



Real Estate Bulletin

DEPARTMENT OF REAL ESTATE

Winter 2022

Vol. 80, No. 4

P.4 Summary of New Real Estate Laws | P.9 California Mortgage Relief Program Launched



**Real Estate Commissioner
Douglas R. McCauley**

Commissioner's Update

Discrimination and implicit bias are long-standing problems in real estate, with both historic and contemporary consequences. From redlining to advertising practices, such discrimination has profoundly deleterious effects by denying people's right to both housing and economic opportunity. To truly commit to Governor Gavin Newsom's vision of a California for All, it is critically important that we all engage in a healthy self-examination of how we approach our work and interactions with others.

Recognizing the pervasiveness of inequality in real estate, the California Association of Realtors recently sponsored legislation (SB 263, Rubio) signed by the Governor that, beginning January 1, 2023, requires additional pre-licensing and continuing education course content focused on implicit bias and fair housing. This significant legislation ensures that licensees will have the requisite knowledge to increase their awareness of implicit bias and to abide by fair housing laws. But this alone may not be sufficient to adequately address such a complex problem. It is crucial that we all strive to truly educate ourselves about these dynamics.

(CONTINUED ON PAGE 3)

DRE Settles Hundreds of Cases in one of the Largest Enforcement Actions in 100+ year history

Pre-licensing and continuing education requirements are important backbones of real estate licensing that help protect consumers. So, DRE takes seriously any attempt to fraudulently cheat the system.

For nearly a year, DRE investigators worked with counterparts in more than 40 other states to investigate a scheme involving a San Diego County-based education course provider named Real Estate Education Services (REES) and its owner Danny Yen. That investigation has now resulted in settlements with more than 320 DRE licensees who also hold Mortgage Loan Originator (MLO) endorsements. With that endorsement, DRE licensees can originate mortgage loans.

Investigators determined that the scheme involved MLOs deceptively claiming to have completed either pre-licensing or continuing education courses as required by the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act).

Nationally, investigators looked at more than 600 MLOs, 441 of whom signed settlements. These MLOs, including those here in California, agreed to surrender their licenses for a period of three months, pay a fine of \$1,000 for each state in which they hold a license, and take pre-licensing and continuing education courses beyond SAFE Act requirements.

Three hundred and twenty-four of the settlements involved MLOs licensed by DRE, with penalties totaling \$324,000. DRE will be opening cases and proceeding with disciplinary action against MLOs that did not settle.

DRE also has filed an accusation against Mr. Yen and REES. The accusation alleges that REES completed online pre-licensure courses for numerous students and issued continuing education course completion certificates to DRE licensees even though they failed to take, complete, and successfully pass DRE-authorized final exams. The California Department of Financial Protection and Innovation (DFPI) led the nationwide investigation, and has taken administrative action against Yen as well, issuing a Citation and a Desist and Refrain Order.

Congress enacted the SAFE Act in 2008 to enhance consumer protection and reduce fraud through minimum standards for the licensing and registration of state-licensed mortgage loan originators. California enacted its own version of the SAFE Act in 2009, and requires mortgage loan originators to have at least 20 hours of pre-licensing education and an annual eight hours of continuing education.

As the results of this investigation demonstrate, DRE is steadfast in its commitment to enforcing all laws related to the practice of real estate to help protect California consumers.

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REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate
Vol. 80, No. 4 – Winter 2022

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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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2022 Real Estate Law


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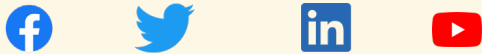
COMMISSIONER'S UPDATE (CONTINUED FROM PAGE 1)

Housing discrimination is especially troubling not only because it limits the opportunity for housing, but also because it often leads to life-long impacts on education, health, and employment.

As Commissioner, I am unwaveringly committed to ensuring that all consumers are provided equitable services from our licensees. In cooperation with our partners at the Office of the Attorney General and the Department of Fair Employment and Housing, the State of California aggressively pursues criminal, civil, and disciplinary actions against persons who engage in housing and employment discrimination. Licensees who commit such abhorrent violations should know that we will vigorously pursue all available enforcement remedies to hold them accountable.

