DRE UPDATE

CALIFORNIA DEPARTMENT OF REAL ESTATE

DRE Executive Staff

Thursday, May 2, 2024



Agenda

- 1) DRE Overview
- 2) Budget Change Proposal
- 3) DRE Headquarters Move
- 4) Licensing Update
- 5) Enforcement Update
- 6) Legislative Update
- 7) NAR Lawsuit
- 8) Coming Up in Communications
- 9) Question & Answers



DRE Overview

Chika Sunquist

Real Estate Commissioner



Consumer Protection Priorities

- Enhanced stakeholder engagement
- Proactive efforts
 - Outreach
 - ▶ Education
 - ▶ Resources
 - **⊳** Communications



DRE by the Numbers

1917

First Authority

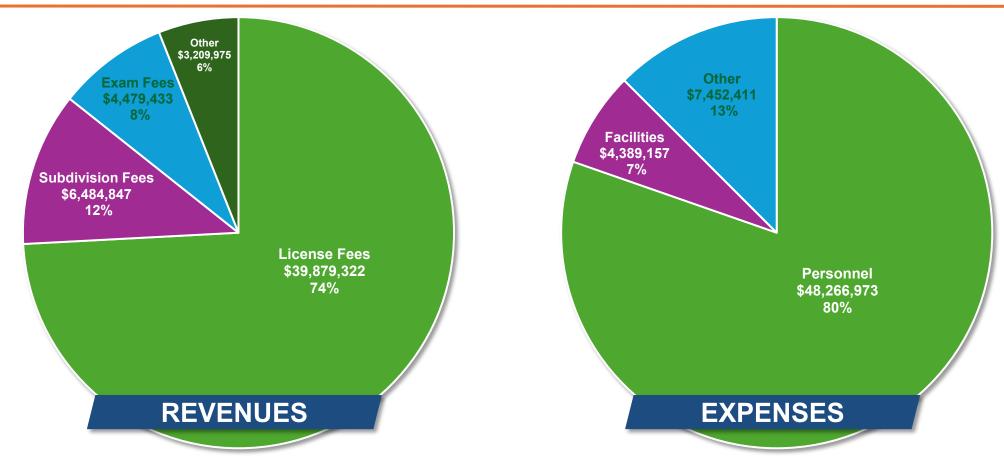
\$60.1 Million Fiscal Year 23-24 Budget



325+
Employees
(as of 4/1/2024)

5 5
Offices Exam
Centers

DRE Finances



FISCAL YEAR 2023-24 (July 1, 2023 – February 29, 2024)

Authorized Spending Budget: \$60,110,000



Budget Change Proposal

Marcus McCarther

Chief Deputy Commissioner



Fees

DRE is funded by fees charged for real estate exams and licenses, subdivision public reports, and various other permits issued.

■ The last statutory change to fees occurred in 1997.

REGULATIONS OF THE REAL ESTATE COMMISSIONER

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main office address, broker affiliation of record, prior criminal history, or professional license disciplinary history.

2716.1. License Fees.

- The license fee for the real estate broker license under Section 10210 of the Code shall be \$300.
- (2) The license fee for the real estate salesperson license under Section 10215 of the Code shall be \$245.
- (3) The salesperson license fee, under Section 10215 of the Code, for an applicant qualifying pursuant to Section 10153.4 of the Code who has not satisfied all of the educational requirements prior to issuance of the license, shall be \$275.
- (4) The late license renewal fee under Section 10201 of the Code shall be \$450 for a real estate broker or restricted real estate broker license and \$367 for a real estate salesperson or restricted real estate salesperson license.
- (5) The license fee for the restricted real estate broker license under Section 10209.5 of the Code shall be \$300.
- (6) The license fee for the restricted real estate salesperson license under Section 10214.5 of the Code shall be \$245.
- (7) The fees for all licenses or examinations, except those specified in this regulation or as otherwise specifically provided for in the regulations, shall be as follows: broker examination or reexamination: \$95; first reschedule of broker examination: \$20; subsequent reschedules: \$30; salesperson examination or reexamination: \$60; first reschedule of salesperson examination: \$15; subsequent reschedules: \$30.

2716.5. Special Fee.

A licensee or applicant who is named on a certified list or supplemental list pursuant to Section 17520 of the Family Code shall pay a special fee in the amount of ninety-five dollars (\$95.00) for each time his or her name is placed on such list. If the licensee or applicant fails to pay such fee, the commissioner shall refuse to issue a license or temporary license or to reinstate a suspended license.



