

INLAND VALLEYS REALTOR®

THE OFFICIAL PUBLICATION OF THE INLAND VALLEYS ASSOCIATION OF REALTORS®

International investors are a growing force in housing - are you adapting?

DETAILS FROM NEW STUDY BEGIN ON PAGE 10



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SEPTEMBER 2014

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It's Always Time to Revisit Your Business Plan



STEVE ORBAN,
2014 IVAR PRESIDENT

This week, IVAR directors hunker down for a few hours to take a look at how we are progressing toward our goals. In short, our organization exists to serve members, their businesses and the American dream of homeownership. We do this through customer service, applying technology, working with the strongest MLS system in the nation, building a strong system of advocacy at every level of government and building a strong, core business that can reinvest in each of our key functions.

Without planning, it's hard to imagine how we would accomplish our goals – or if we would have any. Without accountability and continuous assessment, we wouldn't know if we were successful or going off track.

I'm happy to report that we're on track. We're growing. Every goal isn't met, but every goal has seen substantial progress over the past few years and some have been resounding successes.

Can you say the same for your business? As we near the fourth quarter of 2014, it's time to look at each of our businesses and careers and evaluate whether we're accomplishing our goals and holding to our plan – or even have one to follow. Have you enjoyed a strong 2014? How do you know?

For many REALTORS, 2013 and 2014 look good, especially when compared to the five years prior. The economy has improved. The trouble of short sales and REOs – specializations in which the strongest REALTORS trained themselves as experts to survive a historic

downturn – are now, mostly, a minor niche. The market has changed significantly, again, in the last 24 months. The best real estate businesses have had to scrap parts of their plan to adapt. That's not because their plan was a mistake, but because they understand the importance of driving change through their action rather than waiting for the well to dry up before finding another way to keep their business flowing.

You don't have to look far to find free help to build your business plan. Go to www.realtor.org and search for the "Field Guide to Writing a Business Plan" and you'll find pages of information, links to resources, recommended reading and basic tips to get started. Several of the references are specific to the business plans that REALTORS need to track their careers.

Several times each year, IVAR will also host a speaker to host a brief business plan workshop. Other local resources, including small business agencies within government offices, host workshops as well.

I would urge all of you to see to it that the year doesn't end without taking the time to consider how you will approach 2015 and beyond. You don't have to be a fortune teller to make these plans. You don't have to predict the market to have a valuable set of written goals. Yes, you do have to be a bit of a mind-reader. The good news is that the only mind you need to make sense of is your own.



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REALTORS® end California Legislative Session on Winning Side



PAUL HERRERA,
GOVERNMENT AFFAIRS DIRECTOR

REALTORS® from throughout California placed thousands of calls, sent emails, connected on social media and found a way to let their Senators know that they were unhappy with the idea of creating a new way to erode property, cloud title and hurt business.

IVAR members joined the effort in the closing days of the legislative session to defeat AB 2416. The bill would have allowed employees claiming a wage dispute with their bosses to file liens against any property owned or, until a late amendment, even leased by their employers.

The bill failed passage at the end of August, managing just 13 “yes” votes in the 40-member California Senate against 15 “no” votes and a dozen who did not vote on the bill. None of the three Senators representing the IVAR region, Mike Morrell (R-Rancho Cucamonga), Richard Roth (D-Riverside) and Norma Torres (D-Chino), supported the bill. Sen. Morrell voted in opposition. Sens. Roth and Torres did not cast a vote.

It’s important to note that this was not an idle proposal that was quickly defeated in the legislature. The bill was approved through six committees and the California Assembly before meeting its end on the floor of the Senate.

We would like to thank Senators Morrell, Roth and Torres for taking time to connect with us and carefully considering the arguments on both sides – and ultimately helping to defeat the bill.

Just as importantly, we would like to thank the many IVAR members who took an interest in the issue, studied up on the bill and made calls to your legislators to express your displeasure with the proposal. The strength and clout of IVAR, CAR and NAR stands entirely with the willingness of members to take moments from their busy schedule to do exactly what many of you did on hundreds of occasions over a two-week period last month.