The beauty of California's tapestry of diversity is a tremendous strength. And its benefits can only be fully realized if we all are committed to a State that serves everyone equitably. SB 263 is an important step in sharing the vast and rewarding opportunities available in the Golden State with everyone. Please continue to do your part to ensure that our California is one in which we can all thrive and prosper. ■  **@DougMcCauleyDRE**

Connect with DRE on Social Media



Looking to stay updated on DRE news? Follow us on social media for helpful and timely information, along with tutorial videos, new DRE resources, and more.

Recent posts include:

- What to Expect on Exam Day
- Materials to Gather Before You Apply for Your California Real Estate License
- Summary of 2022 New Laws

Scan the QR code below to get started! ■



Summary of New Real Estate Laws

Below are summaries of new state laws that affect real estate licensees and applicants. Unless otherwise noted, the laws took effect January 1, 2022.

- Assembly Bill (AB) 107 requires that the Department of Real Estate collect information about military, veteran, and spouse license applications, including the number of expedited license applications, the number of expedited licenses issued and denied per calendar year, and the average length of time between application and expedited license issuance. DRE will submit an annual report to the Legislature.
- AB 502 allows homeowners associations (HOAs), regardless of size, to elect by acclamation candidates for the board of directors, if the number of candidates is no greater than the number of vacancies. To do so, the HOA will have to meet increased noticing provisions, have had a regular election in the past three years, confirmed receipt of a candidate nomination, and provided a disqualified nominee the opportunity to appeal. The HOA board must also consider the vote by acclamation at a meeting where the agenda includes the name of each candidate to be elected in that manner.
- AB 830 allows real estate licensees who change their legal surname from the name under which the license was originally issued to continue to use their former surname for business purposes. The bill also provides that the former last name does not constitute a fictitious name prohibited under real estate law. The licensee must file both the new and previous name with DRE.
- Beginning July 1, 2022, AB 838 requires that a city or county inspect a property if it receives a complaint about lead hazards or substandard living conditions. Upon inspection, it will have to advise the property owner of violations and required remedies, and then re-inspect the property. Among other provisions, AB 838 provides that an inspection not be conditioned on a tenant being current on rent or other factors. Inspection fees cannot be charged, unless substandard conditions or lead hazards are found.
- AB 948 creates the Fair Appraisal Act. Among its provisions, every sales contract for real property made after July 1, 2022, must include a notice stating that the property appraisal must be unbiased, objective, and not influenced by specific factors, including: race, color, religion, gender, sexual orientation, marital status, medical condition, military or veteran status, national origin, source of income, ancestry, disability, genetic information, or age. The notice will also include information on actions a buyer or seller can take if they believe an appraisal has been affected.

Department of Real Estate licensees, among other professions, will be required to deliver this same notice when involved in the refinancing of a residential real estate property of up to four units.
- AB 1101 modifies current financial practices and insurance requirements for homeowners associations (HOAs) in common interest developments. The bill prevents managing agents from investing HOA funds in stocks or high-risk investments, and removes the ability to co-mingle funds, among other provisions. The bill also requires HOAs and their managing agents to maintain crime insurance, employee dishonesty insurance, and fidelity bond coverage, or their equivalents.

(CONTINUED ON PAGE 9)



DRE Works to Curb Unlicensed Activity

In addition to focusing on consumer protection through the licensure, regulation, and education of real estate licensees, DRE also places great emphasis on ensuring that consumers, licensees, and others in the industry are protected from those who practice without a license. The recent outcomes of two cases demonstrate DRE's commitment to this effort.

Unlicensed Property Manager Barred from Real Estate Activity for Three Years

Sze Yu “Danny” Ma had been conducting property management activities, including collecting rents, for over 30 properties within a retirement community in the Sacramento area without a real estate license.

Ma's actions were aggravated by a prior Order to Desist and Refrain filed by DRE (then, CalBRE) in 2017 for conducting property management without a real estate license in the same retirement community.

