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Property Management Essentials page 28
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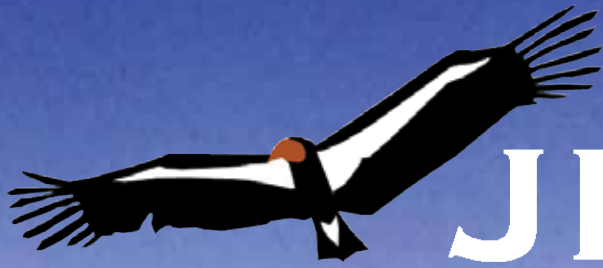
February 2018

- Calendar5
- President's Message.....7
- CalRHA/NAA Update.....9
- Sacramento Report.....11
- Attorney's Corner17
- Santa Barbara Happenings.....21
- SBRPA Annual Property Management Seminar...28
- Directory of Advertisers.....30

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ALERT

Affordable Housing Act (Proposed 2018 Ballot Initiative)

In addition to repealing Costa-Hawkins, the ballot initiative would allow local governments to adopt amendments, ordinances, or regulations to govern how much landlords can charge tenants for renting apartments and houses.

On October 23, 2017, the California Attorney General's office received a request for the title and summary for a ballot initiative entitled the Affordable Housing Act for the California November 2018 Ballot. Sponsors of the initiative included Michael Weinstein, President of the AIDS Healthcare Foundation; Elena Popp, Director of the Eviction Defense Network; and Christina Livingston, Director of the Alliance of Californians for Community Empowerment.

Upon receiving 25% of the necessary signatures, on December 27, 2017, the Secretary of State issued a title and summary for CISS #17-0041. Tenant advocacy groups are actively working to get the 365,880 signatures (5% of the total votes cast for Governor at the last gubernatorial election) needed to get the initiative on the ballot. This must occur at least 131 days (June 25, 2018) before the next general election (November 6, 2018).

Author: Robert Pinnegar, President & CEO, NAA

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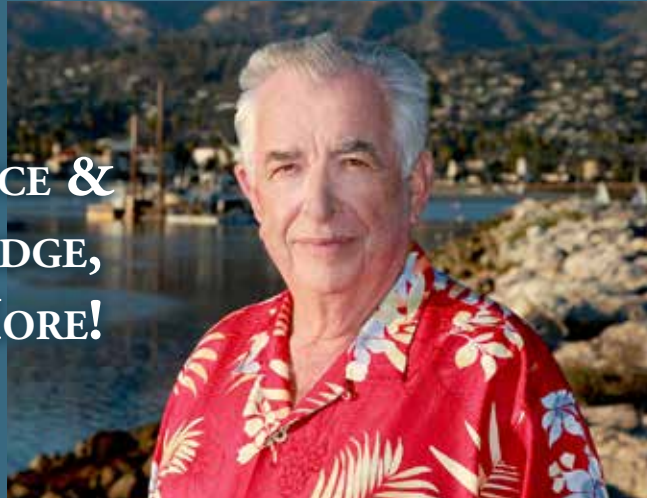


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SBRPA President's Message

James Carrillo • CPM®, SBRPA President



We live in uncertain times. This age-old saying has never been more true than today given the natural catastrophes that occurred in our idyllic "Paradise by the Sea" in December and January. Following the destructive Thomas Fire, the largest such fire of its kind in California, a fury of water, mud and boulders transformed Montecito into an unrecognizable mass of destruction. Sadly, nearly two dozen lives were lost.

Our collective hearts go out to the victims and survivors of this terrible event. At the same time, there are no words that can describe the incredible actions of the first responders and all emergency personnel who no doubt, saved countless lives in the process. Our thanks to all of them.

Even in the midst of this tragedy, Santa Barbara came together in a display of unity befitting the best side of human nature that exists in all of us. If we truly are called to serve, nowhere was it more evident than in this town at this time. From the Santa Barbara Public Market feeding emergency personnel for free, to faith communities coming together, to Association members arranging housing for evacuees, the Santa Barbara community proved once again why this is such a special place to live.

Recovery from this event will take years. The last such disaster of this magnitude to strike Santa Barbara was the 1925 earthquake. Standing at the community vigil held at the Sunken Gardens on the evening of January 14, 2018, one could look up and admire the beauty of our iconic Courthouse. Just as this beautiful, historic building rose from the rubble of the earthquake, we have no doubt that something equally beautiful structures will rise from the remains of what we see in Montecito today.