Budget Change Proposal

- BCP is a proposal to change the level of funding sources for activities authorized by the Legislature.
- In this BCP, the Department requested an increase of \$3.23 million in budget expenditure authority in Fiscal Years 24-25 and 25-26, and \$2.45 million ongoing.



Next Steps

- The BCP and Fee proposal is currently under consideration with the State Legislature and their deadline to approve the Governor's budget is June 15.
- If approved, the changes to the Department's budget authority and the fee increase will allow the Department to move forward with more flexibility.



DRE Headquarters Move Shelly Wilson

Assistant Commissioner, Administrative Services









TEN YEAR SEQUENCING PLAN

Strategy for Sacramento Office Buildings
Updated April 2018

Overviev

The Ten Year Sequencing Plan provides a roadmap for the renovation or replacement of state office buildings in Sacramento and to address deficiencies in the State Capitol East Annex. This plan, taken together with the department's Portfolio Plan, provides a statewide, strategic, and long-term asset management strategy for DGS' portfolio of office buildings.

A key component of the sequencing plan is the integration of the results from the Facility Condition Assessments completed for the 2015 State Facility Long Range Planning Study (Planning Study). The Planning Study provided the Department of General Services (OGS) with an independent assessment of the DGS-managed office buildings and resulted in an analysis that identified the buildings with the highest need for repair or replacement.

DGS Facility Sequencing Principles

Market conditions, client needs, and fiscal circumstances change over time. Accordingly, this Sequencing Plan is subject to change so DGS may best maximize value to the State as opportunities arise.

Nevertheless, while DGS must be attuned to market conditions and client needs, the department cannot take a reactive approach to office building planning. Rather, DGS must lay out a plan for the future to provide overall direction for the state's office needs. To this end, DGS has developed long-range office facility sequencing principles that will help guide the state irrespective of changing market conditions and specific client preferences.

These ten principles align with three DGS goals – Operational Efficiency, Cost Effectiveness, and Sustainable Communities:

















