



Real Estate Bulletin

DEPARTMENT OF REAL ESTATE

Spring 2023

Vol. 82, No. 2

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**Real Estate Commissioner
Douglas R. McCauley**

Commissioner's Update

A high priority for The Department of Real Estate (DRE) is to view issues and programs with a focus on equity. To achieve Governor Gavin Newsom's vision of a "California for All," it is crucial for DRE to work toward providing opportunity for all Californians. Accordingly, DRE is placing an emphasis on first-time homebuyers, as homeownership represents the greatest pathway to wealth-building, yet so many Californians are not able to take advantage of that opportunity.

It is no secret that buying a home is usually the largest investment a consumer will make. These transactions are especially foundational because access to quality housing has a dramatic impact on other parts of one's life, including health, education, and employment.

Equity in homes makes up about 60% of the wealth for most families, according to the US Census Bureau. But a recent study from the National Association of Realtors revealed that the homeownership rate for White Americans in 2021 was 72.7%, but the rate for Black Americans was 44%; the rate for Asian Americans was 62.8% and for Hispanic Americans it was 50.6%.

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Changes to Pre-License Education Course Requirements Take Effect January 1, 2024

On September 23, 2022, Governor Gavin Newsom signed Senate Bill 1495 (SB 1495), which makes changes to the course content required of the real estate practice course. These new requirements apply to individuals who submit an application to take the real estate salesperson or broker examination starting on or after January 1, 2024.

Currently, all applicants for the salesperson or broker examination must complete a three semester or four quarter unit equivalent course in real estate practice as part of the requirements to qualify for the examination. Beginning January 1, 2024, all applicants for the real estate salesperson or broker examination will need to complete a revised statutory/pre-license course in real estate practice, containing the following content:

- A component on implicit bias, including education regarding the impact of implicit bias, explicit bias, and systemic bias on consumers, the historical and social impacts of those biases, and actionable steps students can take to recognize and address their own implicit biases; and
- A component on federal and state fair housing laws as those laws apply to the practice of real estate. The fair housing component shall include an interactive participatory component, during which the applicant shall role play as both a consumer and real estate professional

Individuals who had previously qualified for licensure, and their license and associated renewal rights have subsequently expired, will need to complete another real estate practice course that is SB 1495 compliant should they submit a new exam application on or after January 1, 2024.

Also, individuals who take the current pre-license course, but wait until after January 1, 2024 to apply for their exam, will first have to complete the revised pre-license course.

Learn more about the new SB 1495 requirements, and search for approved statutory/pre-license courses in the "Examinees" section on the [DRE website](https://www.dre.ca.gov). ■



REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate
Vol. 82, No. 2 – Spring 2023

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The *REAL ESTATE BULLETIN* (ISSN 07347839) is published quarterly by the state of California Department of Real Estate, 1651 Exposition Blvd., Sacramento, CA 95815, as an educational service to all real estate licensees in the state under the provisions of section 10083 of the Business and Professions Code. Reproduction, in whole or in part, is authorized with attribution to the Department of Real Estate.

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**COMMISSIONER'S UPDATE (CONTINUED FROM PAGE 1)**

Unfortunately, first time buyers are often targets for fraud or are not prepared to make key decisions with significant financial ramifications. That is why it is imperative that DRE equip consumers with robust information on the home-buying process. There are a number of “how to” guides out there, from both industry and governmental sources, but there is a crucial need to update, enhance, and amplify that information. To respond to that challenge, DRE is launching a communications campaign to assist first time buyers: “First Home California”

First Home California will feature a wide range of information for consumers. The content will cover topics from how to select an agent and understanding mortgages, to disclosures and what to expect at closing. DRE will supplement the digital content on our website with live virtual presentations, including an opportunity for questions and answers. We look forward to helping Californians prepare to purchase their first home.

As I have indicated in other columns, I firmly believe that the most effective consumer protection takes place when DRE educates before we regulate. Conducting investigations, preparing for disciplinary hearings, etc. is very expensive and time consuming. The public is best protected if DRE can educate consumers and partner with the profession to prevent violations before they might occur.

Prevention will continue to be our strategic approach to serve the public, as it is how DRE can best protect consumers and is also how we can maximize our resources. It is our hope that investing in educating potential homebuyers, we can help demystify the complex process, help them avoid costly mistakes, and open the door to home ownership. ■

 @DougMcCauleyDRE



WHAT DO YOU KNOW?

A quiz on California Real Estate Law

According to California Real Estate Law, are each of the following statements about advertising **true** or **false**?