We would also like to thank C.A.R.’s government affairs team for tracking the bill, explaining its importance and coordinating a successful statewide effort to thwart its passage.

Members often wonder how their REALTOR® Party contributions are used. It’s in efforts like this and dozens of others, most of which are quietly discussed, negotiated and successfully handled without the same kind of broad member outreach. Without your annual contribution of an extra \$49, \$148 and more in many cases, we wouldn’t have the resources to help protect property rights, small business, homeownership and the many other issues that sustain your business and our neighborhoods.

As REALTOR® renewal comes around in a few months, we hope you will consider adding that extra contribution to help us continue this type of work on your behalf. If I can ever be of assistance, please feel free to contact me at pherrera@ivaor.com or on my cell phone at 951-500-1222.

AB 2416 Defeated

Background of Bill: Under existing law, trades people and others who conducted work to improve a property have the right to record a mechanic's lien against the property for payment for that work. This bill sought to create an entirely new lien based on unproven wage disputes between employees and employers. AB 2416 would allow the creation of a lien against many types of property, including (as initially proposed, later amended) the employer's personal residence, without adjudication, procedural protections or any requirement of an adequate opportunity to contest the claim until after the lien is attached.

Further, the liens would attach to property that had no role in the dispute. Also, until a late amendment, it would have allowed the liens to attach to property leased but not owned by the employer. Again, all of this would take place without a hearing on the merits of the claim.



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NEW RPA CLASSES HAVE BEGUN

C.A.R. Attorneys Are Teaching BRE Continuing Education Courses Now

Unless you have been enjoying life on a remote island, you likely know that the California Residential Purchase Agreement (RPA) will be revised in November 2014. After two years of work by a special RPA Study Group and your C.A.R. Standard Forms Committee, and after presentation and input from your C.A.R. directors and other REALTORS® over that same period, the RPA is set for release. In anticipation, C.A.R. attorneys have started to present BRE continuing education credit classes on the revised RPA and related addenda.

Although the basic format of the RPA remains the same there are important changes to the RPA and to its related addenda. You may want to take advantage of C.A.R.'s attorney's knowledge and expertise to better prepare you to represent your clients in November. You can learn the new RPA through LearnMyWay®. This non-BRE credit course is a live, interactive, instructor-led RPA training from your home, office, or anywhere you have access to the Internet on a computer. Currently there are seven LearnMyWay® RPA courses scheduled.



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NAR Profile of International Buyers Reveals Key Information About a Growing Market



FRANK LICEA
BROKER, RX REAL ESTATE
CHAIR, IVAR IIC

There is a growing market of international buyers out there who spend, on average, \$100,000 more per home purchase. They pay cash, close fast and create connections to others who fit the same profile. Yet most REALTORS don't know them, don't try to find them and aren't building the skills necessary to make these capable investors their clients.

One in 25 REALTORS consider themselves knowledgeable when it comes to working with international buyers, even though more than 1 in 4 have experience handling a transaction involving a foreign national. This is not necessarily – or even primarily – a language problem. Three of the top five countries-of-origin for international buyers (UK, Canada, India) have little in the way of a language barrier. India has the second-largest English-speaking population in the world.

Much of this information – and much more – is revealed in the 2014 Profile of International Home Buying Activity released by the National Association of REALTORS recently. The study, authored by NAR's Lawrence Yun, Jed Smith and Gay Cororaton, offers important information that all of us should understand better if we want to work with international clientele.

Did you know that, among international buyers, the split between homeowners and investors is about 50/50? Even more want to live here, but can't do so due to immigration challenges that leave them still able to buy an investment home. They also buy homes

for their children, who come to the US, and especially to California, to attend some of the best universities in the world and hope to stay and establish their lives here as highly educated professionals.

Most international buyers pay cash, which simply follows logic. These buyers are wealthier than the average buyer and will have trouble with traditional mortgage financing in the U.S., given the fact that they don't have a social security number, established credit or documented income.

They're also paying with cash because real estate in the U.S. is a great way for foreign nationals with resources to protect their money in a safe investment that comes with numerous advantages. They also cherish property rights and the American system of real estate ownership, which is both literally and figuratively foreign in a number of nations.