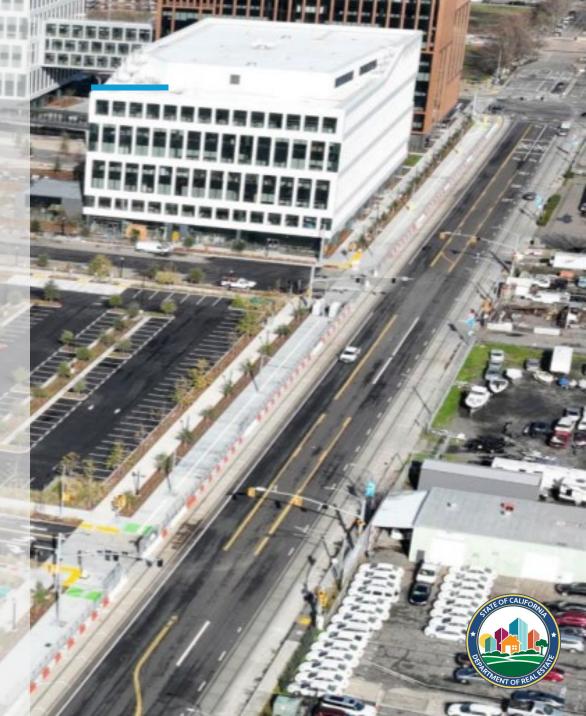




Moving July 5th – 7th
Open for business July 8th

Address & phone numbers changes

Sacramento Exam Center closed June 24th – July 21st



Licensing Update

Jeff Oboyski

Assistant Commissioner, Licensing

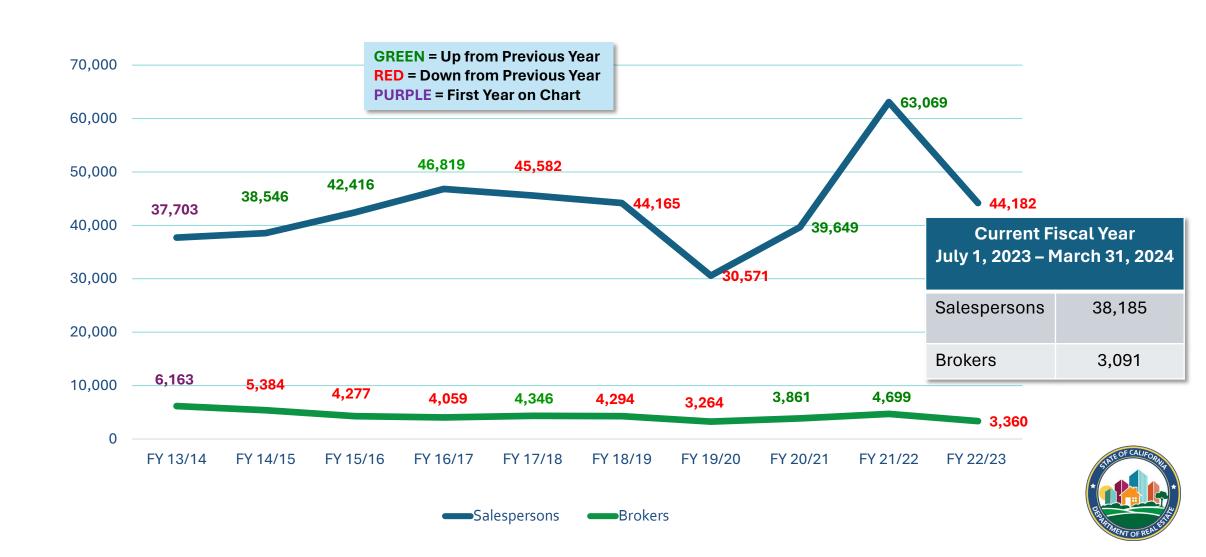


Current Market Conditions

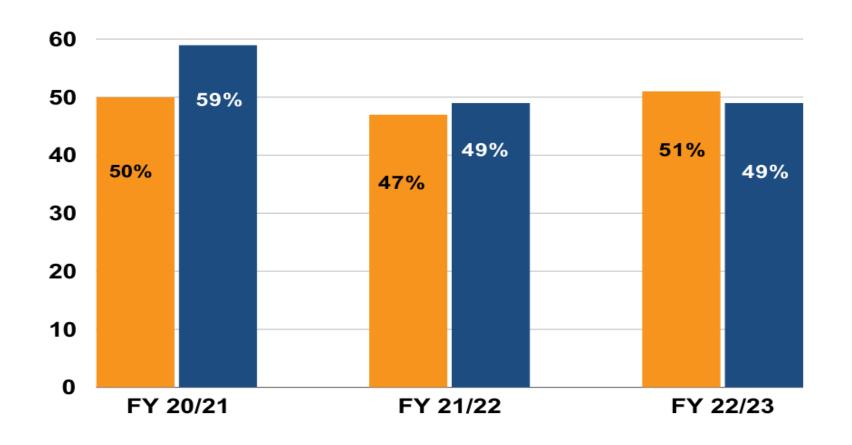
- Higher interest rates
- Lower housing inventories
- Class-action lawsuits against National Association of Realtors (NAR) and large national brokerages



Exams Administered (2013-Today)