On March 4, 2021, DRE filed an Order to Desist and Refrain against Ma, and issued him 32 citations with fines amounting to \$80,000, for conducting unlicensed property management activities. Effective November 2, 2021, Ma has been barred for three years by DRE from holding any employment or management position in a real estate business. The order also prohibits him from participating in any real estate-related activity of a finance lender, bank, escrow company, or title company (B&P Code section 10087).

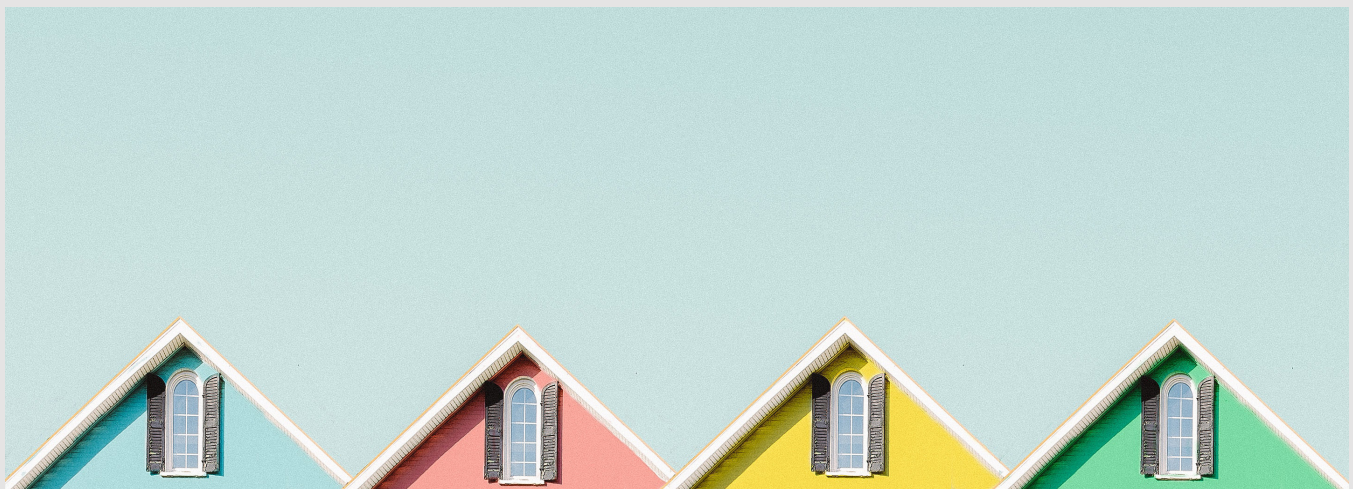
Illegal and Unlicensed Loan Modifications Result in Jail Sentence

Amy A. Agtarap, who operated without a license, had been illegally soliciting loan modification services from consumers, collecting advance fees ranging from \$1,800 to \$4,500 from victims who already faced financial hardship. Many of these victims ended up losing their homes. On September 8, 2017, DRE (then, CalBRE) filed an Order to Desist and Refrain against Agtarap.

DRE continued to investigate Agtarap, along with law enforcement partners and other government agencies, including the Monterey County District Attorney's Office, Social Security Administration, Department of Defense, and Air Force Office of Special Investigations. The results of the investigation led Monterey County to file criminal charges against Agtarap, which, in addition to her illegal loan activities included fraudulently claiming a disability and collecting disability pay.

On November 4, 2021, Agtarap was sentenced to 3 years and 4 months in the Monterey County jail after a jury found her guilty of 12 felonies, including counts of grand theft and forgery. She will also be ordered to pay restitution to her victims.

DRE will continue to use all available tools and resources, including working with law enforcement partners, to help protect consumers from unscrupulous, unlicensed actors. If you encounter any unlicensed activity, please report it to DRE via our online complaint system. ■



New Implicit Bias Training & Fair Housing Course Requirements

Last year, Governor Gavin Newsom signed Senate Bill 263 into law, which alters the courses needed to qualify to take a real estate exam, as well as the continuing education course requirements for licensees as part of an effort to address the history and legacy of housing discrimination in California.