1. Advertising must always include the broker's real estate license number.
2. Even though a broker hires a third party company to create and handle advertising, the broker is responsible for advertising violations caused by the hired company.
3. A person who advertises that they only provide referral services still needs a real estate license.
4. A broker is not responsible for the advertising of their affiliated salespersons or broker-associates.
5. DRE publishes Real Estate Advertising Guidelines as a guide for licensees on the laws applicable to advertising and first point of contact solicitation materials.

The answers are on Page 14. ■



Living in a Common Interest Development

(The excerpts below are found in the Department of Real Estate's (DRE) "Living in a Common Interest Development" publication. You may view and download the entire publication at: www.dre.ca.gov/Publications/CompleteListPublications.html)

What is a common interest development (CID)?

A CID is descriptive not only of a certain type of real estate and form of home ownership, but also of a lifestyle that has become more and more common to the American way of life. To understand the concept, it is important to know that there is no one structural type, architectural style, or standard size for CIDs. They come in a variety of types and styles, such as single-family detached houses, two-story townhouses, garden-style units with shared "party walls," and apartment-like, multistory high rises.

In California, there are tens of thousands of CIDs that range in size from a simple two-unit development to a large complex having thousands of homes, many commonly owned facilities, and multiple associations under the auspices of one overall master association.

However, despite the wide range of differences that may exist among CIDs, all CIDs are similar in that they allow individual owners the use of common property and facilities and provide for a system of self-governance through an association of the homeowners within the CID. The most common type of association of homeowners is the nonprofit mutual benefit corporation. This is a corporation in which the members of the corporation vote for a board of directors that run the affairs of the corporation. However, some associations, usually the older ones, are unincorporated associations. In many ways, unincorporated associations are treated the same as mutual benefit corporations under California law.

Does a property owner have to join the association?

Membership in the association(s) is automatic. When a person buys a lot, home, townhouse, or condominium in a common interest development, he/she automatically becomes a member of the association(s).

What are Covenants, Conditions and Restrictions (CC&Rs)?

The Declaration of the Covenants, Conditions and Restrictions, or CC&Rs, contains the ground rules for the operation of the association. This governing

document identifies the association's common area and responsibilities, explains the obligation of the association to collect assessments, as well as the obligation of the owners to pay assessments. It also states that the association may sue owners for violations of the rules or failure to pay assessments, and explains what happens if there is any destruction of property in the development as a result of fire or earthquake. The CC&Rs will also state the duties and obligations of the association to its members, insurance requirements, and architectural control issues.

How are the CC&Rs enforced?

California laws allow that either the association or an owner in a common interest development may file a lawsuit asking the court to enforce the CC&Rs. The law currently requires, with some exceptions, that either the owner or the association must offer to engage in some form of alternative dispute resolution process before filing a lawsuit. You may wish to consult with an attorney who specializes in this type of law if you are faced with or contemplating an enforcement matter.

Does DRE assist with the enforcement of the bylaws and CC&Rs?

CIDs are subject to the Davis-Stirling Common Interest Development Act (California Civil Code sections 4000 et seq.). This Act is intended to provide homeowners with a system of self-government and dispute resolution. As part of the required public report application processes needed before home are offered for sale to the public, DRE reviews the legal framework of new CIDs to ensure they comply with the Subdivided Lands Law. Once sales begin, DRE's jurisdiction is limited to the subdivider's obligations under the public report, which does not include intervention in association disputes. Presently, there is no State or local agency that directly regulates associations or their members.

Who is in charge of the association?

The homeowners are in charge of the association. Often, homeowners will elect a board of directors to operate the

(CONTINUED ON NEXT PAGE)



LIVING IN A COMMON INTEREST DEVELOPMENT (CONTINUED FROM PAGE 4)

association and preserve, enhance, and protect the value of the CID, but the board answers to the homeowners. It should be noted that it is not unusual for the board to contract with a professional management company to run the day-to-day affairs of the association. Ultimately, however, it is the board that is responsible for the oversight of the homeowner association.

and regulations of the association. Some associations' rules and regulations also require that a property owner provide the association with a copy of the rental agreement. In most associations, the CC&Rs state that the owner of the property being rented is responsible for the conduct of the tenant. Naturally, it is in the best interest of all parties to prevent problem situations between tenants and owners of other units. If a tenant does damage to the common area or creates a nuisance (e.g., loud music or pet problems), the disturbance could become the property owner's problem and the association may fine them.



While governing documents help establish a foundation, involved owners build the CID and make it a community



How does the association pay its bills?

Each association has a budget that is prepared based on the common area obligations of the CID, and distributed to all members. The budget determines how much money the association is going to need to operate for the following year. The association has the right to bill members for their fair share of the budgeted amount. This billing is known as an assessment, which may be paid via monthly invoices, coupons supplied by the association, or some alternative method. Ideally, the association collects sufficient money through these assessments and pays the bills for the services and goods contemplated in the budget.

