



CFPB: a new term in closings

Lenders and Escrow companies throughout the country are preparing for the new requirements imposed by the **Consumer Financial Protection Bureau**.

Effective August 1, 2015, the CFPB implements their new "Loan Estimate and Closing Disclosure" program and requirements.

The new changes will result in a paradigm shift in how closings are handled across the country. A result of Dodd-Frank financial reforms of 2010, the CFPB will bring consumer notification to a higher level, impacting lending, escrow and closing processes.

Stay tuned for more information about this important change in business practices.

BRE News

Back on the road to staffing recovery, the Bureau of Real Estate announced this month that the position of Managing Special Investigator has been filled in Sacramento. Ms. Sylvia Yrigollen has transferred into Subs North from the Mortgage Enforcement Division. We are told that Ms. Yrigollen brings with new outlook with a focus on global perspectives and productivity.

As a follow up to an earlier article, on April 13, 2015, the BRE issued DRR #244 to the California Association of Realtors (CAR) for their April, 2015 New Construction PSA.

WATER...

As the drought in California continues, the impact of the water crisis continues to hit the new homes market in more and different ways. The costs of water in California these days go far beyond penalty fees for over-watering front yards. The phrase "don't frown on brown," hardly taps concerns for new development projects.

Aside from requiring drought tolerant landscape plans with building plan submittals, some cities and counties are approving new developments only when the plans include a "purple pipe," which uses reclaimed water for irrigation of landscape improvements. There are also the xeriscape requirements, that limit the type of plantings in public and private landscapes. Throughout the State, we are seeing a range of responses to the drought by various cities and counties and water districts. Many are retrofitting their water systems to maximize the water resources, and the construction industry is paying those costs. Increasingly, water providers are reluctant to provide an unconditional water will-serve letter for the lots created in new subdivisions.

If the water purveyor is a mutual water company, builders and developers are well advised to add another layer of research with the water company during any due-diligence. Oversight of mutual water companies is through the Department of Corporations. If a current permit to issue shares has not been granted, then the water company must provide current Certificates in compliance with the Health & Safety Code along with a host of inspections and reports attesting to the qualities of the water supply and distribution system. Developers working with a mutual water company should confirm that the proper documents are current and available.

The inability to prove unconditionally that "ample, potable water" is available to a new subdivision is a denial issue in the Public Report process. If a water letter indicates that water "should" be available, or "is anticipated to be available," it will not pass muster with the Bureau of Real Estate. B&P Section 11018(f) states that **the Bureau must deny issuance if an applicant cannot provide evidence that adequate water is available**. If the water provider cannot provide a definitive statement, the development will be left with no approval to sell individual lots. As a matter of law, the BRE has no alternative but to deny issuance. Letters that are less than unconditional are grounds for denial of a Public Report.

New BRE Filings must prove "ample, potable water" for domestic use and fire protection. Lacking an unconditional statement of availability, a Public Report will be denied.

"Site" Condominiums

What is a "site" condominium? Basically, a detached single family residence, or, in this case, a detached condominium. Instead of creating individual lots that will be owned in fee simple by the purchasers, Site Condominiums are created on a condominium plan, and the purchaser buys the condominium "Unit" which includes a home...literally, a "house in a box," or, more specifically, in a cube of airspace. The Unit is coupled with an undivided interest in a defined "common area," to complete the legal definition of condominium.

Site condominiums are a convenient plan for developments that are approved for a higher density use, but do not have adequate space to accommodate

setback requirements that are placed on single family lot-in-tract or planned developments.

Depending on the market, the type of structure and the overall development plan, the exteriors and roofs of the dwellings may be owner or HOA-maintained.

For real estate professionals involved in the sale of a site condominium development, it is important to note that the typical condominium disclosures must be used, rather than a standard subdivision. Although the development may resemble a single family detached subdivision from the street view, the legal documents and descriptions vary greatly.

Interestingly, many mistakenly refer to a planned development as a "condo," and in a site condominium project, folks often see them and think of them as Planned Developments. It is important to remember that a site condominium is a CONDO; particularly when it comes time to work with the take-out lender.

It is important to add that site condominiums do not need to be on HUD's approved condominiums list, meaning that they do not need to be pre-approved by HUD in order to be eligible for FHA financing.