2018 is upon us. With it come new opportunities for our Board and for our Association. Leaving the

Board after many years of service are Andy Sillers and Becky Cohn. Both of these Board members provided invaluable service to our membership over the years. We heartily thank them, and we wish them all the best as they continue their adventures beyond their Board contributions. We will miss their vibrant presence on the Board. Also leaving the Board, and of special note, is Leon Lunt. Leon has been on the Board for over 30 years and always brought a calm, thoughtful wisdom to the table. We will absolutely miss Leon as a vital presence on the Board and thank him for the outstanding longevity of his service to the Board and to SBRPA and its members.

Rob Kooyman has completed a two-year term as President, and while he will be remaining on the Board, he has handed the reins over to me. I have known Rob for the last twelve years, and he has always been gracious and thoughtful in providing guidance to me in my professional career. I have no doubt he will continue to provide that to me in my role as 2018 SBRPA President in the year ahead.

There are many changes occurring in our industry, and this year promises to be one of the most challenging given the current threats to repeal Costa-Hawkins. I do not take the leadership of this organization lightly. I am honored to serve and will do all I can to represent the best interests of our owners and managers in the year ahead.

Here's to a successful 2018!

SBRPA would like to recognize the following new and returning members.

Edward Ananighian, Magdalena Verduzco, Leslie Cornyn & David Schneiderman, Lisa Novatt, Price Management, David & Jayne Sigman, Brett Wilson



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CalRHA / NAA Update

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James Carrillo, CPM® • SBRPA's NAA Delegate

In 2017 the state legislature and the Governor were very busy crafting a package of bills designed to increase the supply of housing in California—especially the supply of affordable housing. The result was a package of 15 bills signed by the Governor, all of which took effect on January 1, 2018.

This package of bills is designed to address the housing shortage by focusing on five key areas. As reported by "California Budget Bites," a summary of new legislation put out by the California Budget and Policy Center, a non-partisan organization, those areas are:

- directly financing affordable housing production
- facilitating private-market housing production by streamlining local review processes
- increasing local accountability for accommodating a fair share of new housing development
- harnessing private funding to pay for affordable housing development through inclusionary zoning
- preserving the affordability of existing subsidized housing

While our Association may not be in complete agreement with every one of the 15 bills, we understand that in order to move forward through the housing process, concessions will have to be made on all sides of the issue. And we applauded the legislature and the Governor on their efforts to address this serious issue.

As the year turned and we started 2018, into this mix was resurrected AB 1506 (Bloom). This was the same bill that was pulled by the author last year, which would have repealed Costa-Hawkins, the 1995 law which effectively ended the ability of municipalities to impose rent control. As promised, Richard Bloom (D - Long Beach) brought the bill back, and a hearing was scheduled before the Housing Committee on January 11, 2018. Our state lobbyists Steve Carlson and Jonathan Arambel went into high gear to do everything they could to see to it that this bill did not pass out of committee.

Locally, I scheduled a phone call with our Assembly member Monique Limon, and that took place on January 9, 2018. While our conversation was fruitful, an unfortunate conflict would prevent Ms. Limon from being present for the committee hearing. The chair of the committee David Chiu (D - San Francisco) selected as alternate for the meeting Rob Bonta (D - East Bay). In our opinion, the deck was being stacked with votes that would make it likely the bill would pass out of committee.

During my conversation with Ms. Limon, she did mention that she had several conversations with the Chair of the Committee and that, in her opinion, he was receptive to hearing all sides of the issue.

When the day of the meeting came, many were surprised when Assemblyman Chiu informed the committee that he would be abstaining from any vote on the matter. Incredibly, the committee was unable to garner enough votes in support of the bill, and the bill "died" in committee. While this may be considered a "win" for our interests, it only means that the supporters of the initiative to put this matter on the ballot are now going to work all the harder to attempt to repeal Costa - Hawkins through the initiative process. We have a long hard battle ahead of us.

Thank you to all of those members who supported our efforts by contributing to our local Political Action Fund (PAC). This type of grass-roots effort is key to having our voice heard and to continue to fight in the best interests of our members and their families.