Examination Passage Rates





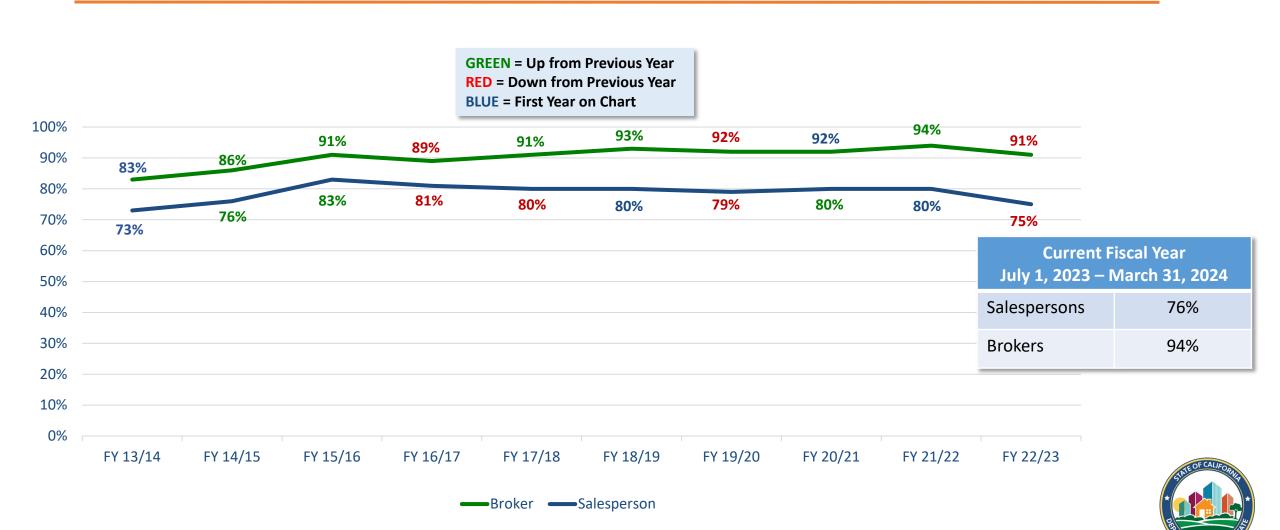
Salesperson Exam



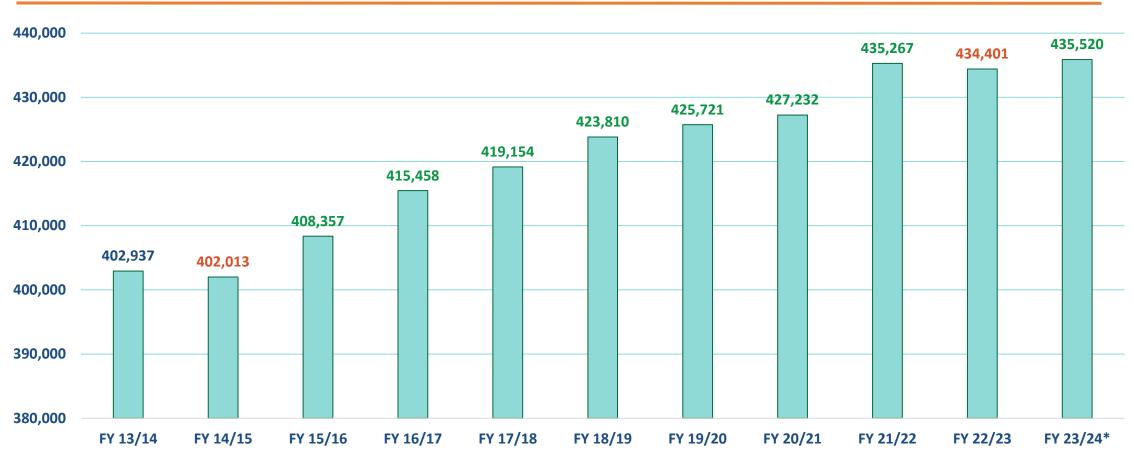
Licenses Issued (2013-Today)



License Renewal Rates (2013-Today)



License Population (2012-Today)





DRE License Population

Number of Licensees – As of March 31, 2024

435,520

124,554

29%

Brokers

310,966

71%

Salespersons



Exam Development Process (EDP)

- Update the real estate license exams (5-7 years)
- Ensures Both DRE Licensing Exams are:
 - ► Valid/Legally Defensible
 - ► Appropriate for Entry into Real Estate Profession





Exam Development Process (EDP)

Four Phases of the Process

1. Occupational Analysis – Completed.

2. Item Review – In Process.

- 3. Gap Analyses/Item Writing Expected to begin July 2024.
- 4. Creation and Administration of New Exams Expected to begin January 2025.





Exam Development Process (EDP)

- Interested in Being a Subject Matter Experts (SME)
 - Please Send Me an Email
 - Diversity, Equity & Inclusion (DEI) Opportunity

Jeff.Oboyski@dre.ca.gov

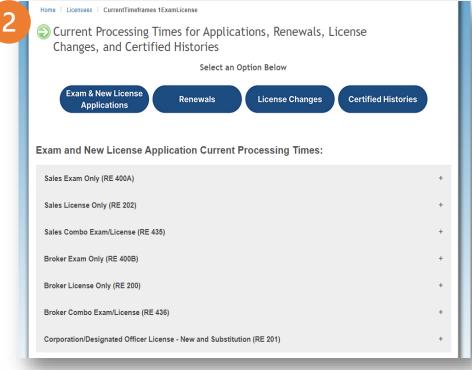




Online Processing Times Webpage

Quick link on DRE's homepage

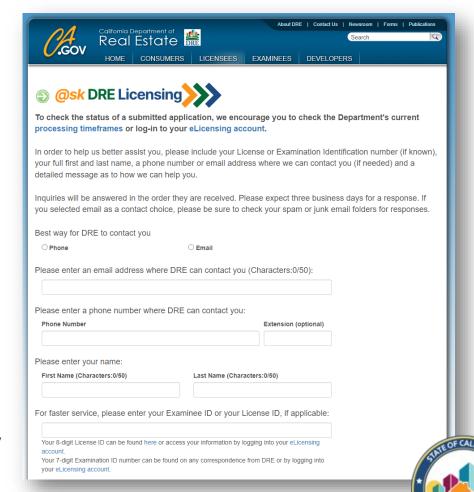








- Submit general licensing and exam questions at: www.dre.ca.gov/AskDRELicensing
- General licensing FAQs available on more than 30+ topics.
- DRE Call Center:
 - Calls answered in order received.
 - Allow for a response within 2 business days.
 - Staff responds to 1,500+ contacts per month.



