

## **DEPARTMENT OF REAL ESTATE FORUM**

June 6, 2008

Sacramento Convention Center

### **MEETING REVIEW**

**DRE STAFF IN ATTENDANCE:** Commissioner Jeff Davi, Chief Deputy Commissioner Barbara Bigby, Wayne Bell, Bill Moran, Fa-Chi Lin, Maria Giuriato, Janice Waddell, Steve Ellis, Larry Rehrer and Shane McLatchey

#### **OPENING REMARKS:**

Commissioner Davi opened the meeting with welcome remarks and introductions of DRE staff. A brief overview of the department was given along with a budget update. DRE is a special fund department of 342 authorized positions with 5 offices in California that include Sacramento, Oakland, San Diego, Los Angeles and Fresno. The DRE continues to work with the governors' office to ensure all services to the agents, public and their protection are not impacted because of the current state budget. As the issuing of department licenses drops along with the decrease in exams, so does the reserve balances. As a result, fee increases in the near future are not unlikely. The Commissioner closed his opening remarks by introducing Walt McDonald, President of the National Association of Realtors and thanked him for being here.

#### **OPERATIONS REPORT – BARBARA BIGBY**

Chief Deputy Commissioner Barbara Bigby summarized a comparison of the first three quarters of fiscal year 07/08 with the same time period for the past 06/07 fiscal year.

Revenue received is down 24% as of March 31, 2008. This reflects the decline in real estate salesperson and broker exams, original licenses, sales license renewals, and subdivision filing fees. Net Expenditures are up slightly and DRE is now spending down its reserve fund as a result of a sustained, decline in revenue.

The same comparison shows a 47% reduction in salesperson exams, 22% reduction in broker exams along with a 31% reduction in salesperson licenses and 16% reduction in broker licenses. Broker license renewals are up from 87% while the sales renewals represent a 3% decline.

There was a 3% increase in total licenses in this comparison, however over the past month; the number of licensees has been continually dropping.

The use of eLicensing is higher than last year with 57% of all renewals, 70% of all exam scheduling and rescheduling, and 64% of all license changes are being done via eLicensing. Since the inception of eLicensing in September 2002, a total of 1,793,350 licensing and exam transactions have been completed online.

With Subdivisions, the same three-quarter comparison shows that Subdivision Public Reports have declined by 37% while applications for Amended Public Reports have increased by 23%.

With Enforcement, Legal and Audits, 937 licenses were denied last year as compared to 865 in the same time period this year. However, 659 licenses were disciplined in fiscal year 06/07 compared to 950 so far this year. There were 556 audits completed in the past year as compared to 520 this year.

Workload and focus has shifted in this area from a predominance of Licensing activities and background checks to transactional investigations and criminal activities.

An update was given on the 3 major IT projects that the department is working on. Progress is being made to deploy our electronic examination process to the first newly constructed DRE test facility which we now believe will be in Fresno in the forthcoming fiscal year.

The Licensing Call Center project remains on schedule and on budget. This new call center will replace our outdated Licensing Phone system and will service all callers 24 hours a day, 7 days a week through an 800 number. This new system will undergo testing in the fall and is scheduled for implementation in December.

A Legislative update was given on Assembly Bill 2454. Under current real estate law, the DRE administers a recovery account from which the DRE can pay victims of fraud their actual and direct losses, if the fraud was committed by a real estate licensee while performing acts for which a license is required. This proposal would increase the payout limits from \$20,000 to \$50,000 for any one transaction and \$100,000 to \$250,000 for any one licensee. This bill passed out of the Assembly with a vote of 78-0 and now is in the Senate.

An update on Senate Bill 1461 was given that would require all real estate licensees to place his or her license identification number on all first point of contact marketing (including business cards) or solicitation materials and on home purchase agreements which they negotiate. If passed, the bill would go into effect on July 1, 2009. This bill passed out of the Senate 35-0 and now is in the Assembly.

#### **ENFORCEMENT CASES:**

Bill Moran, Assistant Commissioner for Enforcement reported on one case that involved lender fraud. The case resulted in outright license revocation. Moran stressed the importance of reporting violations so the department can investigate and to help stop these types of occurrences.

Commissioner Davi added that, "People like this are hurting the broker law and we need to get them out of business." He went on to state, "together we need to identify them, take their licenses; it's our job to stop them and we need your help to do it."

#### **CONTINUING EDUCATION UPDATE:**

Janice Waddell, Manager III for Licensing gave an update on Continuing Education changes and requirements. For additional information regarding this presentation or if you have any questions, you can call the Education Section Staff at 916-227-0894.