The bottom line: there is a market growing in both value and activity. Opportunity is growing with it, for those willing to invest the time to understand how to work with these clients and the challenges they bring into a purchase. The first step is to understand the trends through experience, research and reports like the one released by NAR.

The complete report is available online at <http://goo.gl/nKVrWE> (60 pages, 4 MB download).



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Mark Dowling, Chief Executive Officer

Welcome to the Inland Valleys Association of REALTORS (IVAR) monthly housing update. As a member benefit, IVAR produces monthly and quarterly housing reports to help members and area leaders better understand what's going on in the regional housing market.

When reviewing the latest housing data from the region, there are a few noticeable trends emerging through the first half of 2014:

- Cash buyers continue their downward trend from 34% last year to approximately 20% in August, 2014. This decrease has slowed the demand for housing, which is reflected in an increase in "Days on Market".
- Aggressive cash buyers in 2013 helped drive-up median sales prices 25% in 2013. Although median sales prices started to stabilize earlier in the year around \$285,000, the last few months have seen the median sales price increase to \$307,000.
- Standard Sales continue to dominate the "Sales Type", with nearly 89% of all regional sales represented as Standard Sales.
- Although the total number of Closed sales have been trending down for 2014 when compared to 2013, New Listings showed a slight year-over-year monthly decrease.



Given the significant increase in housing prices over the last year, a new home buying dilemma has sprouted-up as many potential first-time home buyers are finding themselves priced out of the market. According to C.A.R., since 2012, the minimum income required to purchase a house in the Inland Empire has increased 57%. This issue has impacted all of California, and is reflected in the average age of current California homebuyers which is now 48.

A

REGIONAL SUMMARY - PAGE 1

OBSERVATION: New listings are steadily growing in 2014. Although not dramatic, the increase is still noticeable.

CONCLUSION: The remainder of 2014 looks positive, if this gradual increase continues. Jobs and the economy this summer will determine where we go from here.

E

REGIONAL SUMMARY - PAGE 1

OBSERVATION: Median Sales Price has held steady for four months above the \$300K level.

CONCLUSION: This indicates we may have reached an equilibrium.

B

REGIONAL SUMMARY - PAGE 1

OBSERVATION: Closed listings and new listings are tracking together in the positive direction.

CONCLUSION: The median sales price of \$307K, combined with a steady trend of more closed sales is encouraging.

F

SALES VOLUME PER CITY - PAGE 3

OBSERVATION: The combined Sales Volume of the top 5 communities (approx. \$395M) is equivalent to the combined volume of the bottom 25.

C

REGIONAL SUMMARY - PAGE 1

OBSERVATION: Pending Sales saw a 1% increase for August (year-over-year).

CONCLUSION: This means slightly more inventory coming into the market. This helps encourage closed sales next month.

G

COMMUNITIES WITH NEW LISTINGS - PAGE 4

OBSERVATION: Only one community achieved a year-over-year growth in New Listings of 50% or more (Colton).

D

REGIONAL SUMMARY - PAGE 1

OBSERVATION: Sales Volume and Sold Transactions are both down from 1 year ago.

CONCLUSION: The market was in a recovery phase last year at this time. It's not necessarily bad news for sales to be down compared to these previous numbers. A market with steady sales is preferable to lots of market volatility.

H

COMMUNITIES WITH NEW LISTINGS - PAGE 4

OBSERVATION: 19 communities had a year-over-year drop or no-change in New Listings.

I

RATIO OF SELL VS. ORIGINAL LIST - PAGE 5

OBSERVATION: For three months, there has been increased pressure on lowered expectations between original list and final sell price.