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Sacramento Report



Steve Carlson



Jonathan Arambel

Barring any unforeseen changes, AB 1506—the bill that would have repealed Costa-Hawkins introduced by Assemblymember Richard Bloom—is officially dead. The Assembly Housing and Community Development Committee held a three-hour hearing and almost 1,000 people on both sides of the issue were there to testify. AB 1506 needed four votes to pass, and it failed due to a lack of votes. The key votes for the industry that helped stop this bill were: Assemblymembers Ed Chau (D-Monterey Park), Jim Wood (D-Healdsburg), Marc Steinorth (R-Rancho Cucamonga), and Steven Choi (R-Irvine). The pressure on all of these Assemblymembers was enormous.

Despite what we think should have been an easy vote, there was a lot of intense lobbying by their fellow colleagues to help them pass this bill. These four members stood up against the pressure to support our industry on the most important vote we have needed in decades. A critical piece in our lobbying efforts included a significant grassroots effort by many housing providers in our association. It had a huge effect. We heard from Legislators about all of the phone calls and emails they were receiving on this issue. It was a big boost for us as we lobbied to stop AB 1506.

Before you go and grab the champagne to celebrate, no-one involved with the lobbying of AB 1506 believes this will be the last effort to chip away at Costa-Hawkins. The statements made in committee were clear. We were able to kill AB 1506 because the Legislators on our side believed a full repeal of Coast-Hawkins was something they couldn't support. While today the proponents tried an outright repeal, next they may just start chipping away at some of the key components that make Costa-Hawkins work. We haven't seen the last of legislative threats in 2018. We expect more.

Another expected fallout of the defeat of AB 1506 is the proponents of the ballot initiative digging-in on their attempt to repeal Costa-Hawkins. Anya Svanoë, an organizer for the Alliance of Californians for Community Empowerment (ACCE), said

“We plan to do everything in our power to fully repeal Costa-Hawkins.” ACCE, along with Michael Weinstein, president of the Los Angeles-based AIDS Healthcare Foundation, are the sponsors of the initiative. They are committed to putting a lot of money into repealing Costa-Hawkins, and we need to make sure we spend a lot more to protect it. Please be as or more generous than you've ever been to the Association's PAC. It is your best rent control insurance!

In other legislative updates, February 16, 2018, is the deadline for new bills to be introduced. We expect roughly 2,500 bills to be introduced this year. Housing will remain a hot topic in the Capitol, and we will be very busy looking out for your interests this year.



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Home Occupations in Santa Barbara County

Overview: Both the City and County can have specific zoning ordinances which limit or prohibit operating a business out of a residential property. Exceptions are provided for, so depending on where your property is located you should check applicable statutes. This article will focus on the Santa Barbara County Zoning Code and specifically the Montecito Land Use & Development Code. The following hypothetical facts will direct the discussion. The importance of knowing what is and is not permitted helps avoid a violation that can trigger County enforcement actions, and if not, then actions between landlord and tenant, or property owner and neighbors. Fines can be imposed by the County and while first designated as an "infraction," repeated violations can be treated as a misdemeanor, resulting in substantial fines and potential jail time. As between an owner and tenant, violations of law can provide a basis for termination of the tenancy.

Home Occupations that are permitted by the County are limited in nature, and generally constitute professional services that do not require equipment, employees, loud noises, chemicals or manufacturing. This is unsurprising as the intent of zoning regulations is to preserve the character of residential neighborhoods as quiet, peaceful and relaxing. Often times home businesses cause strife between neighbors, as the individual running the home business feels entitled to use their property as they see fit, and is naturally protective over their livelihood. Neighbors generally are averse to having a business in the area, even if it minimizes the impact to the residential nature of the neighborhood and residents' quiet use and enjoyment. As such, landlords that own adjoining properties or rent out multiple units on one parcel should be mindful that their duty to allow tenants the quiet use and enjoyment of their unit may require investigating and potentially terminating tenants operating home businesses that do not comply with County standards. Even where a home business is run in a way that complies with County regulations and has proper permits, a landlord still may have the option of terminating a lease if the lease provides only for residential use of the premises.

Hypothetical: Let's start with the Hypothetical

Fact Pattern: An Owner rents to a Tenant family a single-family residence and studio in Montecito, within an area designated as R-1/E-1 single-family residential zone. The rental agreement provides for "residential use" and limits occupants in the rental agreement to two adults and their minor children. The rental agreement prohibits any other use and contains a provision that the Tenant will comply with all laws, ordinances and statutes regarding use and occupancy of the property. The Tenant claims that he is entitled to a "home office" and that this does not violate the lease or the law. The Owner says that operating a business, with employees on site, that includes the care and maintenance of animals, goes beyond the "home office" concept and is a violation of law and the use provision in the lease giving rise to a right to terminate the lease. The Tenant does not have a permit for a home office.

