

REALTOR® Risk Management and Consumer Protection Forum
Thursday, February 15, 2024
Monterey, CA

Report Submitted by: Scott Haigwood, PCAOR

Presiding: Stephen D. Flach, Chair
Nancie Allen, Vice Chair
Steven R. Keefe, Vice Chair
Cameron Platt, Committee Liaison

C.A.R Staff: Gov Hutchinson, C.A.R. Assistant General Counsel

- Kelly Richardson Esq. Reporting on MOLD and "The Business of Mold"
 - Failure to document changes in transaction, conditions, etc.
 - Enduring disclosure responsibility myths
 - If I don't know it by visual inspection, I don't know it.=Myth
 - If I don't know it from THIS transaction, I don't know it.=Myth
 - Michel V. Palo Verde; Horiike-It doesn't matter if somebody else in the office knows something (could be held liable for something someone in your brokerage knows, dual agency).
 - Not Paying Attention-
 - SQFT from actual vs Assessor, Builder. If discrepancy is more that +/- 10% it no longer qualifies in the "margin of error"
- Failure to note obvious additions/major modifications.
Not documenting client issues to client.
- Lack of active monitoring of progress of transaction and clients compliance with deadlines.
 - Continued overreaction to mold incidents.
 - What to do when find mold:
 - Don't panic/calm down your client.
 - Find/Fix the leak
 - DONT TEST (mold test)
 - Determine Scope of Repair.
 - Usually Diluted Bleach
 - 5 things that make it go from small to big
 - Delay (dry rot is worse issue than mold)
 - Unnecessary Testing
 - Fear
 - Overuse of Emergency Restoration Services
 - Not getting Competitive bids

REPORTS

- FARMERS INS. REQUIRING AUTOMATIC WATER SHUT OFF DEVICE/LEAK DETECTOR
 - SELLERS LYING ABOUT HAVING MULTIPLE OFFERS/USING SMCO IMPROPERLY
 - Reg 14, lack of inventory/insurance issue, banning open house signs.
 - Reg 1, Lack of insurance options, high interest rates, utility cost increases, sewer lateral POS requirements.
- Title insurance issues. Only 1 title insurance issuer
- Region 12, Insurance-rental claim effected home owners insurance on purchase, galvanized pipe causing ins. cancellation. Out of town agents not member of local MLS,
 - Agent having their license used to submit offers around the country. (impersonating him).
 - Reg 8, Insurance issues,
 - Reg 4, TC over stepping, Agents MIA once escrow opens.
 - Reg 7, Lack of inventory, insurance,
 - Builders disappearing and not covering their warranty
 - Reg 3, Palos Verdes, City drain pipes failing,
 - REg 6, rent control issues, eviction issues, SB 362 mandatory balcony inspections.
 - Reg 3, Low inventory, fire insurance,
 - Reg 9,
 - Reg 23, Agents entering listings without listing contract. Agents enter listings with restricted showing hours in MLS.
 - Reg 17, Insurance, agent familiarity with fire zones, buyers not qualifying after cost of insurance is considered. Rent contrl. LA offering free legal service for tenants.
 - Reg 29, Low inventory. Steering by agents stating what are good and bad areas,
 - Reg 22, Copy cat lawsuits, lender getting License and offering real estate service at no "commission because they make money on loan"
 - Reg 24, Flooding issues, Failure to disclose issues, people targetting damaged properties and making lowball offers. Transfer tax issues. Getting a clearer definition of Broker Supervision
 - Reg 18, inexperienced agents/broker supervision. Knowing the contract isn't as important as getting the deal. TC's overstepping for agents that are not contract focuses.
 - Reg 28, 42% of Palm springs is leased land. Land lease issues/escrows from out of area don't know about the issue.
 - Reg 30,
 - Reg 19, Wire Fraud issues, Balconies with HOA's, Inventory low, crazy high prices, people sharing on platforms making offers that get denied and then the winner of the offer see's that and goes and asks for a price reduction.
 - Land fraud,

GOV.

New Cal laws

RENTAL LAWS-

AB12 Starts July 1st for new tenancies. 1 mo only deposit. unless a small landlord (4 or less units/properties) can get 2 mo security. (pet deposit/other deposits are a part of the total cap of 1 mo rent).

Potential loophole in the rule of the owning more than 2 units for the deposit restriction. Own each property in different LLC.

Tenant protection act-15 years or older for more than 2 units. Private right of action. Can sue for damages now. Starts April 1st. If state that you are taking property off rental market as your just cause, it has to stay off for 2 years. If you sell, the buyer would have to follow that rule to and seller would have to disclose to buyer. If a family member is moving in they have to move in within 90 days and stay at least a year. Substantial remodel is defined as "work being completed can not safely be completed within 30 days and can't be occupied during that time." Potentially have to have the permit before notice.

Certain tenants have the right to ask landlord to not use credit as a screening factor in their rental application. This applies to subsidized applicants.

Other new laws:

- ADU's
- 240 SB9 uses in California, vs 45000 ADU's were built.
- New law that permanently extended a law that says a municipality can't require a condition that an ADU be owner occupied.
- Might be able to sell an ADU without selling the house
- Would sell as a condo. State approved but no cities have not yet adopted.
- Basically like a condo conversion.
- financing could be an issues, existing HOA could deny.
- AirBNB's/Hotels
- junk fee's/resort fee's must be included in marketed prices.
- Landlord can't prohibit tenants from charging electric bikes and scooters from being charged inside unless outside charging is provided.
- Balcony Inspection Law
- Condo or apt building with 3+ units and exterior elevated element intended to be stood on, must have inspection. Engineers must inspect. or certified building inspector for apts.
- When selling a Condo that has balcony, should be asking for the inspection/make sure inspection is done.
- July 1st-Workplace violence prevention plan for any workplace with at least 1 employee. CAR will have a sample plan.
- Independent Contractor v. Employee status solved by AB5 at state level, Federal level: new definition goes into effect that MAY supersede the state.
- Make contract with independent contractors renew once a year or ?