What are a property owner's individual responsibilities for living in a CID?

Primarily, a property owner is responsible for paying assessments on-time and abiding by the CC&Rs and all other rules and regulations that exist for community harmony.

What are a property owner's individual rights for living in a CID?

A property owner's individual rights when living in a CID are based upon the laws of California and the documents you signed at the time of purchase. Prior to making a purchase, it is advisable that a potential owner thoroughly review the CC&Rs and any other governing documents applicable to the CID (California Civil Code section 4150). The potential owner also may wish to attend a board meeting and obtain copies of minutes from previous board meetings. The CID should be able to demonstrate that it has adequate insurance coverage, a solvent budget, and a sufficient reserve account.

If the assessments collected are insufficient to pay the bills, the board of directors is allowed to levy what is known as a special assessment. Without member approval, the total of special assessments in any fiscal year cannot exceed 5% of the gross budgeted expenses for that year. By paying the fair share of the obligations of the association, through the budget and assessment process, all property owners are proportionally paying for the current and long-term maintenance obligations of the association.

Generally, the rights of owners include:

- The right to participate in meetings of the board of directors and to be heard
- The right to enter into dialogue with your association board of directors with regard to any problem perceived in the development
- The right, with some exceptions, to utilize an alternative dispute resolution process, if a dispute arises between the property owner and the association prior to the involvement of the court system.

Can owners rent to someone else?

Some CIDs restrict the number of units that may be rented by owners. Some CC&Rs require that a rental agreement acknowledge that the tenancy is subject to all of the rules

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Helping Your Client Understand an Architect's Role

By the California Architects Board



Increasingly, real estate agents are assisting clients with construction projects and other services that can help when either buying or selling property. Because such construction may involve working with an architect, it's important that real estate agents understand the legal parameters and scope of an architect's license.

California law defines the practice of architecture as the planning of sites and the design, in the whole or in part, of buildings or groups of buildings and structures. This can include projects such as adding a second story to a house or increasing a house's footprint. Anyone who uses the title "architect" (or any term confusingly similar), or advertises to provide architectural services in California, must be licensed by the California Architects Board (CAB). A license can be easily checked on the [CAB website](#).

When considering hiring an architect, please be aware that some structures do not require the services of a licensed architect. Non-architects can design single-family dwellings of woodframe construction not more than two stories and basement in height. CAB has a helpful [Design Limitations Chart](#) of various project types and the relevant design limitations for architects, civil engineers, and structural engineers. The charts also includes information about the types of buildings that unlicensed individuals can design, unless the local building department deems that doing so would involve an undue risk to health, safety, and welfare.

CAB has publications and videos with tips about hiring an architect that may be helpful for you and your clients.

- [Consumers Guide to Hiring an Architect](#)
- [10 Tips for Hiring an Architect \(English\)](#)
- [10 Tips for Hiring an Architect \(Spanish\)](#)

Additionally, CAB has a [video](#) that provides important information for those interested in building an accessory dwelling unit (ADU) on their property.

If you have any questions related to architects and their scope of practice, please contact CAB at 916-574-7220 or cab@dca.ca.gov. ■

LIVING IN A COMMON INTEREST DEVELOPMENT (CONTINUED FROM PAGE 5)

What should a property owner do if he or she decided to sell the home?

The property owner may wish to contact a real estate professional, the board of directors, the professional management company (if the CID has one), and/or an escrow company for assistance with the many details involved with selling a home. There are a number of documents that an individual owner is legally required to provide to a prospective purchaser of a unit in a CID.

The property owner will want to make sure that the buyer is aware of the rules and regulations of the association as well as the assessment obligation so there is not a problem or misunderstanding that could jeopardize the sale of the home. Until the sales transaction is completed and title

is transferred, the owner of record is responsible for all assessments and fines unless otherwise stated in the sales and purchase agreement. This includes new assessments approved during the sale and purchase that become due while the sale is pending.

Conclusion

A successful and viable CID is generally one in which homeowners assume an active role, not only by attending association meetings, voting and paying dues on time, but also by running for elected offices, serving on committees and participating in group activities. While governing documents help establish a foundation, involved owners build the CID and make it a community. ■



Broker Supervision Requirements under California Real Estate Law

What is broker supervision?

Broker supervision is the phrase most often used when describing the broker's responsibilities for supervising the activities of the broker's affiliated salespersons and broker-associates and monitoring their real estate-related activities.

In California, salespersons must affiliate with a broker when engaging in "licensed" real estate activities, and brokers who have affiliated salespersons and/or broker-associates must supervise them.