Beginning January 1, 2023, SB 263 modifies the content of two pre-license courses required to qualify to take either the real estate salesperson or broker license exam. The real estate practice course must include a component on implicit bias and the legal aspects of real estate course must include a component on federal and state fair housing.

Also beginning January 1, 2023, the required continuing education course for salespersons and brokers on fair housing must include an interactive participatory component and a new two-hour implicit bias continuing education course will be required.

The bill's author, Senator Susan Rubio, cited statistics from a 2020 Greenlining Institute report that showed while the overall homeownership rate in California in 2017 was close to 55 percent, the Black homeownership rate was only 35 percent and the Latinx homeownership rate was just 42 percent. Other studies show that similar homes with similar amenities in Black-majority neighborhoods are worth 17.1 percent less in the Los Angeles Area and 27.1 percent less in the Bay Area when compared to other neighborhoods.

Implicit bias has been described as “referring to relatively unconscious and relatively automatic features of prejudiced judgment and social behavior.” In voicing their support for this legislation, the California Association of Realtors noted that “studies show that all people suffer from different unconscious biases that affect our decision making process.”

Because these biases are often unrecognized and difficult to overcome they can influence behavior in business settings. And, as C.A.R. commented, “unfortunately, when displayed in the real estate industry, unconscious bias can and does lead to the exacerbation of housing discrimination in our state.” The goal of the new trainings is to help license applicants and licensees better recognize these tendencies and to help ameliorate their consequences.

While the Department of Real Estate does not offer these courses, it does review an applicant's education to ensure they meet the minimum requirements, and approves pre-license and continuing education courses submitted by private course providers. Staff have already begun to work with private course providers to ensure that applicants and licensees will have sufficient time to complete the newly approved courses prior to January 1, 2023. ■



Help Your Sellers and Buyers be Water Smart

While California has seen a good amount of rain and snow so far this year, experts agree that it has not been enough to end our State's long drought. So, all of us must keep doing our part to help save water.

As a licensed real estate agent, one way you can help is to encourage your clients to make water conservation upgrades and ensure they are not wasting water. It's water smart, responsible, and can make a single family home more valuable.

Plus, if the homeowner makes improvements or alternations to the property that require a building permit, they must replace all noncompliant plumbing fixtures with water-conserving fixtures. Fixtures not up to code must be disclosed to the buyer on the Transfer Disclosure Statement (Civil Code Section 1101.4). There are similar requirements for multifamily residential real property and commercial real property (Civil Code Section 1101.5). Under Civil Code section 1101.8, cities, counties, or retail water suppliers may have even stricter requirements.

Here are some simple tips you can recommend to both sellers and buyers:

Saving Water Inside

- Encourage clients shopping for a new washing machine to compare resource savings among Energy Star models – some can save up to 20 gallons of water per load. Also, make sure they check the Consortium for Energy Efficiency website to compare the water use of various models.
- Be sure clients test toilets for leaks. One simple way is to put food coloring in the toilet tank; if it seeps into the bowl without flushing, there's a leak. Also, have them check the toilet flapper; if it doesn't close properly after flushing, it needs to be replaced.
- Encourage clients to upgrade older toilets, especially those installed before 1992, with water-saving WaterSense® labeled models.
- Ask clients to consider installing dual-flush toilets with two flush options: a half-flush for liquid waste and a full-flush for solid waste.
- Clients also should check faucets and showerheads for leaks. One drip every second adds up to five gallons of water per day wasted. Leaking devices should be replaced with new WaterSense® labeled devices.

Saving Water Outside

- When upgrading landscape, encourage your clients to consider xeriscaping, which depends on low-water-use plants. See homeowner landscape upgrade videos at: <https://saveourwater.com/en/Upgrade-Your-Yard>.
- Encourage clients to spread two-to-four inches of organic mulch around plants, which helps them retain moisture and can save hundreds of gallons of water a year.
- Make sure your clients adjust sprinklers so that they water only the yard and not the house, sidewalk, or street.
- Suggest drip irrigation for shrubs and trees that applies water directly to the roots, where it's needed.
- Make sure clients check outdoor faucets, pipes, hoses, and sprinkler system valves for leaks, and that they keep sprinkler heads in good shape.