Applicable Law: Santa Barbara County has adopted Chapter 35 to its Code of Ordinances, titled the Montecito Land Use & Development Code. The Code provides for criminal action and penalties for violation of zoning ordinances. The Code codifies "Home Occupations" at section 35.442.130, and states that its purpose is to prevent adverse effects on the residential enjoyment of surrounding residential properties. The Code requires that before commencement of a Home Occupation within a dwelling unit or artist studio, a Land Use Permit in compliance with section 35.472.110 must be issued, unless an exception applies. (Such exceptions, listed in subsection (E) of the above-referenced Code section, require strict compliance with additional requirements). The general standards for operating a Home Occupation include: 1) the conduct of business on-site should only be by the occupants of the dwelling and no employees are permitted; 2) no advertising shall be used identifying the location of the Home Occupation; and 3) vehicular traffic and parking shall not change the residential character of the neighborhood. In addition, the occupation must be conducted in only one room of the house (the garage may not be used), no structural alterations may be required as part of the occupation, the occupation cannot create any radio or TV interference, or create noise audible beyond the boundaries of the

Continued on page 19

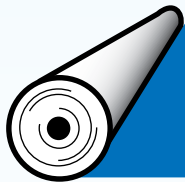
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premises, nor may any smoke or odor be emitted as a result of the occupation.

An agreement or lease in violation of the law is unenforceable absent limited exceptions, and agreements that allow a Home Occupation that fails to comply with the specifics of the Code will not be enforced.

Discussion: Under these facts the home office in our hypothetical would not qualify for a permit and would be a violation of law. The violation of law would make the agreement, if it had been intended to allow home office use, unenforceable. (In our opinion). The use of employees violates the development standards and both neighbors and the Owner can object to the use. A three-day notice to cure or quit, or simply to quit, could be served to terminate the lease for a violation of law and the use provision. (In our opinion). The issue could arise as to whether defenses such as waiver (the intentional relinquishment of a known right) by the Owner or an equitable defense of estoppel (the policy of law that says one cannot lead another to think something is true and then later contradict it in litigation) could be used to defend against termination of the tenancy or even enforcement by the County. It is our opinion that under this hypothetical, the illegality of conduct cannot be waived, and equity would not aid a violation of law, whether an infraction or misdemeanor. The Tenant would have to vacate the residential unit and whether the Court would relieve the Tenant from a forfeiture of the lease and reinstate it would require extraordinary circumstances (such as a demand for reasonable accommodations on behalf of a disabled tenant).

Conclusion: Every fact pattern is different and differing circumstances can affect the outcome, but if a mixed use is contemplated by either an owner or tenant, then the lease should be specific and the relevant County Zoning Ordinances checked and confirmed. Insurance issues can also arise for the owner as many residential policies do not cover commercial/business use.

There is certainty in the law. That certainty is that if you have a dispute, a judge is going to make a decision. What a judge decides is less certain, but the odds are a judge is not going to enforce an illegal agreement or one that violates the health and safety purpose of the County Zoning Ordinances.

As always, it is important to seek independent legal counsel as to your specific objectives and circumstances. If you have questions on these topics and/or need legal advice on these subjects, please call (805) 965-7746 or email David Grokenberger at David@rogerssheffield.com; Michael Brelje at Mike@rogerssheffield.com, or Scott Soulages at Ssoulages@rogerssheffield.com.

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Federal Lawsuit Filed to Challenge Rent Stabilization Ordinance

The Apartment Association of Greater Los Angeles (“AAGLA”) has filed a lawsuit against the City of Los Angeles (“City”) on behalf of apartment tenants and owners, seeking relief from the City’s Rent Stabilization Ordinance (“RSO”).

The City amended the RSO in September 2016 to require that apartment owners provide the government with sensitive tenant information such as monthly rent, tenant utility payments, and onsite parking availability. The City has conditioned Rental Registration Certificates (required for owners to legally rent their units) on the landlord’s compliance with providing this information.

The lawsuit alleges that this information is being obtained by the City without consent or through court order and is, therefore, in violation of the Fourth Amendment’s prohibition on unlawful searches and seizures. AAGLA is represented by attorney Frank A. Weiser of Los Angeles, who won a recent lawsuit against the City in *Patel vs. City of Los Angeles* (135 S. Ct. 2443 (2015)) under a similar theory. In *Patel*, the U.S. Supreme Court held that the City’s practice of compelling motel and hotel operators to make their guest registry available for inspection was unconstitutional.