These requirements maximize protections for real estate consumers against fraud, misrepresentation, and negligence. Broker supervision is defined in the Real Estate Law at Business & Professions (B&P) Code sections [10159.2](#) and [10177\(h\)](#) and in the [California Code of Regulations at Title 10, Chapter 6, section 2725](#).

The following presents some sections of the B&P and Regulations that relate to the supervision requirement.

Broker's Obligation to Supervise

A licensed real estate broker must supervise the real estate licensees who are affiliated with the broker. This is true for both corporate brokers and for "sole proprietor" brokers, and there are no exceptions to this law. Moreover, it is never acceptable for an unlicensed individual to supervise a licensed real estate salesperson or broker-associate, or to conduct licensed acts.

Enacted in 1955, B&P [§10177\(h\)](#) authorizes DRE to take disciplinary action against:

1. Any broker who fails to exercise "reasonable supervision" over the affiliated licensees practicing under their license; and
2. Any designated broker-officer of a corporation who fails to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required

A broker's failure to provide adequate supervision can lead to disastrous consequences not only for the affected consumers, but also for the broker's future as a real estate licensee.

In exercising reasonable supervision over the activities of their affiliated licensees, [Regulation 2725](#) requires that brokers establish policies, rules, procedures and systems to review, oversee, inspect and manage:

1. Transactions requiring a real estate license;
2. Documents that may have a material effect upon the rights or obligations of a party to the transaction;
3. Filing, storage, and maintenance of such documents;
4. Handling of trust funds;
5. Advertising of any service for which a license is required;
6. Familiarizing affiliated licensees with the requirements of federal and state laws relating to the prohibitions against discrimination;
7. Regular and consistent reports of licensed activities of affiliated licensees;

The form and extent of such policies, rules, procedures, and systems must take into consideration the number of affiliated licensees and the number and location of branch offices. In other words, a responsible broker should keep track of who is working for the company, what the license status is of affiliated licensees, and out of which office they are working.

A broker also must have systems in place to monitor its overall policies, rules, procedures, and systems. Brokers may use the services of other brokers and salespersons to assist in administering these supervisory policies and procedures, so long as the broker does not relinquish overall responsibility for supervision of the acts of persons licensed to the broker.

Assignment of Supervisory Authority

For real estate corporations, B&P [§10159.2](#) sets forth the primary broker supervision requirement in which the designated licensed broker is responsible for exercising sufficient supervision and control over their affiliated licensees and employees necessary to achieve full

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**BROKER SUPERVISION REQUIREMENTS (CONTINUED FROM PAGE 7)**

compliance with the Real Estate Law.

Where there are other corporate officers who hold broker licenses and wish to act in a supervisory capacity, they may do so providing that the corporation enacts a corresponding corporate resolution, and the resolution is promptly filed with DRE.

Per B&P §10164, designated broker-officers of a corporation and “sole proprietor” brokers may appoint another person who is a licensed real estate broker or salesperson as a branch office or division manager who will

1. Take and have responsibility for the oversight and supervision of day-to-day operations of licensed activities in the branch or division real estate office, and;
2. Be subject to potential sanctions and discipline from DRE for failure to properly supervise the licensed activities of licensees and the clerical staff employed in the branch office or division.

If such an appointment is made, the broker must notify DRE in writing at the time of the appointment. The broker also must notify DRE in writing when an appointment is terminated.

Ultimately, however, it remains the corporation’s designated broker-officer or responsible broker’s responsibility to ensure that only qualified personnel are allowed to supervise the sales force and to ensure that the brokerage operates in compliance with the Real Estate law.

What happens, for example, if a real estate salesperson, who is being supervised by an officer or branch or division manager other than the designated officer, does something wrong which is within the scope of their affiliation? Depending on the facts and circumstances and the nature of the violation, the designated broker-officer may still be responsible along, with the officer or licensee to whom supervision was delegated.

Broker Supervision in Advertising

Commissioner’s Regulation 2725(e) specifies that broker supervision includes the establishment of policies, rules, procedures, and systems to review, oversee, inspect, and manage advertising of any service for which a license is required.

Answering the following questions can help brokers to determine if there is reasonable supervision over the advertising of affiliate licensees:

- Does the broker have brokerage or brand advertising standards and requirements?
- Are affiliate licensees provided information or resources that can help them prepare advertising?
- Who reviews and approves the advertising of affiliate licensees before it is published, printed, or distributed?
- If an unlicensed employee prepares the advertising, is it done under the direction of a licensee and subject to broker supervision?
- Does the broker have systems in place to ensure sufficient advertising review and approval?
- How often does the broker, or designated manager, spot check their affiliate licensees’ advertising materials?
- Are all affiliate licensees properly licensed under the broker?
- Are all fictitious business names listed on the broker’s public license information on DRE’s website?
- If compliance issues are found, what action does the broker take to correct the advertising?
- What happens if an affiliate licensee violates the broker’s policy, rules, or procedures?
- Do the broker’s policies, rules, and procedures include the preceding bullet points?