For more water saving tips for inside and around your client's home see: <https://saveourwater.com>. For California laws regarding the installation of water use efficiency improvements, see Civil Code Sections 1101.1 – 1101.9. ■





Partial List of DRE Publications

DRE offers many publications on topics of interest to applicants, licensees, and consumers. All DRE publications are available online and can be ordered by mail by submitting a Publications Request (RE 350)

Consumer Publications

- **Finding the Right Real Estate Agent: What You Should Do**
Spanish Chinese
- **Preventing Real Estate Fraud: How to Protect Yourself and Your Home**
Spanish Chinese
- **Sources of Home Loans**
Spanish Chinese
- **Surviving the Real Estate Process in California**
Spanish Chinese
- **A Consumer Guide to Filing Real Estate Complaints**
Spanish Chinese
- **California Tenants—Guide to Residential Tenants' and Landlords' Rights and Responsibilities**
Spanish
- **Quick Guide for Tenants Renting a Home**
- **Financial Sense to White Picket Fence**
Spanish Chinese
- **A Consumer Guide to Mortgage-Related Complaints**
Spanish Chinese
- **A Homeowner's Guide to Foreclosure in California**
Spanish Chinese
- **Fraud Warning for California Homeowners in Financial Distress**
Spanish Chinese
- **Loan Modification Self-Help Guide**
Spanish Chinese
- **Reverse Mortgages: Is One Right for You?**
Spanish Chinese

Applicants/Licensees

- **2022 Real Estate Law Book**
- **Obtaining a California Real Estate Salesperson License**
- **Obtaining a California Real Estate Broker License**
- **Obtaining a Mortgage Loan Originator License Endorsement**
- **Real Estate Advertising Guidelines**
- **Broker Compliance Evaluation Manual**
- **Mortgage Loan Broker Compliance Manual**
- **Disclosures in Real Property Transactions**
- **Trust Funds**

Subdivisions

- **A Guide to Understanding Residential Subdivisions**
- **Residential Subdivision Buyer's Guide**
- **Subdivision Public Report Application Guide**
- **Subdivisions Online Public Report Application System Guide**
- **Timeshare Manual**
- **Operating Costs Manual for Homeowner Associations**
- **Reserve Study Guidelines for Homeowner Association Budgets** ■



California Mortgage Relief Program Launched



Do you have a client or know someone who has struggled to keep up with their mortgage payments because of financial difficulties related to COVID-19?

Starting in January 2021, the California Mortgage Relief Program began to accept applications to help California homeowners catch-up who have fallen behind on their housing payments because of the pandemic.

The program will cover past due mortgage payments in full as a one-time grant – up to \$80,000 per household – with a direct payment to the homeowner’s mortgage servicer. There is no cost to participate and the money does not need to be repaid.

To qualify for mortgage relief an applicant must be at or below 100 percent of their county’s area median income (the program website has an AMI calculator), own a single-family home, condo, or permanently affixed manufactured home in California, and have experienced a pandemic-related financial hardship after January 21, 2020. Applicants must also meet at least one of the following criteria:

- Receive public assistance; or

- Be severely housing burdened; or
- Have no alternative mortgage options through their mortgage service provider.

California received \$1 billion from the federal Homeowner Assistance Fund for this program. The money will be disbursed to qualified homeowners until the funds are allocated, with a projected end date of 2025. While there is no strict deadline to apply, homeowners in need should apply as soon as possible.

In addition, the homeowner’s lender must participate in the program. Please encourage any servicers you work with to join this important relief program.