#### **AUDIT CASES:**

Fa-Chi Lin reported on one case that involved a married couple in California who had their records seized by Police through a search warrant. It was later discovered that there was trust fund mishandlings that resulted in over \$300,000 in shortages. In the end, the real estate broker's license was revoked.

## **MORTGAGE LENDING OUTREACH:**

Consumer and Industry Liaison Maria Giuriato provides direct oversight for Foreclosure Prevention Workshops for the Governor's Task Force on Non-Traditional Mortgages. Over 20 workshops have been held in the state providing direct support to over 7,000 families. Maria will assist with the REO Outreach project also known as, "Road to Economic Opportunity" and the "90 Days of HOPE Campaign." For more information on "90 Days of HOPE" call 888-995-HOPE.

## **OPEN FORUM:**

Comment) A prior perpetrator had embezzled money from a trust fund that resulted in an investigation and a 6-months jail sentence. It is believed that this perpetrator is still practicing and doing loans.

Response) (Davi) Provide the DRE with details and we will investigate.

Q) We've had some complaints that licensed agents are getting their Eco-brokers designation and then advertising that they are an eco broker. Has the DRE had any issues or complaints regarding this?

A) (Davi) We are not aware nor have we received any complaints of that nature. If you think a violation exists, contact us so we can investigate.

Q) How can a non-licensed manager perform the same activities that a licensee normally performs? Will your website give an overview on how the DRE is going to address that?

A) (Davi) The DRE can definitely recap what licensed activities are. Asset managers are a principle that can acquire a loan and have a right to live that license but beyond that, it would be up to them to hire a licensee to do the real estate portion of their business.

(Bell) The DRE starts with sections 10130 and 10131 of the Business and Professions Code to assess licensed activities. If individuals are negotiating, soliciting, or doing things that fall in the definition of "licensed activities", they have to have a license. If they are doing things outside of this, they do not need a license.

Q) I was licensed in 1966 but when I requested a history from the DRE, it only dated back to 1975. How can I prove that I have been licensed that long?

A) (Davi) One can request a license history for \$10 and we will give you a report showing that you had a license in 1966. If you didn't initially receive that information, we should talk afterwards in order to get what you need.

Q) A task force completed a study and concluded that a new element in the DRE should be developed that would separate the recovery fund for mortgage brokers from the real estate brokers. Is this appropriate, would that work, or might we be better off with a certification program? Are we doing anything to improve the knowledge level, testing, requirements and skills for new mortgage brokers?

A) (Davi) The requirements to be a mortgage broker are the same to become a real estate broker. I think the right way is to propose changes for the statutory requirements for a license. I think the change should come from industry and I would be happy to sit on a task force that makes mortgage broker representation. My preference is to do what the industry, administration, and legislation, decides is the best way to proceed and if a new law is passed, I will enforce it.

(Bell) The focus needs to be much broader than real estate licensees, because someone can also do mortgage loan brokering if they have a CFL license or a RML license through the Department of Corporations. So the focus has to be broader than just the DRE and real estate licensed mortgage loan brokers.

Q) I had a tough time finding licensee status on the DRE website.

A) (Davi) The link is no longer a white button but a picture on the home page of a real estate license. The commissioner pulled up a draft of the DRE Home page on the presentation screen and pointed directly to that link.

Q) In San Francisco, we have some sellers of subdivisions who are offering agents direct tips in exchange for sales in addition to commission. Is their any enforcement efforts in this regard?

A) (Moran) If they are being paid to a salesperson outside of the broker, then it is a violation of the Real Estate Law and if we become aware of it, we will take action.

Public Comment: Thanked the DRE for working on the REO project and commended the department for taking a lead and bringing the quality and quantity of those people contributing to the field.

Q) What is the response time frame in regards to a fraud complaint?

A) (Davi) Typically, if a complaint is filed with the DRE, we will assess to see if it warrants setting up an investigation. That should happen in 30-60 days with, at minimum, a letter sent out stating we are establishing an investigation or perhaps no violation occurred under real estate law.

(Moran) The DRE tries to be responsive to all complaints that come in and at least send an acknowledgment letter letting the person know we have received it for review. If you have a complaint about a specific case, I will give you my card and you can call me to discuss.

Q) How much of the recovery fund is tapped into? Are there statistics regarding the payouts?

A) The recovery fund has yet to be tapped out and there are always funds available. The issuing of a payout from the recovery fund is usually a last option once they have exhausted all of their resources. We can look at some hard stats upon request to the department.

Comment) In another state, every broker is audited every 2 years. A system is setup where brokers submit information and auditors can review this for auditing purposes.

### **CLOSING REMARKS:**

The Commissioner thanked everyone for attending and appreciated the interaction.

By Shane McLatchey, Recorder