While the list above is not comprehensive, considering answers to these questions can help ensure that brokers appropriately supervise affiliate licensees who advertise their services.

For additional information, see DRE’s [Real Estate Advertising Guidelines](#).

Ensuring License Requirements are Met

Any person, individual or corporation, who engages in the business of, or advertises as, a real estate broker or a real

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BROKER SUPERVISION REQUIREMENTS (CONTINUED FROM PAGE 8)

estate salesperson must first get a real estate license from DRE. It is therefore incumbent upon brokers to hire licensed persons, and ensure that only affiliates who are licensed perform activities requiring a real estate license.

It is the responsible brokers and/or the designated broker-officers of corporations who are responsible for ensuring that affiliates are properly licensed and that unlicensed employees do not perform activities requiring a real estate license. In this way, responsible brokers ensure that the sales force is licensed and has the basic requisite knowledge, skills, experience, and character to represent members of the public in real estate transactions.

Because corporations are “persons” under the California Real Estate Law, corporations may get real estate broker licenses. However, a licensed corporate broker may act only through a designated corporate officer who is a licensed broker.

B&P §10211 requires that the corporation designate a supervising broker in its application for a real estate license. If there is no licensed officer designated as the supervising broker for the corporation, the corporation cannot perform licensed activities.

A designated broker-officer of a corporation is, while so affiliated, licensed only to act for and on behalf of the corporation as an officer. However, a designated broker-officer also may hold a separate license through which they may act as an individual broker.

A corporate licensee engaging in the real estate business when there is no designated broker-officer is acting in an unlicensed capacity. This may subject the corporation to DRE discipline, as well as to criminal penalties.

In addition, in order to be licensed by DRE and to do business as a corporate real estate broker, the corporation must be in good standing with other agencies in the State of California, such as the Secretary of State’s Office. If a corporation, for example, has its corporate status suspended or revoked, it is no longer a corporation in good standing. The designated broker-officer of a corporation is responsible for ensuring compliance with this provision of the state’s Real Estate Law.

Among the express administrative duties of supervision is the requirement that the salesperson license, or broker

license if acting as a broker-associate, must reflect the current responsible broker. In addition, brokers must notify DRE when hiring or terminating an affiliated licensee.

Brokers must maintain written agreements between the broker and each affiliated licensee. The agreements must address the broker’s supervision of licensed activities. Brokers must have and maintain a definite place of business in California where licenses are displayed and where consultations with clients take place.

To be lawful, fictitious business names and the location of branch offices also must be on record with DRE. In addition, alternative business names (doing business with a fictitious business name, or “dba”) and the location of branch offices must be on record with DRE.

In the case of a corporate broker, it is the duty of the designated broker to ensure compliance with these rules. These latter examples of administrative duties are part of the more general duties of supervision of an individual broker’s affiliates and employees or the responsible broker’s duty to supervise the acts of a licensed corporation and its employees and agents.

Final Thoughts

Ensuring that all affiliated licensees act with the utmost honesty and integrity and adhere to their duties as fiduciaries is an inherent part of the responsible broker’s responsibility. The decision to serve as a responsible broker, either of a sole proprietorship or of a corporate brokerage, should not be taken lightly. If any violations occur in the name of the corporation, the designated broker may suffer the consequences.

Future editions of the Real Estate Bulletin will include an expanded look at these supervision requirements. ■





Updated Rules for Discrimination as a Basis for Discipline

Section 7 of the California Constitution and the 14th Amendment of the United States Constitution both contain provisions commonly known as “equal protection” clauses. These clauses prohibit the government from engaging in unlawful discrimination.

The State of California has adopted statutes to address specific problems associated with discrimination in the private and public sectors. The concept of equality has become ingrained in our political system to further the pursuit of happiness for all Californians.

Effective October 1, 2022, [Regulation 2780, Title 10, of the California Code of Regulations](#), was revised to expand the classifications that are provided additional protections against discrimination. Under the Regulation, everyone in California qualifies for protections in one way or another. The previous version of the Regulation identified six protected characteristics: sex, religion, ancestry, physical handicap, marital status and national origin as protected classes. The new version identifies 16 protected characteristics, including changing the terminology of two characteristics (i.e., physical handicap to disability and marital status to familial status) and adding ten new protected characteristics: gender, gender identity, gender expression, sexual orientation, familial status, disability, genetic information, source of income, veteran or military status, citizenship, primary language, or immigration status as protected classes.