As cities and counties often copy each other, the outcome of this lawsuit will likely seriously affect requirements that other local governments can enforce on landlords.

Santa Barbara City Council Certifies Updated Airport Master Plan

The Santa Barbara City Council (“Council”) has voted to certify its Airport Master Plan, over objections by the City of Goleta. The Airport Master Plan (“Master Plan”) is a document that outlines airport upgrades for the next 15-20 years.

The Master Plan’s proposed changes for the Santa Barbara Municipal Airport include extending Taxiway H, restriping paved areas, paving light lanes along taxiway edges, and relocating entrances and exits from the taxiway system to comply with Federal Aviation Administration recommendations, the goal being to reduce the need for runway crossings among planes.

The Master Plan also calls for relocating the Airport Maintenance Yard and building a new long-term parking lot to accommodate 1,315 new or relocated parking spaces.

The City of Goleta had filed an appeal to block the Council’s certification, alleging that the Environmental Impact Report for the project is inadequate, and that the City of Santa Barbara has failed to mitigate the future impacts that the Master Plan will cause. A letter from the Goleta City Manager noted that increasing traffic congestion and intensifying land use require a collaborative approach between the cities of Santa Barbara and Goleta.

The Santa Barbara City Council disagreed. The next step for the City of Goleta would be to file a lawsuit to prevent Santa Barbara from implementing the Master Plan until additional review is performed.

SB City Council Pressured to Fill Vacant Third District Seat through Special Election

Retired Judge Frank Ochoa and activist Jacqueline Inda are encouraging Westside residents to speak up and request the Santa Barbara City Council (“Council”) hold a special election to fill Cathy Murillo’s seat on the City Council. Cathy Murillo was recently elected Santa Barbara mayor, and her district seat became vacant once she was sworn in as mayor on January 9, 2018.

In February of 2015, the City of Santa Barbara reached an out-of-court settlement to change from at-large elections to district elections, but the settlement agreement failed to outline a process for what happens when a Councilmember from a district vacates a seat. The existing City of Santa Barbara Charter—which was written before district elections—calls for the Council to fill a vacant seat through the less expensive process of an appointment versus through a special election.

On December 5, 2017, the Council outlined a process for filling the vacant Third District seat for the final two years of mayor-elect Cathy Murillo’s term. All Councilmembers except Cathy Murillo voted to appoint a new member. Murillo was in favor of holding a special election.

Supporters of the appointment process say it would actually widen the field of candidates because more people could participate without having to raise high

Continued on page 22

dollar amounts to win the seat. Additionally, it is predicted to be less expensive than a special election.

The Council planned to accept applications through January 16th, conduct interviews on January 23rd, and appoint a new member on January 30, 2018.

Although the incumbent Council certainly can set up a pathway to fill the seat, with two new members on the Council—Kristen Sneddon and Eric Friedman—supporters of the special election hope the Council will reverse course and vote to hold a special election on June 5, 2018, the date of the California primary. If that were the case, proponents of the election claim that the cost would be \$30,000 rather than the \$300,000 estimated by City administrators.

If the election is not held, special election proponents (most of whom were behind the lawsuit forcing district elections in the first place) have been insinuating that legal action may be pursued.

Target to Open Small-Format Store at State and La Cumbre

Target recently announced plans to open a 34,000 square-foot store and has signed a lease with Gryphon Capital for the now-closed Galleria at 3891 State Street.

The move will replace the small shops that once occupied the Galleria entirely with a small-format Target. According to a news release, Target's small-format stores are tailored to meet the needs of local residents where a traditional-sized Target store may not fit.

The Galleria small-format Target is slated to include home décor, a beauty department, apparel for men, women and kids, a grocery section with adult beverages, and a CVS pharmacy. The store is expected to employ 50-70 people.

Some residents have expressed concerns that the location is not adequate, even for a smaller format store, and that parking will be a problem. One suggestion is that the large, recently vacated Macy's downtown, which has ample parking, would be a more appropriate site for Target and perhaps even a full-sized Target.

Despite these concerns, for now it appears that Target is coming to the former Galleria, like it or not.

Plan to Replace Elsie's Tavern with 23-Unit Apartment Building

At a recent design hearing, the Santa Barbara Planning Commission generally approved of a proposed high-density housing development. The development is slotted for the location where the popular bar Elsie's Tavern now sits on West De la Guerra Street.