Even if the foreclosure process has started, there may still be time to seek help. 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. ■

SUMMARY OF NEW REAL ESTATE LAWS (CONTINUED FROM PAGE 4)

- AB 1466 changes the Restrictive Covenant Modification process. Among these changes are increasing the types of people and entities that can request a modification, expanding current notices to include information on how to request a modification, and requiring that professionals involved in property sales inform buyers and sellers about an existing restrictive covenant and increasing their duty to assist in filing a modification. In addition, the bill creates a new \$2 fee on real estate instruments subject to the SB 2 (Atkins, Chapter 364, Statutes of 2017) recording fee to fund redaction work.
- Beginning January 1, 2023, Senate Bill (SB) 263 modifies the content of two courses required to take either the real estate salesperson or broker licensing exam. The real estate practice course will include a component on implicit bias and the legal aspects of real estate course will include a component on federal and state fair housing.

Also beginning January 1, 2023, the required continuing education course for salespersons and brokers on fair housing will include an interactive participatory component and a new two-hour implicit bias continuing education course will be required.

- SB 800 extends the sunset date for both the Department of Real Estate and the Bureau of Real Estate Appraisers to January 1, 2026. The measure also allows the Department of Real Estate to use debarment notices issued by sister agencies as grounds for action, codifies the current policy of expediting license applications for veterans and partners of members of the Armed Forces, and clarifies the definition of a real estate license in good standing. ■

DRE-Funded Studies on Commercial to Residential Conversions

Each year the Department of Real Estate dedicates funds for the advancement of real estate education and research.

Most recently, DRE funded a series of studies from the Turner Center for Housing Innovation at the University of California, Berkeley centered on how the conversion of commercial zoned properties to residential use could help alleviate California's housing shortage. A companion study focused specifically on the possibilities of adaptive reuse – the repurposing of existing commercial structures to residences.

Collectively, the studies highlight the conditions under which converting commercially zoned land to residential use is feasible. The authors recommend that local jurisdictions update existing zoning plans to better facilitate multifamily housing on commercial land, and that state and regional governments provide technical assistance to municipalities that lack the capacity to undertake such reforms.

The continued housing crisis in California, combined with the move away from brick-and-mortar retail to e-commerce and the growing popularity of telework as part of the response to Covid-19, has intensified interest in how to increase the supply of housing on commercially zoned land.

The first study, *Residential Redevelopment of Commercially Zoned Land in California* (December 2020), provided an inventory of commercially zoned land in four major metro

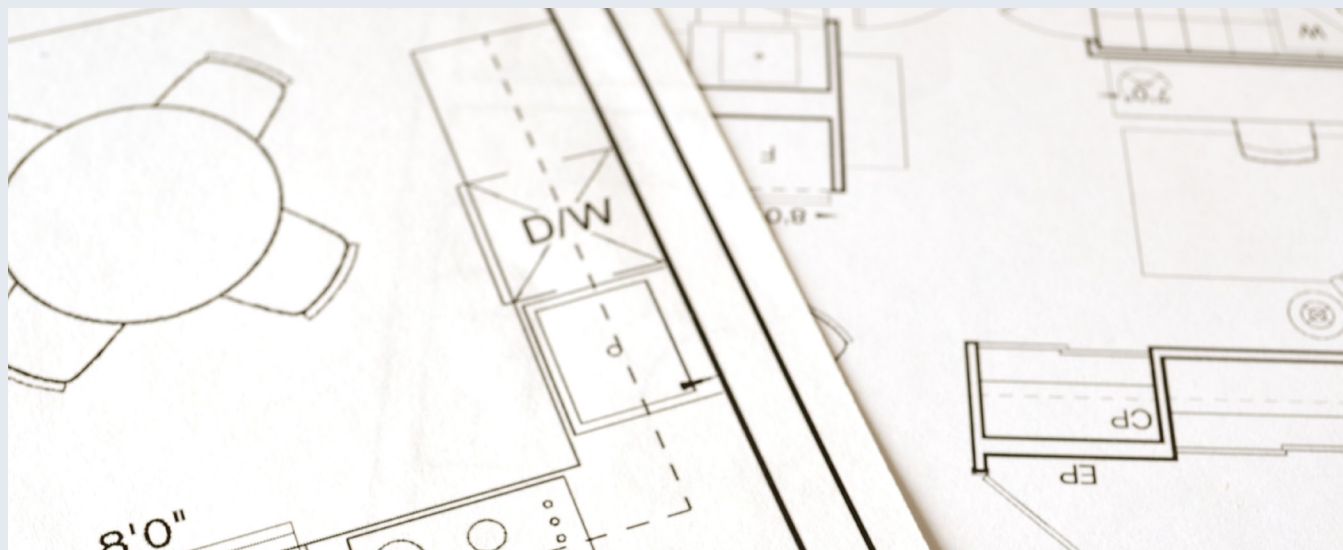
areas (Los Angeles, Sacramento, San Francisco, and San Diego).