This article is not intended to be an exhaustive list of every activity that could trigger a claim of discrimination, please refer to [Regulation 2780](#) for additional information.

Discrimination is the unjust or prejudicial treatment of different categories of people. Discrimination can be overt and occur in a single instance or can be shown by a pattern of conduct.

In real estate, the activities that can trigger discipline for discrimination are broad. If a licensee discriminates against a prospective client, client, buyer, seller, renter, borrower, another agent, or another agent’s client while soliciting or performing any licensed activity because of a person’s protected class, grounds for discipline based on discrimination may exist. Advertising may also be considered discriminatory if the advertisement overtly intends to exclude a protected class or if there is a pattern of only including a specific ethnicity, gender, or other specified characteristic.

Examples of discriminatory conduct include, but are not limited to:

- Refusing to negotiate the sale, rental, or financing of real property because of a person’s protected class;
- Refusing to show, provide information about, or steering a person away from real property due to a person’s protected class;
- Referring prospects to other licensees or assigning real estate licensees on the basis of a prospect’s protected class;
- Refusing to cooperate with or assist another real estate licensee because of their protected class or their client’s protected class;
- Performing any act, making any notation, asking any questions or advertising in any way which when taken into context, expresses or implies a limitation or preference based upon a person’s protected class;
- Entering into any agreement, explicit or implied, not to show, rent, sell, or finance real property from or to any person or group of persons because of that person’s or group’s protected class; or
- Quoting or charging a different price, rent, cleaning fee, application fee, credit check, commission, or security deposit, or any fee associated with licensed activity based on a person’s protected class.

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A Look Inside DRE's Complaint Process

The Department of Real Estate's (DRE) is committed to its mission of protecting California consumers in real estate matters. An important part of that mission is enforcing both the state's Real Estate Law and Subdivided Lands Law in a fair and equitable way.

A primary source of cases come from complaints filed against DRE licensees involving real estate, mortgage loan, and property management transactions. Many accuse licensees of, among other things, misleading or defrauding consumers.

In fiscal year 2021-22, DRE received 5,202 complaints. While most complaints are filed by consumers, DRE also receives complaints filed by people in the real estate industry, including licensees, other regulatory agencies, and people who file a complaint anonymously.

If, following an investigation, evidence is developed that could substantiate a violation of Real Estate Law, the case is referred to DRE's Legal Affairs division for the filing of formal disciplinary action to suspend or revoke a real estate license.

If a violation against a subdivider is established, DRE can issue a Desist and Refrain order, stopping further sales until the violations are corrected.

There is a very specific process DRE follows when a complaint is filed. Here is an inside look at that process, starting with the important information that should be included when filing a complaint.

Filing a Complaint

In preparing to file a complaint, DRE encourages the complaining party to summarize their case in a chronological manner using the following guidelines:

- Tell us what happened or what the circumstances are that may require investigation. Start from the beginning and describe the events as they occurred, or the situation that requires investigation. If it involves a real estate transaction, be specific as to what was said and who said it;
- Tell us who was present during these conversations or acts; and

- Tell us when and where these conversations/acts took place

When submitting a complaint to DRE, remember that documentary evidence is especially important. Therefore, be sure to provide DRE with copies of all documents relating to the transaction. That includes listings, offers, deposit receipts, notes and trust deeds, correspondence, copies of the front and back of checks, escrow documents, advertising, etc. Do not send originals.

While DRE will review anonymous complaints reporting problem transactions, it is especially important that the complaint provided is well documented and that valid sources for corroborating witnesses are included. Without proper documentation and corroborating witnesses, DRE cannot analyze the legitimacy of the complaint or develop sufficient evidence to support a case for disciplinary action.

Complaints can be filed online, mailed to DRE, or hand delivered to any DRE district office.

Complaint Review

DRE staff review and analyze each complaint received for potential violations of the Real Estate Law or Subdivided Lands Law. If potential violations are found, the complaint will be referred to an investigator.

If a complaint is related to a breakdown in communication between a consumer and a licensee, DRE will try to work with both parties to resolve the complaint without the need to conduct a formal investigation. DRE has a [Complaint Resolution Program](#) to assist in these situations.

Formal Investigation

Once a complaint is assigned for investigation, a special investigator will contact the complaining party to introduce themselves, discuss the complaint, explain DRE's authority and jurisdiction, and refer the complaining party to additional resources, if applicable. In cases where a clear and detailed description of the transaction and documentation isn't provided, the investigator will ask the filing party to provide additional information.

