From the Real Estate Files

Real stories. Real life.

Wire Transfer Fraud

Over the last six months, the lawyers at Carlson Law Group, Inc. have seen an email scam perpetrated with frightening regularity. The fraudsters hack into the email account of someone involved in an open escrow. After hacking into an email account, the fraudsters monitor the account undetected waiting for an email that contains wire transfer information. They then reconfigure the email account directing all legitimate email to the trash folder. The fraudsters then create a false URL (website address) that is nearly identical to the genuine URL and send emails from the fake URL that look exactly like the genuine account (even down to logos, photos, fonts, etc.). Those emails contain instructions to send the funds to banks overseas. By the time the parties figure out that the funds were misdirected, it is typically too late to withdraw the wire. Make sure you follow up on any emails regarding wire transfers with a confirmation by telephone.

Service Animals

Many landlords and property managers do not know that people with disabilities have the right under both Federal and California Law to use the services of a guide, signal or *service* animal and to keep those animals in their residences. In fact, a "service animal" is specifically defined by law to *not be* considered a "pet." They are given the same definition as an auxiliary aid such as a wheelchair, walker etc. A service animal can be any species. Also, there is no legal requirement that a service animal be specifically trained or certified. If requested by a person with a disability, a landlord or property manager must make reasonable accommodations for the animal. These accommodations must be made even where there is a "no pet" policy. The landlord or property manager can only ask for a copy of a doctor's note recommending that the current or prospective tenant will benefit from keeping a service animal.

The Perils of Inserting "Section One" Language in the RPA

The C.A.R. Residential Purchase Agreement (RPA) has not contained terms allocating the cost of repairing items appearing in a termite report since it was overhauled in 2002. However, the Wood Destroying Pests Addendum (WPA) was released at that time allowing brokers and agents to continue to allocate Section One repair costs to the seller and Section Two costs to the buyer. With the recent amendments to the RPA, CAR discontinued the use of the WPA. Therefore, the costs of repairing both Section One and Section Two items are to be negotiated between the buyer and seller as are any other repair request items. However, brokers and agents are still clinging to the old concept that Section One items must be paid by the seller and are adding language in the "Other Terms" section of the RPA to allocate that cost to he seller. This practice is dangerous because there are no provisions elsewhere in the RPA that deal with allocating the costs of inspection and repair if the pest control operator found signs of infestation extending into inaccessible areas or for re-inspection and certification after repairs. The best and safest practice is to follow the procedure CAR has been steering agents toward for almost thirteen years – let Section One items be negotiable between the buyer and seller.

Cite and Fine Implemented

The "Cite and Fine" statute contained within Business and Professions Code Section 10080.9 is a little more than a year old. The intent behind the statute was to allow the BRE to discourage questionable conduct that may not warrant a formal disciplinary action. According to the BRE, the most issued fines fall into these categories: 1) Mortgage Brokers not filing required quarterly reports; 2) Advertising violations; 3) Brokers and Agents not updating licensing and personal information with the Bureau in a timely manner and 4) Minor trust fund shortages. The maximum fine allowable by statute is $2,500. However, the Bureau has reported that the average fine is $1,200.