The report found that approximately 40 percent of commercial zones in these regions do not allow residential development. And, in the 60 percent that do allow housing, many localities have complex and varied entitlement and approval processes that can impede residential development.

The second study, *Strip Malls to Homes: An Analysis of Commercial to Residential Conversations in California* (November 2021), concluded that if commercial conversions over the next five years follow the same trends as between 2014 and 2019, the state's four major metro areas would gain only about 4 percent of each region's state-determined housing goals.

Lastly, the companion study on adaptive reuse, *Adaptive Reuse Challenges and Opportunities in California* (November 2021), identified the specific architectural, financial, and policy factors that are most likely to determine the viability of adaptive reuse for sites with existing commercial buildings. This study includes case studies of a number of successful conversions throughout the state.

The research in these studies will provide essential data and context about an important option as state and local policymakers continue to identify strategies to address California's housing crisis. ■



Fast, Efficient, and Easy to Use - Online Applications Now Available

Officially launched on October 1, 2021, DRE's new Online Exam License Application (OELA) allows electronic submission of salesperson or broker real estate exam or exam/license applications through eLicensing. Users can also upload any necessary documents and pay the required fees online.

OELA is fast, efficient, and eliminates the need to print and mail a paper application and supporting documents. It also provides step-by-step instructions to guide users through the application process, and requires that an application be fully complete before it can be submitted. If a deficiency is identified during processing, DRE will email applicants with information about how to resolve the issue electronically, significantly reducing mail and processing time.

DRE's helpful video, *Materials to Gather Before You Apply for Your California Real Estate License*, reviews the information and documents needed to apply through OELA to either take the real estate exam or submit an application for both the real estate exam and license.

Users can also check the status of their application online from the time they begin the electronic application through to when DRE has processed and approved it. Once DRE approves an application, the applicant will receive an email message that they can use eLicensing to schedule their real estate exam.

Since OELA's official launch the volume of paper applications received by DRE has sharply decreased, along with the number of applications with deficiencies or missing information. This new streamlined process allows DRE staff to focus on processing applications, thus reducing both processing timeframes and the time an otherwise eligible applicant must wait to schedule and take their real estate exam.

Although OELA has only been available a few short months, it has already become a valuable addition to DRE's many online licensing services, and underscores DRE's commitment to improving its processes through innovative strategies and the continued use of technology. ■

DRE SETTLES HUNDREDS OF CASES (CONTINUED FROM PAGE 1)

Additional Information

- **National Press Release**

<https://www.csbs.org/newsroom/state-regulators-settle-hundreds-mortgage-loan-origiators-over-safe-act-education>

<https://www.csbs.org/print/pdf/node/372281>

- **More Background Info**

<https://www.csbs.org/sites/default/files/2022-01/REES%20Background%20Document%20-%20Public.pdf>

- **California Safe Act**

<https://www.dre.ca.gov/licensees/safeact.html>

- **California Safe Act FAQs**

https://www.dre.ca.gov/files/pdf/faqs/SAFE_FAQ_NMLS_PE1.pdf

- **DRE Accusation**

https://www2.dre.ca.gov/hearingfiles/H05266SD_211217_P.pdf

- **DFPI Citation and Desist and Refrain Order**

<https://dfpi.ca.gov/wp-content/uploads/sites/337/2022/01/Citation-DR-Yen-Danny-dba-Real-Estate-Educational-Services.pdf> ■



Official Publication of the California Department of Real Estate

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

Real Estate Bulletin

VOL. 80, NO. 4

WINTER 2022

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We’d like to hear from you!



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