Clear and Convincing Evidence

It should be noted that the burden of proof necessary for

(CONTINUED ON PAGE 14)



PG&E Warns of an Emerging Scam Campaign

In recent weeks, PG&E has received dozens of reports on an emerging scam. It involves people claiming to be from PG&E who contact a listing agent about a property in escrow. They tell the agent the property's utility meter needs to be replaced and that a deposit payment is needed immediately, sometimes within the hour, to avoid disconnection. Similar scam attempts are also being reported to other California utilities.

PG&E urges real estate agents to remember that if you receive a call from someone claiming to represent PG&E who is threatening disconnection if you do not make immediate payment, you should immediately hang up and call them at 1-833-500-SCAM (7226) to confirm account details and outstanding balance. "PG&E will never ask for you for your financial information over the phone or via email, nor will we request payment via pre-paid debit cards or other payment services like Zelle," said Aaron Johnson, PG&E Bay Area regional vice president.

Signs of a potential scam

- **Threat to disconnect:** Scammers may aggressively demand immediate payment for an alleged past due bill.
- **Request for immediate payment:** Scammers may instruct the customer to purchase a prepaid card and then call them back supposedly to make a bill payment.
- **Request for prepaid card:** When the customer calls back, the caller asks the customer for the prepaid card's number, which grants the scammer instant access to the card's funds.
- **Refund or rebate offers:** Scammers may say that your utility company overbilled you and owes you a refund, or that you are entitled to a rebate.

Scammers can be convincing, however with the right information, you can learn to detect and report these predatory scams. ■

The Important Role of Enforcement in 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 requirements for licensure and discipline a license for proven violations of California law.

DRE's discipline may range from license revocation for more serious violations to public reproof, issuing a corrective action letter, or issuing citations and fines for less significant violations. DRE also may issue Desist and Refrain Orders to stop activities that violate Real Estate Law or Subdivided Lands Law and issue Bar Orders for the most egregious 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 [summaries of the most serious enforcement actions](#) taken against licensees, as well as [other disciplinary actions](#) on its website. ■



DRE is now on Mastadon and Instagram!

It is now easier to stay connected with DRE than ever! DRE recently joined two social media platforms -- Mastodon and Instagram. DRE now has a half-dozen different social media channels:

- [Facebook](#)
- [Instagram](#)
- [LinkedIn](#)
- [Mastodon](#)
- [Twitter \(English\)](#)
- [Twitter \(Español\)](#)
- [YouTube](#)

Scan the QR code to follow us and stay up to date with timely announcements, reminders, and informational materials! ■



Los Angeles County Launches Property Owner e-Notification Alert

Property owners in Los Angeles County now have a faster way to get informed of recorded activity on their property. Typically, property owners are notified within five days when a Notice of Default or Notice of Sale is recorded on their property, or within 30 days when a Grant Deed, Quit Claim Deed or Deed of Trust is recorded on their chain of title.

With a new Property Owner e-Notification Alert, Los Angeles County property owners are alerted within 48 hours by email of recorded activity on their property. Property owners must register at <https://assessor.lacounty.gov/news-information/enotification> in order to start receiving e-Notifications.

Similar notification programs also are available in other counties -- including electronic notifications for property owners in the Calaveras, San Diego, and Ventura Counties. Letter notifications are available to those in the Contra Costa, Placer, and Riverside Counties. If locations where you work are not listed here, you should visit local county websites to see if a notification program is available.

Property owners in Los Angeles County who have questions or suspect fraudulent behavior are encouraged to contact the County's Department of Consumer and Business Affairs at (800) 593-8222, or by email at homehelp@dcba.lacounty.gov. ■

UPDATED RULES FOR DISCRIMINATION AS A BASIS FOR DISCIPLINE (CONTINUED FROM PAGE 7)

Regulation 2780 excepts from its discriminatory prohibitions certain costs associated with facilities or services for persons with physical disabilities if the difference in sales price, rent or term is reasonably related to the cost or difficulty of providing those facilities or services. Information provided to persons with physical disabilities for the purposes of calling attention to the presence or absence of housing accommodation services or housing accommodations related to a physical disability does not violate Regulation 2780. Please review the regulation for specifics of the exemptions.

Regulation 2780 also does not prevent or limit in any way the use of an affirmative marketing program designed to attract persons of a particular protected class who would not otherwise be attracted to the real property or to the area.

