



Real Estate Bulletin

DEPARTMENT OF REAL ESTATE

Summer 2022

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P.4 Continuing Education Audits | P.6 California Call to Action: Build 2.5 Million Homes



**Real Estate Commissioner
Douglas R. McCauley**

Commissioner's Update

In the movie *Field of Dreams*, the inspirational mantra was, “if you build it, they will come.” In California, there are almost 40 million of us, but we don’t build nearly enough housing to accommodate everyone. We need to take bold steps to produce more units. The latest Statewide Housing Plan indicates that we have to create 2.5 million new units of housing by 2030 to meet the needs of Californians.

While there are many ways to work toward that 2.5 million, such as ADUs, mixed-income, modular, etc., none by itself is a proverbial silver bullet. But there is one area in particular that we need to more fully leverage: adaptive reuse.

Adaptive reuse is simply the function of converting a building from one use to another. In this context, I am referring to transitioning office and retail space to housing.

While the concept of adaptive reuse is simple, delivering these projects is not. Imagine a two-story office building. It may have two restrooms on each floor. But, if it is to be converted into 24 apartment units, it requires 24 plumbing systems, as well as electrical, mechanical, etc. This added complexity often renders such projects financially unfeasible. That’s why Governor Gavin Newsom’s proposed 2022-23 budget

(CONTINUED ON PAGE 3)

Changes Coming to Continuing Education Requirements in January 2023

As a reminder to licensees, [Senate Bill 263](#) (SB 263), which amended the continuing education requirements for real estate licensees, becomes effective January 1, 2023.

All licensees with a license expiration date on or after January 1, 2023, and those renewing on a late basis after January 1, 2023, will need to complete a new two-hour course on implicit bias training. In addition, the current required three hour course in fair housing must now include an interactive component and the survey course for subsequent license renewals will be nine hours, rather than eight, to allow for the additional implicit bias training.

SB 263 did not increase the overall required 45 hours of continuing education (CE), nor did it change the required 18 hours of CE courses in the consumer protection category.

Brokers renewing for the first time will be required to complete five separate three-hour CE courses in ethics, agency, trust fund handling, risk management, management and supervision, as well as a three-hour course in fair housing that includes an interactive participatory component, along with the new two-hour course in implicit bias training as part of their 45 hours.

Salespersons renewing for the first time will be required to complete four separate three-hour CE courses in ethics, agency, trust fund handling, and risk management, and a three-hour course in fair housing, which must include an interactive participatory component, as well as the new two hour course in implicit bias training as part of their 45 hours.

For subsequent renewals, all licensees whose license expires on or after January 1, 2023, or who renew on a late basis after January 1, 2023, will need to complete either a nine-hour CE survey course that covers the mandatory subjects or individual CE courses in all of those mandatory subjects as part of their 45 hours.

DRE staff have already started to review courses from providers wishing to offer these new classes to ensure they meet the requirements. It is anticipated that these new courses will be available for licensees in early fall of 2022.

You can also read past articles addressing these changes to continuing education requirements in the [Winter 2022](#) and [Spring 2022](#) Real Estate Bulletins. ■



REAL ESTATE BULLETIN

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Yellow banner for eLicensing services. Includes a house icon with an 'e' and a keyhole. Text: **eLicensing**. Buttons: Apply for Your Exam/License, Schedule Your Exam, Update Your License, Renew Your License. Text: The Fastest Way to Apply for or Manage Your Real Estate License! 24/7 icon.

Green banner with text: Got a general licensing or exam question? Drop us an email. Ask.DRElicensing@dre.ca.gov

Dark blue banner for California Mortgage Relief. Includes house icons and stacks of coins. Text: CALIFORNIA MORTGAGE RELIEF. Help for those who've fallen behind on housing payments because of COVID-19. CAMortgageRelief.org


COMMISSIONER'S UPDATE (CONTINUED FROM PAGE 1)

included a first-ever initiative to unlock the potential of adaptive reuse. The final budget allocates \$410 million over two years to create affordable housing from existing office and retail buildings by helping to defray those additional costs.

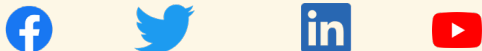
Adaptive reuse is not a new concept in the architectural and development communities. But, historically, there has been a lack of data to amplify the opportunities, as well as to identify the impediments. To address this gap, DRE funded two studies from the UC Berkeley Turner Center for Housing Innovation, which were released in December 2020 and November 2021. This research revealed that nearly 40 percent of commercially zoned land in the five largest metropolitan areas across the state is not available for housing. In addition, the research identified key architectural ingredients for a successful adaptive reuse project.

