



THIS PLACE IS SO BRIGHT AND AIRY COMPARED TO THE CAVE I LIVE IN NOW!

### IN THE NEWS....

AB 968 clarifies Civil Code 4775, stating that unless the governing documents provide otherwise, exclusive use common areas are to be maintained by the owners, but repaired and replaced by the HOA. AB 968 goes into effect January 1, 2017

According to recent articles, California has built an average of 59,759 housing units per year. Experts say that, in order to maintain a healthy housing market in a state as big and diverse as California, more than 200,000 new units should come on line **annually**. It is clear, that California is far below what we need to match the demand from population growth, job growth and household formation each year.

### BRE News

In May of this year, Ms. Sylvia Yrigollen was recruited for the position of Managing Special Investigator of the Sacramento District Office. In just the few short months following, that office is showing positive signs of turn around, even though the staffing level is still lower than optimum.

Ms. Yrigollen has impacted work flow changes and file reassignments, and is working to streamline the Clerical Unit making it more "user-friendly." Stay tuned for more changes.

## FINANCIAL SECURITIES: WHEN & WHY THEY ARE REQUIRED

In common interest subdivisions, Subdividers are required to comply with several regulations and code sections that require the filing of financial securities. Some of the most common include assurances for completion of common area improvements; for completion of subdivision improvements generally; for the payment of **assessment obligations; subsidies; maintenance obligations; capital start-up funds**, just to mention the most common.

In most cases, the financial securities must be placed in escrow before the Final Public Report can be issued by the Bureau of Real Estate. Security Agreements are executed by the Subdivider and the HOA, and verified by Escrow, accompanying the financial securities (bonds, cash deposits, set-aside letters, etc.). The Security Agreement is the document that controls the amount of the required security, as well as the terms under which the security can be released, and by whom.

There are provisions for release of the security or funds back to the Subdivider, or directly to the HOA. It is important to note that there is no automatic release of the security. Rather, very specific provisions are made for the

release, which must be examined and verified by Escrow at the time a request for release (or return of funds) can be made.

**Assessment Security:** Amount must be equal to six months' assessments, and held until 80% of the lots or units are sold and closed escrow. The HOA must acknowledge that the Subdivider has met all assessment obligations, and must agree to the release of funds back to the Subdivider.

**Completion Security:** Amount must be equal to 120% of the estimated costs of construction, and held until 1) the improvements are completed, evidenced by a recorded Notice of Completion; 2) accepted by the Association; and 3) the mechanic's lien filing period has expired, or title insurance will be offered to the HOA insuring against any future mechanic's liens.

**Subsidy Security:** must be in an amount sufficient to cover 100% of the subsidy amount for all of the lots involved, and held for the entire period of time in which the subsidy program is in use. The HOA must agree to the release of funds back to the Subdivider.

### SWIMMING POOL CHEMICAL TESTING

Swimming pools in common interest subdivisions are no longer "private" for purposes of health and safety regulations. That means HOAs must now comply with public pool chemical testing requirements.

**Testing & Recordkeeping.** In addition to meeting higher chlorine requirements, HOAs must now test the water daily. (Small HOAs are exempted if they have 24 or fewer units.) Regulations require that written records be kept onsite and preserved for at least two years. This includes (i) chemical testing, (ii) incidents of fecal, vomit and blood

contamination, (iii) incidents of drownings or near drownings, (iv) maintenance and repairs, and (v) manufacturer's instructions for operation of all mechanical and electrical equipment and water treatment systems.

**Reporting Requirements.** Associations must also report incidents where two or more pool users or lifeguards have diarrhea within five days of each other. Associations should contact their pool maintenance company to make sure they are in compliance with the regulations, which became effective in 2014.

## Coming Soon to an Escrow near you... The Consumer Financial Protection Bureau

On October 3rd, the Good Faith Estimate, the Truth in Lending and HUD-1 Settlement Statements will be replaced by new integrated disclosure forms introduced by the Consumer Financial Protection Bureau (CFPB). The new forms, "Loan Estimate" and the "Closing Disclosure" will make a big difference in the way that escrows and homebuyer loans are processed and closed.

The biggest change is that the Closing Disclosure must be provided to the consumer a full three days prior to closing, **and if there are certain changes during that 72-hour period, the closing could be delayed.**

CFPB has released a new online tool to help real estate professionals, lenders and other industry professionals learn about

impending changes to mortgage lending rules that become effective on October 3rd. <http://www.consumerfinance.gov/know-before-you-owe/real-estate-professionals/>

*If you are not aware of the new procedures and want to know how they will impact your business, check with your escrow agent.*