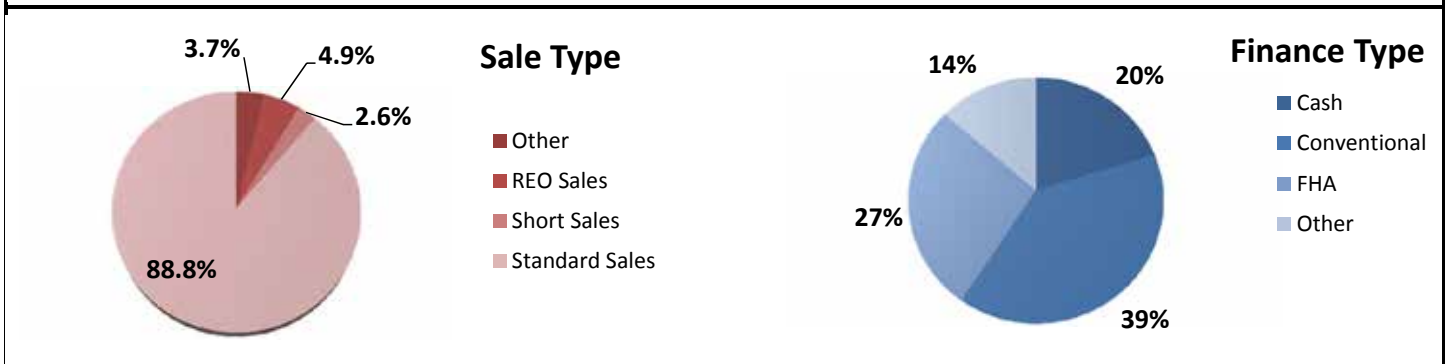
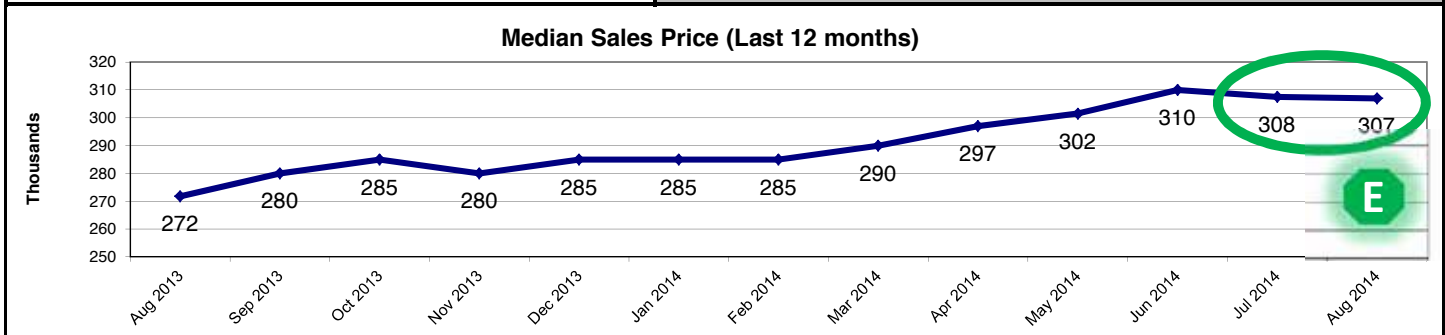
CONCLUSION: The regional market is finding a "new normal". The key for agents is to look for the hot-spots



	Aug-2013	Aug-2014	Annual Change
New Listings	5,295	5,164	↓ -3%
Pending Sales	3,616	3,653	↑ 1%
Sold Listings	3,900	3,133	↓ -24%
Median Sales Price	\$271,800	\$307,000	↑ 11%
Sales Volume (\$M)	\$1,190	\$1,095	↓ -9%
Price/Sq.Ft.	\$153	\$172	↑ 11%
Sold \$/List \$	100.03%	98.25%	↓ -2%
Days on Market	27	43	↑ 37%
Cumm DOM	36	50	↑ 28%



All data used to generate these reports comes from the California Regional Multiple Listing Service, Inc. If you have any questions about the data, please call the CRMLS Customer Service Department between the hours of 8:30am to 9:00pm Monday thru Friday or 10:00am to 3:00pm Saturday and Sunday at 800-925-1525 or 909-859-2040.