Enforcement Update

Tricia Parkhurst

Assistant Commissioner, Enforcement



Primary Responsibilities

- Enforcing Real Estate Law & Subdivided Lands Act
- Conducting Investigations
 - Licensees
 - Unlicensed Persons
 - Applicants





How to Respond to a DRE inquiry?

- > Provide complete responses
 - Include all requested information and documents
 - Chronological account/description of transaction in question.



- > If requested, provide Policies and Procedures Manual
 - Supporting documents
 - ✓ How you monitor those policies and rules.
 - Provide documentation
 - ✓ How you ensure salesperson and broker associates comply with this policy.
- > Explain how non-compliance is addressed
 - New systems in place



Primary Responsibilities

- Education to Licensees
 - Routine, Proactive Field Visits
 - > Focus on education and compliance



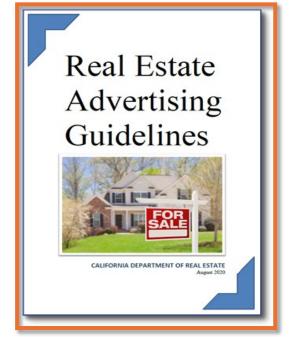
- Outreach Opportunities
 - Request a speaker for association meetings



Self-Education Resources

- 2024 Real Estate Law Book
- Broker Compliance Manual
- Broker Self-Evaluation (RE 540)
- RE Advertising Guidelines (RE 27)
- Licensees Advisories and Alerts
- Trust Fund Guide
- Trust Account Reconciliation







Enforcement Statistics

	FY 2019-20		FY 2020-21		FY 2021-22		FY 2022-23		FYTD as of 3/2024	
Complaints Received	6,184	515 Per Month	5,863	489 Per Month	5,202	433 Per Month	4,989	416 Per Month	3,937	437 Per Month
Complaints Referred for Investigations	4,767	397 Per Month	3,801	317 Per Month	3,733	311 Per Month	3,399	283 Per Month	2,536	281 Per Month
Complaints Referred for Disciplinary Action	913	77 Per Month	946	79 Per Month	1,208	100 Per Month	936	78 Per Month	835	93 Per Month



Audit Statistics

Fiscal Year 2023-24 to February

Broker Activity	# of Audits Closed		#/% of Audits with Shortages					Amount of Shortage Found			
	22/23	7/1/23 to 2/29/24	22/23		7/1/23 to 2/29/24		22/23		7/1/23 to 2/29/24		
Property Management	313	175	121	39%	72	41%	\$	2,307,884	\$	1,627,093	
Broker Escrow	36	12	10	28%	2	17%	\$	270,040	\$	1,871	
Mortgage Loan	78	33	4	5%	1	3%	\$	49,603	\$	1,512	
Sales/Other	30	12	0	0%	0	0%	\$	-	\$		
Total	457	232	135	30%	75	32%	\$	2,627,527	\$	1,630,476	



