

REALTAC
Staff Contact: Linda Littlefield
July 1, 2009

Minutes

PRESENT: Clarissa Arellano, Sandra Bandfield, Enid Beitzel, Mike Betzer, Willie Bridgeforth, Susan Craig, Pat Holte, Wini Hulterstrom, Linda Littlefield, Ruthie Lohrig-Kline, Jim Martin, Sara Martin, Paul Murphy, Shelly Pelle, Irina Riley, Carolyn Rogers, Jill Webb, Dawn White, Sandy Wickham

Meeting called to order: 8:02 am

Reports:

Government Affairs

- Focusing on Federal Legislative issues
- Carbon Monoxide Detectors - By July 1, 2009, the Real Estate Commission will require each listing contract for residential real property to disclose the requirements specified by HB-1091.

WCR

- WCR celebrates 30 Years at their July 9th Luncheon at the Embassy Suites. For details go to: <http://www.ppwcr.org>

Housing & Building Association:

- Rally Ride Kick-Off Party on July 30, 2009 at 05:30 PM - 08:00 PM
- HBA Poker Run & Rally Ride on August 01, 2009 at 08:00 AM - 03:00 PM
- Parade of Homes is set for August 7th -23rd
- For event information and HBA information, <http://www.cshba.com>

Property Management

Carbon Monoxide Detectors – Are required in Rental Properties starting July 1, 2009

REALTOR® Legal Questions (Paul Murphy, Attorney)

- The Protecting Tenants at Foreclosure Act of 2009, which is Sections 701-704 of Title VII of Division A of the Helping Families Save Their Homes Act of 2009, Public Law No. 111-22 (Bill No. S-896), was signed by the President on May 20, 2009. The new federal tenant protections were effective immediately upon enactment, and automatically are repealed, on Dec. 31, 2012, at which latter date the notice requirement of the Act is terminated.

The Act gives certain protection to tenants under a bona fide lease or tenancy living in foreclosed property if (1) the mortgage loan was "federally related," or the property is a dwelling or residential real property and (2) if the lease or tenancy was entered into before the "notice of foreclosure." "Notice of foreclosure" is not a term defined by the Act, but a "bona fide lease or tenancy" is specially defined.

The new law effectively requires that any such residential tenant be given a minimum of 90 days notice to vacate before the tenant must vacate a property which was foreclosed.

For tenancies at will, or month to month tenancies or any other periodic tenancy, the tenant is entitled to at least 90 days notice to vacate.

If the lease contains a set term with a definite termination date, the tenant will be allowed to stay for the duration of the lease term, even if it exceeds 90 days, unless a buyer of the foreclosed property will use the property as his primary residence, in which latter case a 90 day notice to vacate is required.

The act does not require 90 days prior notice in the event of an eviction for non-payment of rent or other lease defaults.

If state law requires longer notice or provides additional protections, the longer notice requirement or additional protections under state law will apply. Colorado law does not require a longer notice except for tenancies of year to year or longer (without a set termination date), which require a 3 month notice to vacate, which in some cases could be longer than the federal 90 days notice.

The act appears to grant some tenants in foreclosed property greater rights than they would have in property which was not foreclosed. The act could discourage bidders at foreclosure sales who want to purchase the property for their own residence if they are not willing to wait 90 additional days to get possession. Some issues of constitutionality may be raised by the legislation although legislation imposing temporary moratoriums and the like is constitutional if it meets certain tests.

The entire text of the Helping Families Save Their Homes Act of 2009 can be accessed at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s896enr.txt.pdf

PPFPP – Pikes Peak Foreclosure Prevention Partnership, Inc.

<http://ppar.com/PikesPeakForeclosurePreventionPartnership.aspx>

Other Business: Minutes from REALTAC Meetings are posted on the PPAR Web site.

<http://members.ppar.com/GeneralInfo/REALTAC.aspx>

Next Meeting August 5th at 8:00 a.m., PPAR Conference Room

Meeting adjourned 9:10 am

Respectfully submitted: Linda Littlefield