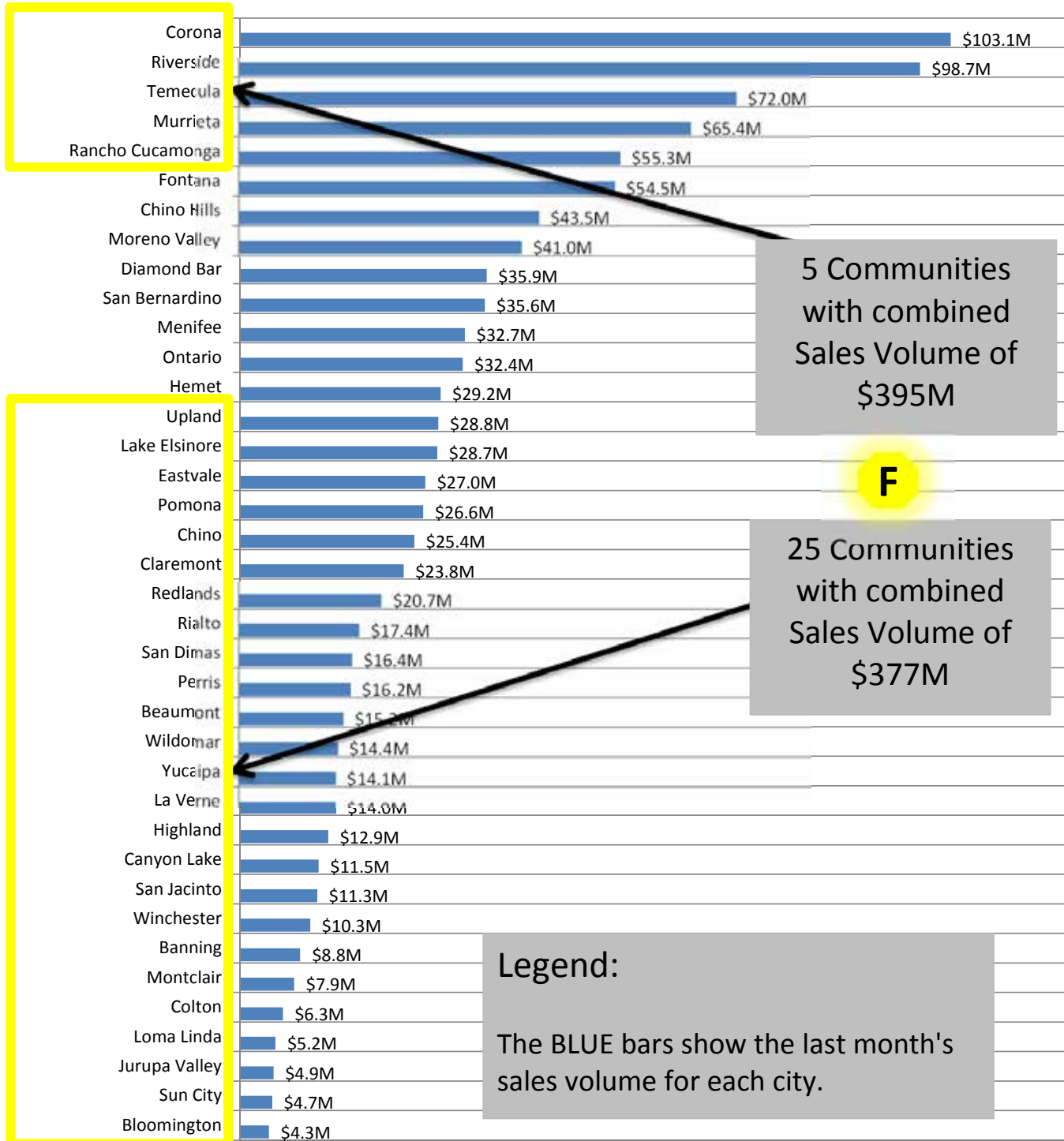


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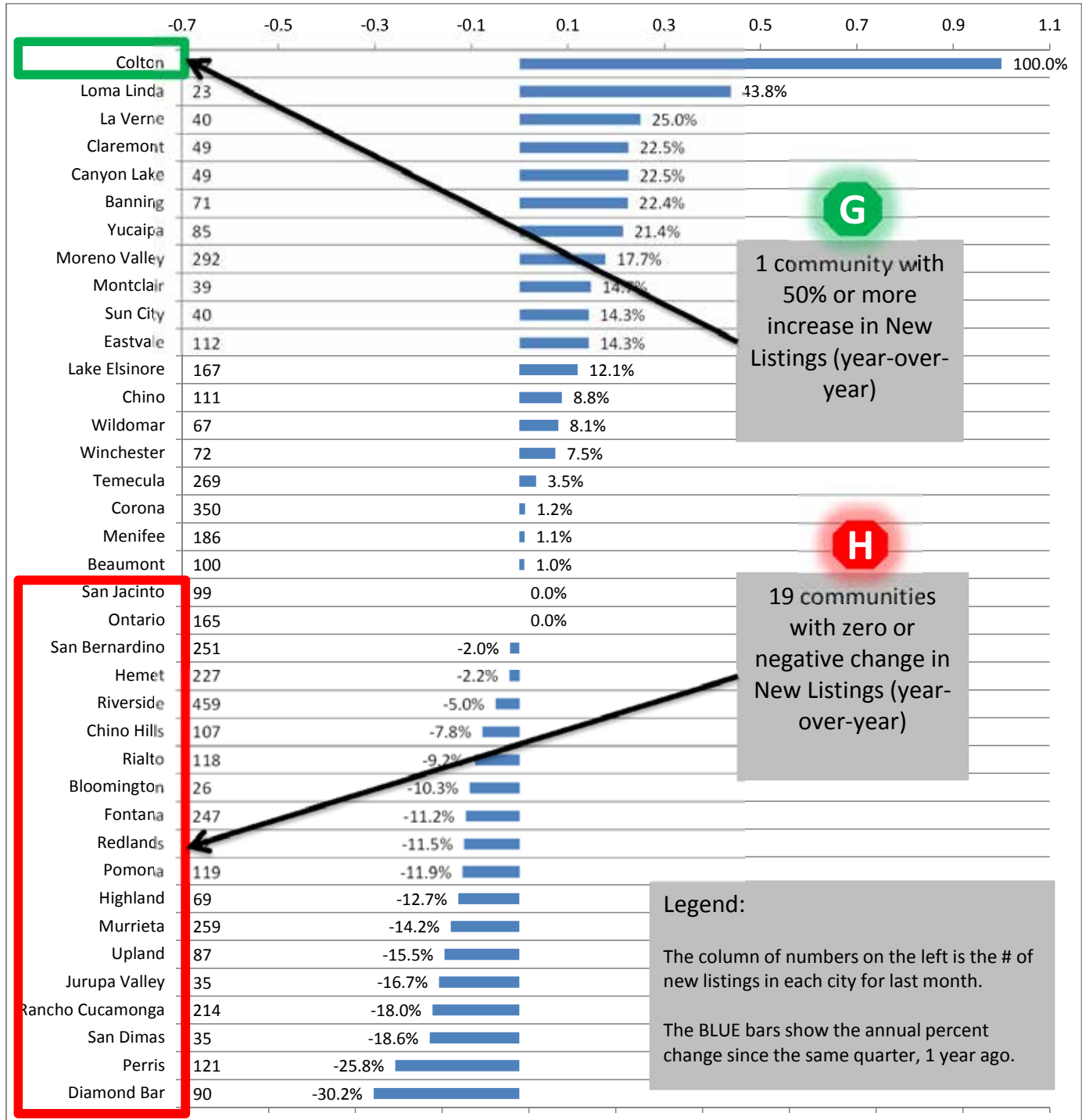
The following monthly data shows "YEAR-OVER-YEAR" (YOY) changes as well as current conditions in the real estate market