DRE is working in this space to raise awareness about the potential of adaptive reuse and there are numerous proposals this legislative session intended to catalyze this model for creating homes. In addition, the Department of Housing and Community Development is ramping up capacity to assist developers and municipalities in developing adaptive reuse projects. While these are positive steps, there is much more to be done to take advantage of the vacant office space due to remote work and the opportunities presented by the decline of brick-and-mortar retail.

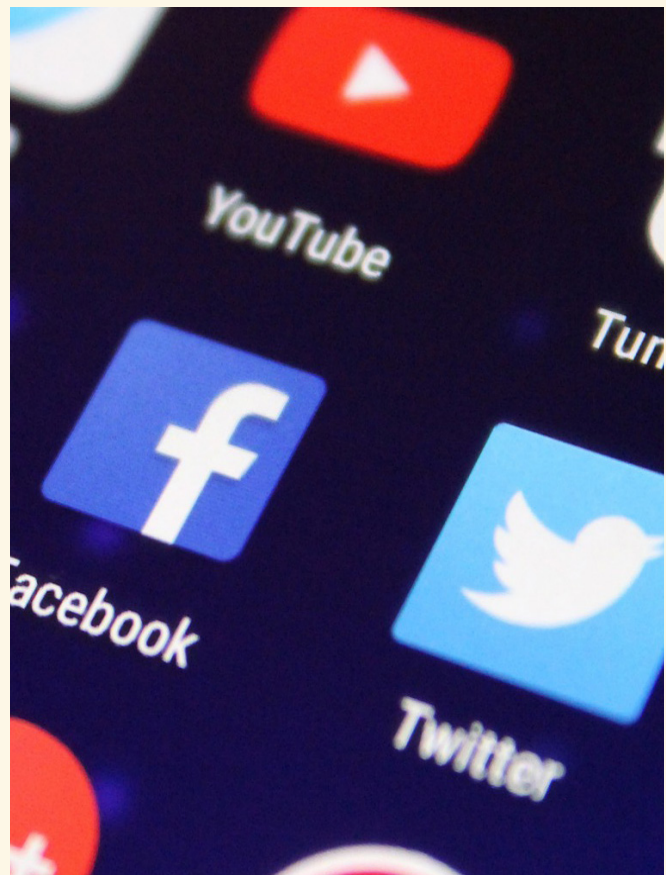
I am hopeful that our commercial brokers are mindful of housing as a model to maximize the value of commercial properties. DRE examinees are now tested on adaptive reuse to ensure that the future of the profession is knowledgeable about the power of preserving our built environment to create housing.

Going forward, the real estate profession can truly be a part of the solution to California's housing production challenges through the stewardship, innovation, and opportunity found through adaptive reuse. ■  @DougMcCauleyDRE

DRE Social Media: We Want Your Input!



DRE uses social media to create a platform where you can get key pieces of real estate information and updates directly on your feed. To ensure that our content is relevant and helpful, DRE is asking you to take a short, 5-question survey where you can let us know which real estate topics interest you most and share ideas you might have for our social media. Scan the QR code below to take the survey! ■





Continuing Education Audits

As part of the renewal process, both real estate broker and salesperson licensees must complete a total of 45 clock-hours of DRE-approved continuing education coursework. Continuing education requirements are intended to ensure that licensees remain current on applicable laws and recent developments in the profession. All continuing education courses must be completed within the four-year license period. Licensees may renew on a late basis by meeting all renewal requirements, including continuing education, within two years of the license expiration date.

At the time of renewal, licensees certify completion of continuing education courses either through DRE's [eLicensing system](#) or by submitting the [Continuing Education Course Verification \(RE 251\) form](#).

As part of its ongoing consumer protection efforts and to ensure compliance with license renewal requirements, DRE conducts continuing education audits. Each day, licensees are randomly selected to submit their continuing education course completion certificates for the courses claimed on their most recent renewal (Commissioner's Regulation 3013). A licensee who fails to provide DRE

with course completion certificates as required may be subject to a fine or possible disciplinary action.