The Commissioners viewed the property as a prime location for new downtown rental housing. However, they recommended some minor changes: reducing building size from four to three stories and adjusting wall and window locations for improved light and airflow.

The project's current design includes 13 one-bedroom and 10 two-bedroom apartments, 1,162 square feet of commercial space, and 26 parking spaces.

The proposal will now go to the Historic Landmarks Commission for review. It is expected that construction will not begin for at least two years.

Veronica Meadows Restoration to be Funded by Fish & Wildlife Grant

A \$550,000 grant from the Department of Fish & Wildlife is available to begin remediation of the Arroyo Burro Creek banks and to remove debris and non-native plants from the former site of the Veronica Meadows development on Las Positas Road.

The 14.7-acre undeveloped property near Arroyo Burro Beach in Las Positas Valley was purchased by the City of Santa Barbara for \$4 million in 2016—mainly through Measure B funds and grants—with plans to turn it into a public park. More than an acre of the project will be restored to a floodplain, which will help with storm water flows, improve water quality, and enhance wildlife habitat.

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- Federal & CA Protected Classes
- Occupancy Standards
- Rental Criteria
- Companion/Support animals
- ADA Accomodations
- Hoarding
- Daycare Operation
- Medical Marijuana
- Legal Notices



James P. O'Neill, Esq. has practiced law for over 34 years, with all but one year in Santa Maria. His practice focuses on business, real estate, and estate planning and probate matters.

Jim holds a B.A. degree from San Diego State University and a J.D. degree from the University of San Diego School of Law. He is an active member of the State Bar of California and is also admitted to practice before the federal courts in the Central and Southern Districts of California and the Supreme Court of the United States.

In the community, Jim has served as an officer and director of various non-profit organizations, including the Santa Maria Valley Historical Society, the Santa Maria Police Council, the Santa Maria Philharmonic Society, VTC Enterprises, and the VTC Foundation. He has served on the City of Santa Maria's Landmark Committee and volunteers or does reduced-fee legal work for numerous other non-profit organizations.



Karen Mims currently serves as the Portfolio/Organizational Development Director, Residential Properties for The Towbes Group, Inc. where she oversees management of the multi-family housing communities in Carpinteria, Santa Barbara, and Goleta, California.

Prior to making Santa Barbara her home, Karen lived in Santa Monica, where she worked in property management for Riverstone Residential, TDC Properties and 10 years at Oakwood Worldwide. During her tenure at Oakwood, Karen served as Manager-International Standardization and Employee Development and was charged with creating and delivering training and development programs for lease-up and stabilized communities in England and throughout Asia.

While working full time, Karen earned a BS in Human Resource Management and an MS in Organizational Performance along with the designation of Certified Training Manager/Director from Langevin Learning Services and certifications in Myers-Briggs, Prosci Change Management, and DISC. Karen currently sits on the boards of Girls Inc. of Greater Santa Barbara, and Unity Shoppe and enjoys volunteering with other local organizations.



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INDEX OF ADVERTISERS

Bankers Pacific Mortgage.....	24
Battaglia Commercial Real Estate.....	8
Beach House Inn	24
Beau Brunner Painting.....	23
Berkshire Hathaway – Ken Switzer..	27
Betty L. Jeppesen, Esq	5
Bill Terry Insurance.....	2
Central Coast Investments.....	15
Central Coast Paving	14
Cochrane Property Management	29
Coldwell Banker – Keith Berry	6
Darkblade Enterprises	31
DMH Properties	5
Don’s Heating & Air Conditioning	25
Frederick Lang R.E. Appraiser.....	5
George Woodford Painting	5
Hayes Commercial Real Estate	16
Hermosa Painting	23
Insight Environmental	15
John E. Peakes Insurance Agency	4
Jody’s Windows & Floors.....	18
Keller Williams Realty – Joe Ramos .	23
Landlord Liaison Program	26
Magid Masonry	15
MasterCare Home Cleaning Services	19
Mendez Building Services	23
Meridian Group	11
Pearl Bay Corporation	24
Radius Group	10
Rogers, Sheffield & Campbell, LLP...	22
Salsbury Industries.....	8
Sandpiper Property Management	12
Sensor Industries	15
Sierra Property Management.....	20
Spectrum Realty.....	24
The Laurel Company	23
Tower Property Management.....	9
Wash Laundry Systems	32
YARDI.....	13

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