	YOY Sales Transactions	YOY Median Sales Price %	Median Sales Price \$	Price per Sq.Ft.	Total Days on Market
Banning	↑ 2%	↓ -3%	\$ 180,000	\$ 147	51
Beaumont	↓ -23%	↑ 22%	\$ 269,977	\$ 124	62
Bloomington	↓ -5%	↑ 14%	\$ 227,000	\$ 193	32
Canyon Lake	↓ -40%	↑ 20%	\$ 401,050	\$ 177	121
Chino	↓ -35%	↑ 8%	\$ 389,000	\$ 224	47
Chino Hills	↓ -1%	↑ 7%	\$ 547,500	\$ 286	48
Claremont	↓ -14%	↑ 0%	\$ 566,000	\$ 286	52
Colton	↓ -26%	↑ 35%	\$ 220,000	\$ 168	28
Corona	↓ -35%	↓ -2%	\$ 382,000	\$ 209	60
Diamond Bar	↓ -41%	↑ 3%	\$ 556,500	\$ 328	66
Eastvale	↑ 12%	↑ 8%	\$ 483,000	\$ 170	68
Fontana	↓ -15%	↑ 8%	\$ 305,000	\$ 184	44
Hemet	↓ -20%	↑ 17%	\$ 176,000	\$ 109	59
Highland	↓ -24%	↑ 21%	\$ 262,000	\$ 152	52
Jurupa Valley	↓ -41%	↑ 6%	\$ 296,500	\$ 199	53
La Verne	↓ -32%	↑ 20%	\$ 576,000	\$ 331	24
Lake Elsinore	↑ 11%	↑ 12%	\$ 285,000	\$ 134	51
Loma Linda	↑ 17%	↑ 31%	\$ 392,500	\$ 175	48
Menifee	↓ -12%	↑ 13%	\$ 287,250	\$ 142	46
Montclair	↓ -25%	↑ 7%	\$ 339,500	\$ 224	41
Moreno Valley	↓ -21%	↑ 14%	\$ 240,000	\$ 146	41
Murrieta	↓ -13%	↑ 10%	\$ 350,000	\$ 150	63
Ontario	↓ -18%	↑ 22%	\$ 330,000	\$ 223	45
Perris	↓ -24%	↑ 22%	\$ 225,000	\$ 129	45
Pomona	↓ -13%	↑ 10%	\$ 320,000	\$ 216	54
Rancho Cucamonga	↓ -24%	↑ 8%	\$ 390,000	\$ 239	52
Redlands	↓ -22%	↑ 8%	\$ 301,500	\$ 196	50
Rialto	↓ -16%	↑ 10%	\$ 249,000	\$ 168	40
Riverside	↓ -20%	↑ 22%	\$ 320,000	\$ 184	47
San Bernardino	↓ -12%	↑ 37%	\$ 200,000	\$ 141	41
San Dimas	↑ 17%	↑ 36%	\$ 554,000	\$ 312	50
San Jacinto	↓ -25%	↑ 10%	\$ 182,000	\$ 105	41
Sun City	↓ -14%	↑ 24%	\$ 195,000	\$ 141	45
Temecula	↔ 0%	↑ 13%	\$ 390,500	\$ 178	61
Upland	↓ -25%	↑ 34%	\$ 492,000	\$ 252	56
Wildomar	↑ 17%	↑ 5%	\$ 295,000	\$ 135	50
Winchester	↓ -38%	↑ 10%	\$ 321,308	\$ 147	69
Yucaipa	↓ -30%	↑ 6%	\$ 277,000	\$ 166	47

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The IVAR team has worked hard to improve services and make IVAR a better business association. IVAR is committed to defining its service and building member relationships not with promotional gimmicks and giveaways, but rather by refining a business-minded approach to serve our members' professional needs with our problem-solving approach. In the last year, IVAR has expanded services to include:

- Free local housing data & customized reports, available online to our members at <https://quicklook.ivaor.com>.
- Two offices located in Riverside & Rancho Cucamonga, Open 5 Days a Week
- Government Affairs supporting property rights and REALTOR business interests at <http://advocacy.ivaor.com>
- Mobile IVAR Member Services staff provide on-site training and customer support directly to your office
- Online reference guides to help members navigate local laws related to real estate
- Increased Affiliate Member promotions
- Expanded education and training opportunities focusing on short-sale techniques, technology applications and business planning

By focusing on value-added services, IVAR is committed to being the board of choice for Inland Empire REALTORS. If you have any questions or suggestions on how IVAR can provide better services, please feel free to contact me at 951.684.1221.