DRE recommends that licensees retain copies of all continuing education course completion certificates for up to five years so they can respond quickly if asked to provide substantiation as part of a continuing education audit. If certificates are misplaced, licensees should contact the course provider since they are required to maintain a record of attendance or registration and final examination grades for each participant for five years (Commissioner's Regulation 3012.2).

Additionally, licensees can report course providers they believe are violating continuing education regulations. An [Education Provider Complaint \(RE 340\) form](#) and [Education Provider Complaint Form Information \(RE 340A\)](#) can be found on [DRE's website](#).

Applicants and licensees searching for continuing education providers are encouraged to do so through [DRE's website](#) to verify course approval status and to check for any prior [disciplinary action](#) against course providers. ■



Trust Fund Signatories

DRE regularly receives questions about signatories on trust fund accounts. Below are answers to two of the most common questions about who can sign and under what circumstances.

Can a property owner sign on a real estate broker's trust account?

The answer to this question is contained in [Business and Professions Code \(B&P Code\) section 10145](#). The relevant part states that, "all funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds."

The code section further specifies that withdrawals from a trust account of an individual broker require that broker's signature. In the case of a corporate broker, the signatory must be an officer through whom the corporation is licensed pursuant to [B&P Code sections 10158](#) or [10211](#).

Alternatively, withdrawals may be made with the signature of one or more of the following people, if specifically authorized to do so in writing by the individual broker or officer:

1. A real estate salesperson licensed to the broker.
2. Another broker acting pursuant to a written agreement with the broker.
3. An unlicensed employee of the individual broker if the broker has fidelity bond or insurance coverage equal to at least the maximum amount of the trust funds to which the unlicensed employee has access at any time ([B&P Code section 10145\(a\)\(2\)](#)).

Generally, a property owner is not included within the guidelines above.

Any arrangements a real estate broker makes to add signatories to a trust fund account will not relieve them from responsibility or liability in the handling of trust funds in their custody.

Once a real estate broker receives trust funds, they have a fiduciary responsibility to handle and account for these

funds in accordance with [B&P Code section 10145](#). A real estate broker must maintain and be in full control of the funds.

Can a real estate broker sign on the property owner's general account?

The answer to this question depends on the duties or services the real estate broker will perform.

“

Once a real estate broker receives trust funds, they have a fiduciary responsibility to handle and account for these funds in accordance with B&P Code section 10145.

”

Will the broker do work that requires a real estate license? If yes, will the broker have access to trust funds or, in other words, funds that do not belong to the broker? If the broker will have access to a beneficiary's trust funds, they must comply with [B&P code section 10145](#) and the related trust fund record keeping requirements. Having both the real estate broker and the property owner as signatories on the same general account does not meet the provisions of [B&P code section 10145](#), as noted above.

Being proactive in complying with trust fund recordkeeping requirements, including the rules around required signatures, will help ensure the success of a broker's real estate business while also protecting the public. ■

California's Call to Action: Build 2.5 Million Homes in the Next Eight Years

BY THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The California Department of Housing and Community Development (HCD) is committed to addressing the state's current housing crisis, which is a half century in the making.

Decades of underproduction, underscored by exclusionary policies, have left housing supply far behind need and costs soaring. As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, childcare, and transportation—one in three households in the state don't earn enough money to meet their basic needs.

This year, HCD released the latest Statewide Housing Plan. In addition to describing California's housing needs, how we got here, and challenges in alleviating the crisis, this living, comprehensive roadmap also tracks California's progress toward meeting its current goal of building 2.5 million much-needed homes over roughly eight years to help create a more affordable, equitable California for all.

The plan tracks data on housing by income level and demographics, includes information about what our state and local governments are currently doing to address the problem, and will be regularly updated as new data and research become available to more quickly address challenges and to track efficacy.

Though a Statewide Housing Plan has been required by law since 1962, previous iterations focused on assessing the housing landscape and providing policy recommendations. This version is different thanks to significant regulatory and financial changes the state has made to ensure that we are held accountable for getting the homes we need built.

As more housing units come online, DRE licensees will play a pivotal role tackling exclusionary practices and promoting equitable, climate-smart homeownership opportunities, particularly for people of color and lower-income families.

