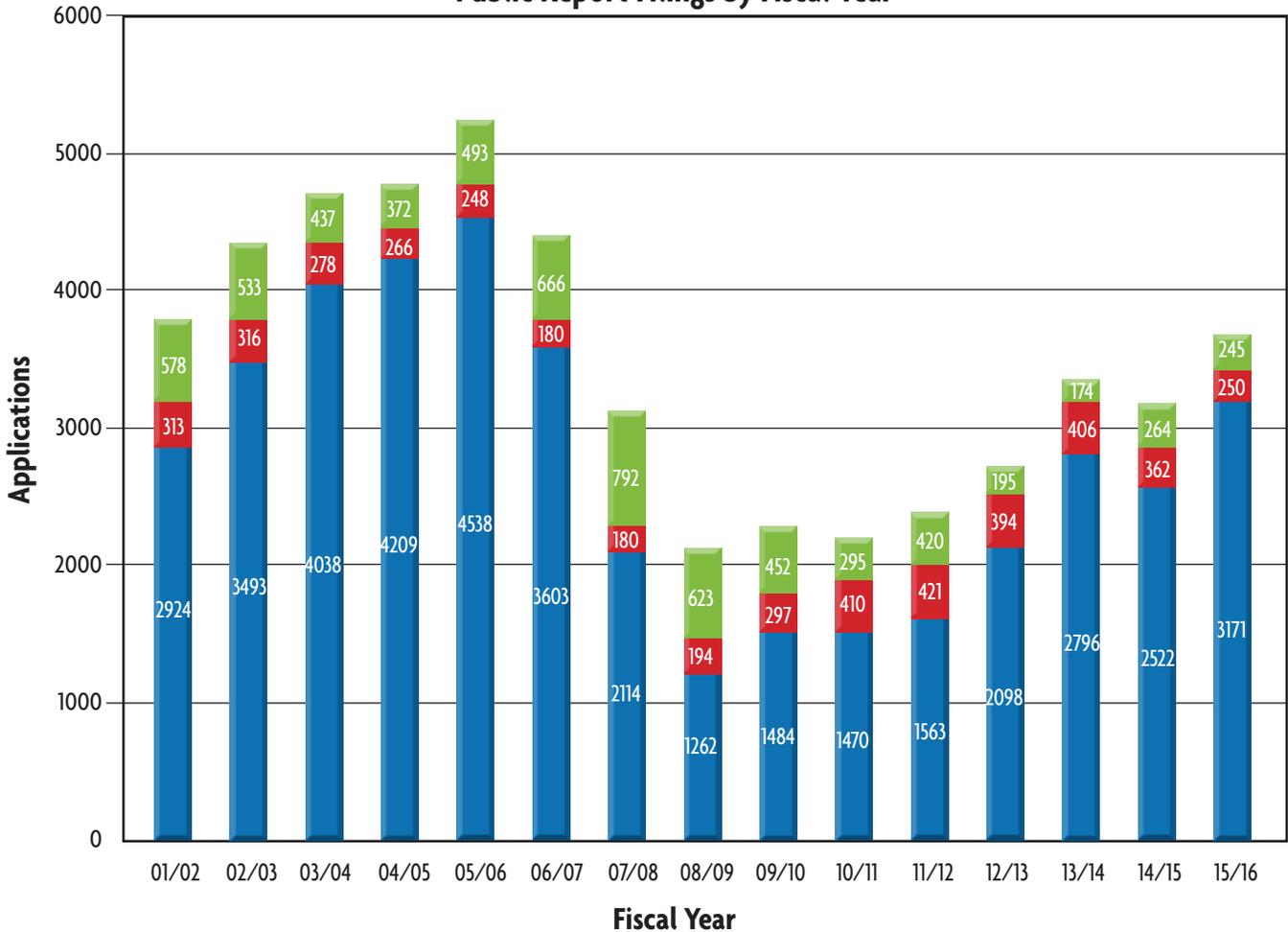
Subdivision section staffing has increased commensurate with the increase in subdivision filings. We have been able to add staff members through budget changes and redirections within CalBRE. The following chart illustrates Fiscal Year workload over the last 15 years.

(Continued on page 6)



RELEVANT INFORMATION ABOUT SUBDIVISIONS (CONTINUED FROM PAGE 5)

Public Report Filings by Fiscal Year



Future Plans

The Subdivision section’s efforts moving forward are ambitious but fully achievable. We are progressing with our electronic application process, which will enhance our core principles that promote public protection while supporting economic growth. When complete, this process will improve productivity and service to the public.

Further, we will continue to partner with state and federal agencies to address issues of mutual concern aimed at improving consumer protection. We acknowledge the importance of enhancing efforts to educate consumers on the home-buying/selling process as well as to increase their awareness of inappropriate actions and real estate fraud. We will explore methods to increase exposure of critical information to consumers, including the distribution of electronic and print media, as well as the expansion of consumer educational materials posted on CaIBRE’s website.

Education Course Monitoring and Licensee Auditing

By Shelly Wilson, Supervising Special Investigator II, Licensing Exams and Education

The mission of the California Bureau of Real Estate (CalBRE) is to safeguard and promote the public interests in real estate matters through licensure, regulation, education, and enforcement.

CalBRE's Education and Research section fulfills this mission by reviewing and approving all real estate license continuing education course offerings, as well as pre-license/statutory qualification courses offered by private vocational schools, pursuant to sections 10153.5, 10170, and 10170.4.

A condition of course approval includes the course provider consenting to be monitored, whether announced or unannounced, by CalBRE. The monitoring process allows CalBRE to ensure courses are being offered in accordance with Articles 24 and 25 of the Commissioner's Regulations, and ensures that the material being presented matches that which was submitted to and approved by CalBRE. Course providers who are found to be in violation of the Commissioner's Regulations or who made material changes to a course without prior approval from CalBRE are subject to corrective action and may have their course offerings withdrawn through the formal administrative process.

CalBRE's mission is also upheld by the Education and Research section by way of the review of continuing education records of licensees. As part of a licensee's renewal, continuing education courses are certified as completed by the licensee on either the Continuing Education Course Verification (RE 251) Form or through CalBRE's eLicensing system. As part of this review process, licensees are randomly selected and sent a letter requesting that they submit copies of the continuing education course completion certificates, pursuant to Commissioner's Regulation 3013. Commissioner's Regulation 3013 provides that the applicant, upon

request of CalBRE, must submit certificates of attendance or certified copies thereof from sponsors of approved offerings to substantiate information provided by the applicant. A licensee who fails to provide CalBRE with course completion certificates, as required, may be subject to a fine or potential disciplinary action.

It is suggested that licensees retain copies of all course completion certificates for up to five years so they can respond quickly if requested by CalBRE to provide substantiation. If certificates are misplaced, licensees should contact the course provider, as the course provider is required by Commissioner's Regulation 3012.2 to maintain a record of attendance or registration and final examination grade of each participant for a period of five years. The course provider can then provide a duplicate certificate to the participant pursuant.

Licensees can also play a vital role in carrying out CalBRE's mission by reporting course providers who are violating education regulations. The Education Provider Complaint (RE 340) and Education Provider Complaint Form Information (RE 340A) forms can be found on CalBRE's website, www.calbre.ca.gov, and should be used to notify CalBRE of such violations.

As always, the Education and Research Section recommends that applicants and licensees, when searching for education providers, do so through CalBRE's website to verify course approval status and to check for any prior disciplinary action taken against course providers.



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We'd like to hear from you!
E-mail us at Editor@dre.ca.gov.