

Defense Strategy Advisory Committee

This is a rather small committee compared to most of the CAR committees. It is made up of about 4-6 small, medium and large brokerages plus 2-3 CAR attorneys and a couple of CAR Defense Panel attorneys. The attorneys tend to rotate from meeting to meeting so there is not always a set amount as to those attending but it brings a different perspective to the meetings.

Jana Gardner (CAR attorney) reported to us on mostly "hotline" call questions that seem to be at top of list.

Agents getting involved in selling tenant occupied properties and not really knowing what they are getting involved with and trying to advise buyers/sellers. Her advice is to stay away (at least for now) in property management issues unless this is what you have been doing. Not a great time to step in new.

Agents calling that have stepped out of their comfort zones. She referred to it as agents getting outside of their lanes and going places they should not be going.

Dual agency questions that may have already led to a problem and it may be a bit late to be calling for legal hotline advice.

Calls on how to handle multiple offers with regards to agents trying to get their offer accepted and coming up with their own unclear creative clauses over and above escalation clauses, non-contingent offers, short due diligence, lack of loan contingencies etc...

Calls on the new Home Hardening disclosure

Proposition 19 calls for clarification on questions maybe better asked of a tax consultant.

Agents doing open houses.

PEAD calls.

Presentation by Attorney **Steven Spile** (CAR defense panel attorney). Steve was also the attorney that spoke at the Risk Management meeting. His concerns are about lawsuits that have been filed or suits that will be coming down the road.

Problem, property management activity that is unique to our times. Showing property with tenants remaining on site, tenant hold over problems, no rent coming in, little to no eviction process, rules changing, legislative extension of time, courts not being open etc... Many times, when an agent/broker places a call for advice they are already in a problem situation.

Marketing material - misleading marketing. Has been a problem and will continue to be a problem. Be sure what you are putting out there is accurate/correct.

As always high on his list are seller disclosure problems or lack of seller disclosure. I believe he said that 60%+/- of lawsuits are still over disclosure problems.

Lazy agents pulling information from a past listing in the MLS that was incorrect the first time, especially square footage issues.

Do not call and do not e-mail. Agents not conforming to the rules.

Buyer letters can be a problem, they are not illegal but may be unwise. Make sure you have a office policy or something regarding the handling of these letters.

TC problems. TC's practicing real estate without a license, agents not knowing what was sent out, not approving documents etc. There is a mine field of problems out there.

Items not covered under your E&O policy such as doing property management.