The Statewide Housing Plan Landing Page includes:

- Overview
- 10-Year Housing Data Strategy
- HCD Annual Report
- Housing Data Dashboard
- Housing/Homelessness Data Resources

The Digital Statewide Housing Plan includes:

- Why We Need to Act with Urgency
- How We Got Here and Challenges
- Housing Need
- What We are Doing to Meet the Need
- Where We are Going
- Tracking our Progress. ■



California Mortgage Relief Program

The [California Mortgage Relief Program](#), which launched in December 2021, has broadened eligibility to help California homeowners who have fallen behind on their housing payments because of the Covid-19 pandemic. As of May 2022, the program had provided \$32 million in grants for low- and moderate-income homeowners.

The program covers past due mortgage payments as a one-time grant – up to \$80,000 per household – with a direct payment to the homeowner’s mortgage servicer. As part of the expanded program, past due property taxes for eligible applicants are covered not only for those who are behind on their mortgages but now for those who are current as well, up to \$20,000. There is no cost to participate and the money does not need to be repaid.

Basic qualifications for mortgage and property tax relief include all of the following:

- Household income at or below 150 percent of their county’s area median income (the program website has an AMI calculator);
- Own one single-family home, condo, or permanently affixed manufactured home in California;
- Experienced a pandemic-related financial hardship after January 21, 2020;
- Missed at least two mortgage payments before June 30, 2022, and are currently delinquent; and



- Past due amount of \$80,000 or less at the time of application to the program

Basic qualifications for property tax relief only include all of the following:

- Either mortgage-free or current on mortgage payments; and
- Missed at least one property tax payment prior to May 31, 2022.

California received \$1 billion in federal funds for this program, which will continue until the funds are allocated, which must be no later than 2026. While there is no strict deadline to apply, homeowners in need should apply as soon as possible.

In addition to the [California Mortgage Relief Program website](#), you can find additional information about mortgage relief options and frequently asked questions on the [HousingIsKey website](#). California homeowners facing potential foreclosure are also encouraged to contact their mortgage service provider or a HUD-certified counselor at 800-569-4287. ■





Mortgage Loan Servicers and the Foreclosure Process

Real Estate licensees who perform loan servicing activities should ensure that they are familiar with all current requirements about the foreclosure process and that they comply with the procedures enumerated in the Homeowner Bill of Rights ([Civil Code section 2923 et seq.](#)).

The Department of Real Estate enforces the requirements listed below, which apply to DRE licensees who file 175 or fewer foreclosures per year and where borrowers became delinquent on or after January 1, 2019.

Brokers that service loans for compensation must ask the following questions ([CC sections 2923.4 and 2924](#)):

1. As part of the non-judicial foreclosure process, did the borrowers have a meaningful opportunity to obtain loss mitigation options offered by or through their mortgage servicer, such as loan modifications or other alternatives to foreclosure?
2. If a Notice of Default was filed, did it include the proper statements and was it filed with the county recorder where the property is located?
3. After filing the notice of default, did the broker or servicer wait three months before filing the notice of the sale?
4. If a Notice of Default was filed and if the trustee's sale was postponed for at least 10 days, did the broker provide written notice to the borrower about the new sale date and time within 5 business days of the postponement?
5. If it is a residential one-to-four-unit property, was a summary of the Notice of Default attached to the complete Notice of Default in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean?
6. If it is a residential one-to-four unit property, was a notice posted on the property and mailed to the resident(s) subject to the foreclosure sale (in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean) indicating that the foreclosure process has begun?

In cases where the first lien mortgage or deed of trust is secured by residential real property containing no more than four dwelling units that is either owner-occupied or occupied by a tenant, brokers must ask the following questions, in addition to those listed above ([CC sections 2923 and 2924](#)):

1. When the borrower defaulted, did the broker, prior to filing a Notice of Default, with due diligence try to contact the borrower to assess their financial situation and give them a meaningful opportunity to obtain a loan modification or pursue an alternative to foreclosure?
2. Did the broker provide the borrower with HUD's toll-free telephone number?
3. Did the broker advise the borrower that they have the right to meet with the loan servicer?
4. If the borrower requested a meeting, did the meeting occur within 14 days of the request?
5. If the borrower submitted a complete application for a first lien loan modification, did the broker comply with "dual-tracking" prohibitions?
6. If the borrower provided a complete loan modification application that was going to be denied, did the broker provide a written determination of the borrower's eligibility before filing a Notice of Default?