As you can see with the updates to the regulation, DRE is committed to protecting Californians from discrimination in their search for a place to rent, acquire financing for, buy, or sell real property. ■

**INSIDE DRE'S COMPLAINT PROCESS (CONTINUED FROM PAGE 7)**

disciplinary action against a real estate licensee exceeds that required to prove a case in civil court. Prior to filing a disciplinary action against a licensee, DRE must have clear and convincing evidence that a violation of the Real Estate Law has occurred.

Investigation Completed

The conclusion of a DRE investigation often results in one of the following:

1. No formal regulatory action
2. Regulatory action due to a minor violation
3. Regulatory action due to a major violation

If no formal regulatory action is necessary, the complaint is closed. A complaint may be closed because there is not enough evidence, the witnesses won't cooperate, or the alleged issues are not violations of Real Estate Law.

If the investigation revealed minor violations of Real Estate Law, DRE usually issues a citation with a fine and order to correct the violation (instead of other formal regulatory action). If the investigation revealed major violations of Real Estate Law, the case will go through the formal disciplinary process. Formal disciplinary action can result in a suspension, restriction, or revocation of the DRE license.

It's important to remember that every licensee charged with violating California Real Estate Law and facing

disciplinary action has due process rights. That means every licensee is entitled to a hearing with an opportunity to present their own evidence.

Disciplinary Hearing

Disciplinary hearings are presided over by an Administrative Law Judge who is completely independent from DRE. Hearings are conducted in a manner similar to a court trial, but without a jury.

At the hearing, DRE has the burden of proving the charges contained in the operative pleading, known as an Accusation. To meet its burden, DRE will call witnesses and present documents into evidence.

After the Hearing / Final Decision

After the hearing is concluded, the Administrative Law Judge prepares a proposed decision which is sent to the Real Estate Commissioner for consideration and final decision. Under law, the Commissioner may accept the proposed decision as the final decision or reject it and issue a Decision after Rejection as the final decision. If the Commissioner rejects the proposed decision, the Commissioner will provide the parties with an opportunity to submit additional arguments before rendering the final decision. If the Commissioner does not accept or reject the proposed decision within the allowed time, the proposed decision will become the final decision by operation of law. ■



1. **False.** While mortgage loan advertising must include the broker's real estate license number, a responsible broker's real estate license number is not always required for other advertising.
2. **True.** The broker is responsible for their advertising, which must comply with the Real Estate Law.
3. **True.** Soliciting prospective sellers, buyers, tenants, borrowers, and lenders requires a real estate license.
4. **False.** A broker is required to reasonably supervise the activities of their affiliated salespersons and broker-associates, which includes the advertising of any service for which a license is required.
5. **True.** The Real Estate Advertising Guidelines can be found at <https://dre.ca.gov/files/pdf/re27.pdf>. ■

WHAT'S IN YOUR STORMWATER

Find your water quality region on the map below and learn more at CleanWaterCA.com



KEY POLLUTANTS AND HOW YOU CAN HELP

TRASH and litter accumulate on highways and make their way into waterways.
Actions: Properly secure items in truck beds and put trash and recycling in the bin.

NUTRIENTS such as nitrogen and phosphorus are generated from fertilizers and vegetation waste.
Actions: Avoid over fertilizing lawns and plants, and keep fallen leaves out of storm drains.

SEDIMENTS are released by soil erosion and can carry other pollutants of concern into waterways.
Actions: Sweep driveways instead of hosing them off, use mulch in the garden, and plant trees and shrubs.

BACTERIA comes from pet waste and illegal disposal of RV waste.
Actions: Pick up after your pet and use RV dumping stations.

METALS are generated by vehicle, tire, and brake wear.
Actions: Regularly check tire pressure, change oil and fluids, and use commercial car washes.

PESTICIDES come from over application and improper disposal of chemicals.
Actions: Use organic pesticides and properly dispose of unused portions.



THE CALTRANS STORMWATER PROGRAM WORKS TO PREVENT WATER POLLUTION, ESPECIALLY ALONG CALIFORNIA HIGHWAYS AND ROADWAYS. THE PROGRAM IS REGULATED BY THE STATE WATER RESOURCES CONTROL BOARD, WHICH ESTABLISHED THE NINE WATER QUALITY REGIONS FEATURED ON THIS MAP TO PRESERVE, MANAGE AND PROTECT OUR STATE'S WATERSHEDS.





Official Publication of the California Department of Real Estate

CALIFORNIA DEPARTMENT OF REAL ESTATE
1651 EXPOSITION BLVD.
SACRAMENTO, CA 95815

Real Estate Bulletin

VOL. 82, NO. 2

SPRING 2023

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For all the latest real estate information for consumers, licensees, examinees, and developers, visit the DRE website and follow us on Facebook and Twitter.

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We’d like to hear from you!



Email us at editor@dre.ca.gov