Legislative Update

Sonja Palladino

Assistant Commissioner, Legislation



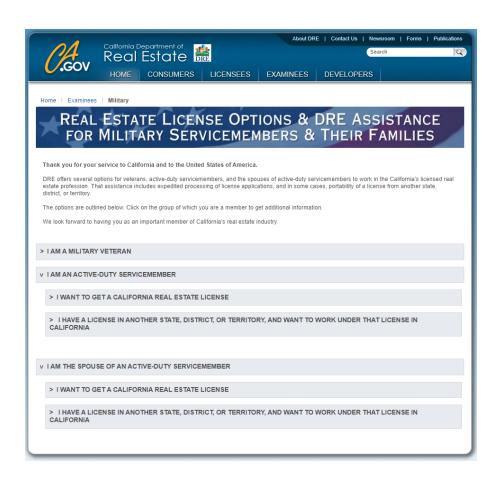
Significant Legislation Signed in 2023

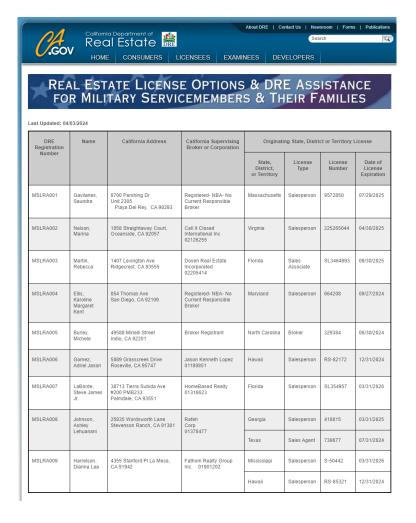
Residential Housing and Licensing

- **■** AB 1317 (Carrillo) Unbundled Parking
- **■** AB 1345 (Hart) Exclusive Listing Agreements
- **■** AB 12 (Haney) Security Deposits
- SB 887 (Committee on Business, Professions and Economic Development) Electronic Consumer Recovery Account Applications



Military Servicemembers & Spouses - SB 143 (Skinner)







Class-Action Lawsuits against NAR, MLSs, and Large National Brokerage

Stephen Lerner

Assistant Commissioner, Legal Affairs



Legal Disclaimer

Today's Presentation

Intended for Informational Purposes Only

- Does Not Establish Substantive Policy or Rights
- Does Not Constitute Legal Advice
- Does Not Create An Attorney-Client Relationship



Background



Antitrust Laws

- Sherman Antitrust Act of 1890
 - Prohibits activities that restrict interstate commerce and competition in the marketplace
 - **Anticompetitive agreements**
 - Unilateral conduct that monopolizes or attempts to monopolize the relevant market





National Association of Realtors (NAR)

- NAR is the leading national trade association for real estate brokers and salespersons
- By the numbers:
 - Approx. 54 state and territorial realtor associations
 - Approx. 1,400 local realtor associations
 - Approx. 1.5 million realtor members





Multiple Listing Services (MLSs)

- MLSs are joint ventures among competing brokers to facilitate the publishing and sharing of information about homes for sale in a geographic area
- MLSs by the numbers:
 - Approx. 600 MLSs across the country
 - Approx. 50 MLSs in California
 - **❖**Approx. 48 are managed/operated by local realtor associations
 - **❖**Approx. 2 are managed/operated by a collective of private realtors
 - BAREIS MLS operating in the Bay Area
 - MetroList Services, Inc. operating in and around Sacramento



Determining Agent Compensation - Before Lawsuits/Settlement

- Seller consults with Seller's Broker
 - Agrees on total commission for brokers representing seller and buyer
 - Historically ranged between 5% and 6% of sales price in California
 - **❖Fully negotiable per California statute**
 - Agrees on percentage of total commission earmarked for buyer's broker
- Seller's broker identifies total commission and percentage earmarked for buyer's broker in the MLS for that particular property
- Compensation determined without involving buyer or buyer's broker





Lawsuits



Antitrust Lawsuits

- US Department of Justice (USDOJ)
 - **02020**
 - USDOJ lawsuit against NAR for violations of Sherman Antitrust Act
 - **❖USDOJ** announces settlement with NAR
 - **02021**
 - **USDOJ** attempted to pull out of settlement
 - **❖NAR** successfully moved to enforce settlement
 - **02023**
 - ***USDOJ** expanded its initial investigation
 - USDOJ intervened to prevent settlement in federal case in Massachusetts
- USDOJ's Main Message Decouple compensation from listing process



Antitrust Lawsuits

- Class-Action Lawsuits
 - Over 20 class-action lawsuits to date
 - 4 cases filed in California
 - ❖ Sitzer/Burnett Case
 - 1st case to reach a jury verdict
 - \$1.8 billion verdict (trebled to \$5.3 billion)
 - Gibson Case
 - 1st of the "copycat" cases
 - Seeks over \$200 billion in damages
 - Plaintiff classes
 - Homesellers
 - Homebuyers
 - Defendants
 - **❖ NAR**
 - ❖ MLSs
 - Local and State Associations of Realtors
 - ❖ Large National Brokerages (i.e., Compass, eXp, Anywhere Real Estate, Inc., Berkshire Hathaway, Inc., Keller Williams Realty, RE/MAX Holdings, etc.)