(CONTINUED ON PAGE 10)

Advertising Guidelines and the Use of Former Surnames and Nicknames

Advertising guidelines are intended to assure consumers that the professionals they are working with are appropriately licensed. DRE wants to remind licensees about these important requirements.

All licensees must disclose their name, their license number (and MLO endorsement, if applicable), and their responsible broker's identity (i.e., name or name and license number) on both solicitation materials that function as the first point of contact with consumers as well as on real property purchase agreements. Team names and salesperson-owned fictitious business names do not satisfy the identification of the responsible broker requirement ([Business & Professions Code sections 10140.6\(b\)\(1\) and 10015.4](#)).

On January 1, 2022, [Assembly Bill 830](#) went into effect, which allows real estate licensees who change the legal surname (last name) in which their real estate license was originally issued to continue to use their former surname for business purposes without filing a fictitious business name, so long as both names are filed with DRE ([B&P Code section 10140.6\(b\)\(2\)](#)).

As a further reminder on the topic of names, the use of nicknames in lieu of a legal first name is acceptable provided that when the nickname is used the licensee discloses their license number and the surname shown on their real estate license ([Commissioner's Regulation 2731\(e\)](#)).

Licensees are encouraged to review [DRE's Real Estate Advertising Guidelines](#) for additional information. ■



Regulating California's Real Estate Industry

As a licensing and regulatory agency with consumer protection as its primary mission, the Department of Real Estate (DRE) is responsible for enforcing California's Real Estate Law and Subdivided Lands Law.

With this authority, DRE can deny a license to an applicant if they do not meet the full requirements for licensure and discipline a license for proven violations of California law. DRE also can revoke a license for more serious violations, and issue Desist and Refrain Orders to stop activities that violate Real Estate Law or Subdivided Lands Law as well as Bar Orders for the most serious offenses to prohibit a person or entity from engaging in real estate activities for up to three years.

DRE enforces these laws to achieve maximum protection for real estate consumers, while exercising impartiality and fairness toward both the consumer and the industry. Many of DRE's enforcement actions originate as consumer complaints.

DRE posts on its website [summaries of the most serious enforcement actions](#) taken against licensees, as well as [other disciplinary actions](#). ■

MORTGAGE LOAN SERVICERS AND THE FORECLOSURE PROCESS (CONTINUED FROM PAGE 8)

7. Did the broker wait 30 days after making contact with the delinquent borrower, or 30 days after making the due diligence efforts described in [CC section 2923.5\(e\)](#) to contact the borrower, before filing a Notice of Default?
8. If a Notice of Default was filed, did it include a declaration that the broker: a) contacted the borrower; b) tried with due diligence to contact the borrower; or c) that no contact was required?
9. Did the broker ensure that they reviewed competent and reliable evidence to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information, before filing a declaration pursuant to [CC section 2923.5\(b\)](#) or a Notice of Default, Notice of Sale, assignment of deed of trust, or Substitution of Trustee?

For additional information and resources, see the [2022 Real Estate Law Book](#) and the [DRE Mortgage Loan Broker Compliance Evaluation Manual](#). ■



Severe Drought

Simple ways to save water in your yard

The average Californian uses 196 gallons of water per day, and 60% of that is used outdoors. But California is in a severe drought, and every household is being asked to save water, because even small changes can make a big difference.

Use the tips below to find the right combination of actions you can take to reduce your water use.



CUTTING BACK ON LAWN WATERING

even for one day a week can save up to 20% more water



SWITCHING TO WATER-WISE PLANTS

can save 30–60 gallons per 1000 sq. ft. each time you water



ADJUSTING SPRINKLER HEADS & FIXING LEAKS

can save up to 6,300 gallons of water per month



SETTING LAWNMOWER BLADES TO 3"

saves 16–50 gallons per day by encouraging deeper roots



USING MULCH

keeps water in the soil and saves up to 30 gallons of water each time you water



WATERING EARLY MORNING OR LATE EVENING

saves 50% of sprinkler water otherwise lost to wind and evaporation



USING A BROOM TO CLEAN OUTDOOR AREAS

saves 6 gallons every minute you're not running the hose



INSTALLING DRIP IRRIGATION & ADDING A SMART CONTROLLER

saves 15 gallons each time you water



Check with your local water agency to learn more about resources or rebates to help make your yard water-wise

Save Water.
Save California.

For more water saving tips:

SAVE OUR WATER.com



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We’d like to hear from you!



Email us at editor@dre.ca.gov

