

C.A.R Meetings – Jan 2022

Virtual

Steve Delmartini

CAR Defense Strategy Advisory Committee report

This is a small committee as compared to most at CAR. There are a few brokers from different parts of the state, usually 3-5 attorneys and the chairs of other committees such as the Legislative Committee, Forms Committee, Transaction and Regulatory etc... the purpose is to try to be somewhat proactive with problems that are happening up and down the state that may cause this committee to recommend a new form, change/correct a form and get an idea of current problems/lawsuits.

ALWAYS CHECK WITH YOUR BROKER/MANAGER REGARDING ANYTHING IN THIS REPORT BEFORE MOVING FORWARD.

The first report received was from Jana Gardner. She is a CAR legal council and is one of the hotline attorneys reporting on hotline trends over the last few months.

1. The hotline has been a little slower than usual due to the recent holidays, the new year and COVID. The number one calls have still been COVID related with questions such as, are there any new rules w/the current outbreak? Are open houses ok? Mask requirements ? As each area of the state can differ there is no real one stop answer so always check your local jurisdiction.
COVID related sale problems - Seller just got a positive test and needs to quarantine but we are scheduled for a walk through or scheduled to close, or repairs are scheduled. No cut and dry answer you just have to deal with it. Worse yet is the seller or buyer with positive test and ends up in the hospital, the problems just got amplified.
Tenant/Landlord calls - tenant are continually giving advise that are not qualified to do so. This is not a new problem, but it seems to not get better and go away. Do not get involved in tenant/landlord issues. If you do and its the wrong advice the next call you get could be from an attorney.
For some reason there is agent resistance to give the proper advice which, in most cases, is you need to seek the advice from a qualified Calif. real estate attorney.
Jana feels buyers/sellers and agents are getting cranky, impatient, fearful and overall unpleasant to deal with. Uncertainty doesn't help. Hotline attorneys cannot resolve these problems they offer advice.
2. Low inventory and high risk offers, again not new but certainly ongoing. High risk meaning no contingencies, waiving appraisals, seller's staying on for long periods of time after close. Agents giving advice on getting the deposit back etc...
3. Fire hardening/defensible space. Lots of misunderstanding and misinformation going on out there causing disclosure issues. Admittedly a form that may need to be looked at again by the forms committee. There is an ongoing going discussion with CAR legal and entities such as Cal Fire not agreeing on what is actually correct.
4. Agents not receiving and delivering previous reports, or not asking for them at all. Again, nothing new. I think there is a statement on the first page of the SPQ regarding previous reports that may have been on the last page. This may be a good reminder to everyone.
5. Many calls on the new RPA. but that was anticipated.

Attorney Shannon Jones (Northern Calif.)

1. Agents not realizing that "insurance" is a part of the inspection contingency and not investigating it early.
2. Disputes, claims and meditations from buyers missing out on properties (dual agency worse than ever) sold under coming soon, buying site unseen, offers with no contingencies, same old stuff, new day.
3. Deposit disputes - larger than ever. Now even seller's trying to get out of contracts due to higher back up

offers.

4. Water intrusion and mold cases are back to some degree. When there is a lot of rain as in December water becomes an issue.

5. ADU cases where there is not a permit issued. But Shannon is finding the city/county seem to cooperate in trying to get a permit issued instead of pursuing in as a court issue. May be less costly to just try and get the permit.

6. New discussion item: is an appraisal a report that should be given to the seller? I believe through the eyes of CAR it is not and Shannon is looking at it as it may be. It does have pertinent information in it. Sellers generally don't want to give it out because it indicates a price. So just black out the price.

7. Ambiguous language - Don't make up your own law or a statement(s) that after the fact no one can agree what it says or the intent.

STAY IN YOUR LANE! Over and out.