

UPDATE

NAR recently notified the real estate community that Congress voted to restore loan limits and place a maximum cap for Federal Housing Administration loans.

"NAR believes the reinstated loan limit formula and cap change will help make mortgages more affordable and accessible for hard-working, middle-class families throughout the country, not just wealthy individuals or those in costly markets. Nearly two-thirds of buyers who will be helped by the loan limits provision have incomes below \$100,000" (NATIONAL ASSOCIATION of REALTORS®, 2011)

For more information, please visit NAR's website at www.realtor.org.

CALENDAR

2012 C.A.R. Business Meeting Schedule

C.A.R. Winter Business Meetings

Date: January 18 – 21, 2012
Where: Indian Wells, California

C.A.R. Spring Business Meetings

Date: May 2 – 5, 2012
Where: Sacramento, California

C.A.R. Fall Business Meetings

Date: October 3 – 6, 2012
Where: Anaheim, California

To register, visit the C.A.R. website at
<http://www.car.org/meetings/>

Courtside Newsletter

Informing local Real Estate Brokers & Association members for over twenty years.

C.A.R. RELEASES NEW FORMS

A BRIEF SUMMARY OF NEW AND REVISED FORMS

BY: CASEY MCINTOSH, PARALEGAL

On or about November 28, 2011 the California Association of REALTORS® will release new and revised forms for use in California real estate transactions. Below is a brief summary of some of those forms.

Of the forms C.A.R. will introduce, there are four that are brand new for practitioners: They are Additional Broker or Agent Acknowledgment Addendum (ABAA), Optional Verification of Electronic Signature for Third Parties (OVS), Extension of Lease (EL), and Water Heater Statement of Compliance (WHS). ABAA and OVS will be useful for clarification during transactions as ABAA will enable brokers and agents to identify additional licensees that are representing a principal. OVS provides verification to lenders and escrow holders that an electronic signature is, in fact, a valid and authorized signature. (See our March 2011 Newsflash on Electronic Signatures.) As for the other two forms, the EL is exactly what it sounds like—it will be used to extend a fixed-term lease for a new fixed period of time—while the WHS is for use in a transaction where a Transfer Disclosure Statement is exempt and there is no smoke detector statement required.

Other forms to take note of are those that are slated as "not okay to use prior revision." Those forms include the Denial of Rental Application (DRA), Homeowner Association Request (HOA), and the Real Estate Transfer Disclosure Statement (TDS). The previous revisions of both the TDS and HOA are acceptable for use up until January 1, 2012. However, after that date

only the most recent forms can be used due to statutory changes. The TDS has been amended to add language regarding water conservation devices. This change is a step towards compliance with existing law, which states, "on or before January 1, 2017, a single-family residential property built on or before January 1, 1994, [must] be equipped with water-conserving features..." With the changes to the TDS, the Seller must now disclose whether the property is equipped with these water-conserving plumbing features. (To learn more about the law behind this change, please see our October 2011 Newsletter.) The HOA changes comply with changes to California homeowner association law that require the form to have a new format and to include language regarding fees and citations to statutes. The Denial of Rental Application (DRA) includes new language to reflect that if the denial was based on the applicant's credit score, as found in a history done by a credit reporting agency, the applicant must be informed of that fact. This change was made in an attempt to comply with the Consumer Credit Reporting Agencies Act (CCRA), which states that consumer credit reporting agencies must "adopt reasonable procedures for meeting the needs of commerce...in a manner which is fair and equitable to the consumer." By amending this form to reflect a denial based on a credit report, the consumer/applicant is then notified of problem and able to dispute the report if she or he believes it is not accurate. Without this change, the consumer/applicant might never know that

there is derogatory, and possibly incorrect, information on their credit report. It is important to note that failure to use the modified DRA is considered a violation of CCRA.

The list of other revised forms provided by the California Association of REALTORS® states that it is acceptable to use prior revisions of the forms not covered here. However, as a real estate agent or broker, it is important to stay on top of market trends and changes in procedure. For example, the three Residential Listing Agreements (“-Exclusive,” “-Agency,” and “-Open”) have been revised so that the listing broker is authorized but not obligated to disclose the terms of other offers that have been received. The Seller’s Advisory has also been changed to include language regarding a seller’s obligation to ask if they are unsure about how to disclose something.

The purpose of this form is to address any

potential issues before the property is put on the market, as well as to advise the seller of any matter that may arise out of the sale.

Consulting with an attorney regarding any questions that you, the listing agent/broker, or the seller have, will further ensure that you are covered from a legal standpoint. While the changes to this form obligate the seller to consult with an attorney, it is also just good practice. As the adage goes: it is always better to be safe than sorry.

The full list of forms can be found at www.car.org/legal/standard-forms/summary-forms-releases-chart/november2011formreleases/. We strongly recommend that you use the most current forms available. It is important to stay on top of the changes in forms as they are usually a reflection of the ever-changing market.

End-of-Year Business Tips

The New Year is just around the corner. If you are business owner, here are some things to consider about your business.

Revisit your business plan. It may have been a while since the last time you took a look at your business plan. Making sure your company stays on track is a key factor to meeting your business goals. Plan to revisit your company’s strategic plan on a regular basis.

Set goals for the New Year. Ensuring that your business grows and stays successful is all about planning. What will your next step be? How will you market your business this year?

Organize your financial records. Make sure your financial records are in order. Tax time is right around the corner. You do not want to be caught off guard.

Look over and/or create 2012 budget. Once your finances are in order and you know what you have to work with for 2012, it might be a wise idea to plan your budget.

Legal Questions? We CAN Help!!

We provide top quality ethical and professional legal services in a number of areas. Contact our office today to schedule a consultation.

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BUSINESS CORNER

“We want to help.”



BUSINESS TIPS

CORPORATE LEGAL HELP

Are you having trouble with maintaining your corporate records? With 2011 coming to a close, there may be things that you have not prepared or considered. There is no need to worry. The Giardinelli Law Group can help you get back on track. If you choose to allow our firm to represent your corporate and business needs, the services we could provide include the following:

- Review Minute Book and Corporate records
- Prepare appropriate documentation of corporate activities as necessary to comply with California law
- Prepare and file documents with Secretary of State, Franchise Tax Board, IRS as appropriate and in coordination with company’s tax and financial professionals
- Make suggestions and recommendations regarding managing business risks
- Review classification of workers as employees or independent contractors for compliance with state and federal law
- Review or prepare Employment Contracts, Employee Handbook and company policies
- Make suggestions and recommendations regarding preparation or revision of company employment policies and governing documents
- Prepare shareholder buy-sell agreement regarding transfer of company ownership upon occurrence of triggering events
- Review or prepare company bonus plan
- Review company advertising and marketing for compliance with California law
- Provide analysis and advice regarding real estate listings, contracts, escrows, and commissions
- Provide analysis and advice regarding claims by agents, vendors, employees, competitors or others
- Representation in mediation, arbitration or litigation actions requires a separate representation retainer agreement
- Act a corporate agent for service of process to ensure all notices served are acted upon
- Provide reminder regarding annual corporate minutes preparation with questionnaire and preparation of appropriate documentation for the Minute Book
- Provide on-call advice regarding the above and other business, contract, and employment issues as they arise

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