Antitrust Lawsuits

- Alleged antitrust violations (Not all apply in California):
 - ❖Offer of Compensation Rule Requires seller's broker to identify the percentage or amount earmarked for buyer's broker on MLS
 - Commission-Concealment Rule Percentage or amount earmarked for buyer's broker to be concealed from buyer
 - ❖Free-Service Rule Permits buyer brokers to mislead their buyers into believing that their services are free because the buyer is not compensating their broker directly
 - ❖ Commission-Filter Rules Permits buyer brokers to filter MLS listings based on the level of buyer broker compensation offered
 - ❖ Participation Rule Requires seller's broker to offer compensation to buyer's broker as prerequisite for submitting a listing on MLS
 - **❖** <u>Lockbox Rule</u> Requires membership in NAR to access lockbox



Nationwide Settlement

- Settlement of seller-side class-action lawsuits
 - Seller-side only / Does not apply to buyer-side class-action lawsuits
 - Resolves all seller-side lawsuits against:
 - **❖ NAR**
 - **♦ MLSs**
 - State/local associations
 - NAR members
 - ❖ Brokerages with less than \$2 billion in transaction volume in 2022
 - ❖ Opt-in with additional per subscriber fee for brokerages with more than \$2 billion in transaction volume in 2022
 - Creates \$418 million settlement fund
 - NAR/MLSs to implement rule changes by July 2024





Determining Agent Compensation - After Lawsuits/Settlement

- Compensation landscape for buyer brokers will change
- Buyer brokers will need to negotiate compensation directly with buyers
 - Use of Buyer Representation Agreements
 - Legislation proposed to require use of Buyer Representation Agreements
- Possible fee structures
 - Percentage of sales price
 - Likely to be less than historical levels
 - Fixed / flat fee for specific services



Impacts to Industry

- After buyer and buyer's broker agree on compensation:
 - Buyer requests seller to pay buyer's broker as concession
 Seller can accept or reject
 - Buyer proceeds without buyer's broker
 Possible increased work for seller's broker
 - Buyer approaches seller's broker about dual agency
 ❖Possible breaches of fiduciary duty and/or failures to disclose
 - Buyer walks away from subject property
 - Buyer compensates buyer's broker out-of-pocket
- With compensation being lower than historical levels, buyer representation likely to be handled by newer licensees
 - Less experienced
 - More ripe to make mistakes/commit negligence



Impacts to DRE

- Increased complaints to DRE
 - Negligence
 - Dual agency
 - Broker supervision
 - Breach of fiduciary duties
 - Misrepresentation
- Increased use of advance fee agreements
 - Advanced fee agreements must be approved in advance by DRE.
- Increased use of dual agency
- Fewer people entering real estate industry
 - Fewer licensees/less revenue from license fees



What You Can Do To Avoid Disciplinary Action

- Fiduciary Duties
 - Placing the interests of your client ahead of your own personal interests
 - Be aware of your fiduciary duties
- Disclosures
 - Disclose agency relationship
 - Negotiability of Real Estate Commissions
 - Broker Compensation must be fully disclosed
- Advance Fees
 - Advance fee agreement must be approved by Real Estate Commissioner
 - Advance fees must be deposited in trust account
- Broker Supervision
 - Policies, rules, procedures & systems
 - Review, oversee, inspect & manage



Coming up in Communications

Christina Jimenez

Assistant Commissioner, Communications and Publications



DRE Informational Resources



- Consumer Alerts
- Licensee Alerts and Advisories
- DRE Publications
 - Real Estate Bulletin
 - Brochures, Guides, etc.
- Press Releases
- First Home California Podcast
- Video Gallery
- DRE Daily News Clips
- And more...

Home | Newsroom | PR FinancialLiteracyMonth

DRE Celebrates Financial Literacy Month

Sacramento, Calif. – In celebration of National Financial Literacy Month, the California Department of Real Estate (DRE) reminds consumers of the many tools and resources available to help them make sound and informed decisions about real estate matters, particularly the homebuying or home/apartment-leasing process.

"With protecting the interests of the people of California as our driving mission, DRE is committed to providing consumers with resources and knowledge needed as they are going through what can be a major financial decision in their lives — their home," said DRE

e insight around

rmed decision



Id always verify the license of the salespersons and brokers involved in their transactiona uving, selling, or leasing property. Reviewing the status of a license will inform a person

of current interest to consumers.

1 Your Home

Responsibilities

A daily compilation of real estate related news articles intended to help keep staff informed of matters that may relate to the work. The daily roundup is compiled Monday through Friday each week, with the exception of holidays.

Department of Real Estate Daily News

Thursday, April 11, 2024

Top Stories

President Kevin Sears pulls back curtain on changes ahead for NAR

TAYLOR ANDERSON, Inman (Subscription)

National Association of Realtors President Kevin Sears on Tuesday said he's looking forward — not back — as he leads the 1.56-million member organization across tricky terrain in the aftermath of its \$418 million commission settlement.

Rent prices rise as high mortgage rates trap would-be homebuyers

CANDYD MENDOZA, Mortgage Professional America

The cost of renting continues to climb, with the median asking rent rising to \$1,987 in March, according to Redfin. This uptick in rent prices follows three consecutive months of increases and comes after a brief period of decline. Despite a modest 0.3% rise from February, the growth in rental costs—driven by high mortgage rates—is intensifying the demand for rental properties.

National New

Housing Market Update: Monthly Payments Set New Record-and Buyers' Costs Will Likely Stay High on Inflation News

The median monthly U.S. housing payment hit an all-time high of \$2,747 during the four weeks ending April 7, up 11% from a year earlier. Housing payments are souring because home prices and mortgage rates are high. The median home-sale price is \$378,250, up 4.5% year over year and just about \$5,000 shy of the record high hit in June 2022.

Foreclosures are falling, but they take less time to complete

SPENCER LEE, National Mortgage News

A measure of success with loss-mitigation efforts appears in the drop of recently completed foreclosures, but at the same time, the length of processing times is shortening, despite assistance provided to avoid such an outcome.

California News

Commercial real estate emerges as latest threat to California banks

CANDYD MENDOZA, Mortgage Professional America

California, the hotspot of the regional banking turnoil last year, is now on the frontlines of the commercial real estate (CRE) downturn. Many California banks hold notably high amounts of commercial real estate debt, raising concerns for

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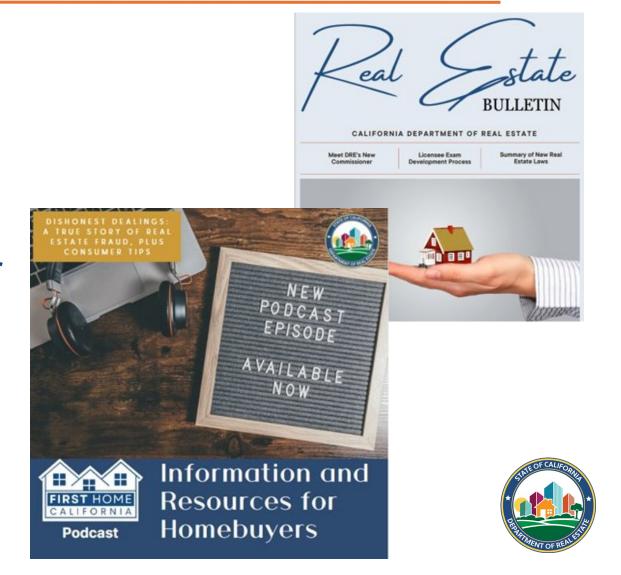
To receive DRE updates, announcements, or to receive the *Department of Real Estate Daily News* clips, email us at: Communications@DRE.CA.GOV to be added to our listserv.

New Consumer Education Resources

- First Home California Podcast New Series, New Episode
 - English & Spanish
- Real Estate Bulletin
- Coming soon: DRE Blog & Speaker Series

Visit our Newsroom:

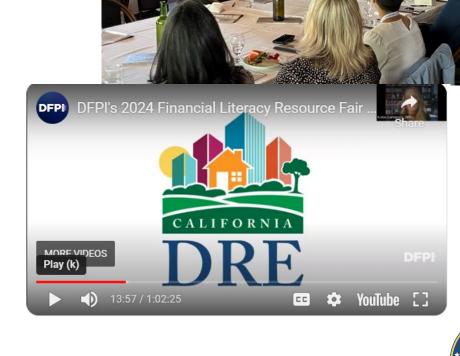




Speakers Bureau Program

- As part of our consumer outreach program, staff representatives are available to speak at consumer /community events on topics related to consumer protection.
 - Primarily virtual events
 - Topics range from: enforcement, resources, licensing, and general updates from the Commissioner.

To request a DRE speaker, please submit a Speakers Bureau Request Application form at least 30 days prior to the event.



Connect with Us



Administrative Office: Administration@dre.ca.gov

Communications Office: Communications@dre.ca.gov

Licensing/Exam Questions: https://dre.ca.gov/AskDRELicensing



Licensing Contact Center Phone: (877) 373-4542

Monday-Friday, 8:00 a.m. – *5:00 p.m.* Administrative Office: (916) 576-8100



Facebook: @CaliforniaDepartmentOfRealEstate

Instagram: CA_DeptOfRealEstate

LinkedIn: California-Department-of-Real-Estate

Twitter: @CA DRE

YouTube: CA Dept. of Real Estate

Mastodon: Mastodon.World/@CA_DRE





Thank you!