Mark Dowling, Chief Executive Officer

Riverside: 951.684.1221 | Rancho Cucamonga: 909.527.2133 | FAX: 951.684.0450

MONDAY, SEPTEMBER 22ND

Education
9:00am – 10:00am
Commercial Training
IVAR Riverside Office

TUESDAY, SEPTEMBER 23RD

Education
11:00am – 1:00pm
Lunch n Learn: How to Stay out of Court
IVAR Riverside Office

THURSDAY, SEPTEMBER 25TH

Education
1:00pm – 3:00pm
CRMLS Citation Policy Class
IVAR Riverside Office

FRIDAY, SEPTEMBER 26TH

Education
9:00am – 11:00am
Probate with Paul Horn
IVAR Riverside

WEDNESDAY, OCTOBER 1ST

Network
8:00am – 9:30am
Breakfast Meeting
IVAR Riverside

THURSDAY, OCTOBER 2ND

Education
11:35am – 12:45pm
Toastmasters
IVAR Riverside

TUESDAY, OCTOBER 7TH

Education
9:00am – 11:00am
Build Your Own Website
IVAR Riverside

THURSDAY, OCTOBER 9TH

Education
11:35am – 12:45pm
Toastmasters
IVAR Riverside





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Key Facts: 2014 Profile of International Home Buying Activity

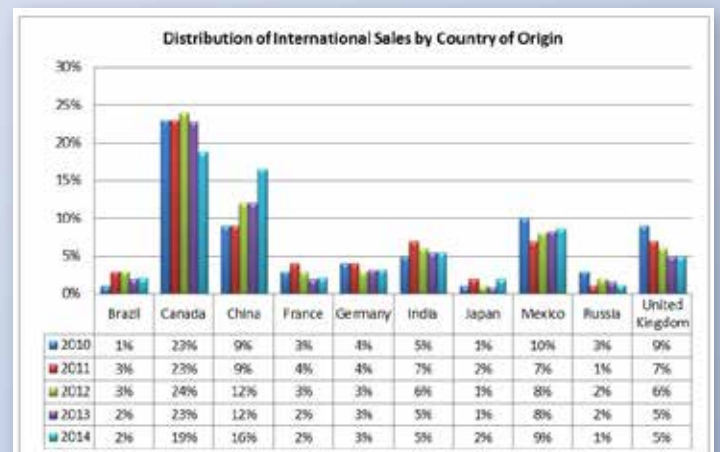
Posted in Economist Commentaries, by Jed Smith, Managing Director, Quantitative Research on July 8, 2014

- o \$92.2 Billion of purchases sold to foreign buyers, 12 months ending March 2014
- o Sales split approximately 50/50 between resident and non-resident foreigners.
- o Foreign sales approximately 7 percent of \$1.2 Trillion EHS market.
- o 28 percent of REALTORS® reported having international clients. Market is a niche market—a relatively few REALTORS® handle many of transactions: e.g., 4% of REALTORS® have 11 or more clients.
- o Market fluctuates from year to year substantially; long term market trend is up: 20 percent of REALTORS® report market increasing over past 5 years compared to 6 percent reporting declining.

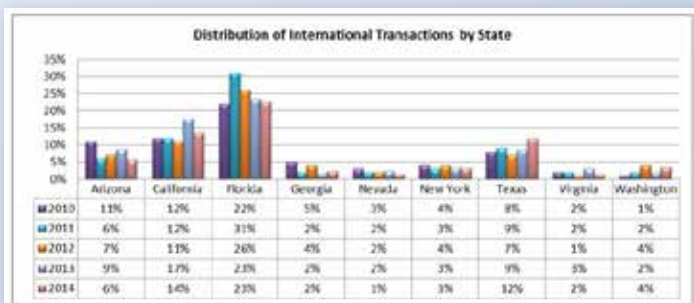
- o Foreign buyers are upscale: Mean purchase price above that paid by domestic buyers.



- o Five countries (Canada, China, Mexico, India, U.K.) accounted for 54 percent of foreign sales.



o Four states (Florida, California, Texas, Arizona) accounted for 55 percent of sales to foreigners.



Foreign purchasers are diverse:

- Trophy properties
- Modest vacation homes
- Rental and investment properties
- Personal residences

o Prices paid cover a wide range: 46 percent less than \$250,000; 9% greater than \$1 million.

o 60 percent of purchasers paid cash

o Predominantly single family homes, although many condos also sold.

o Reasons for buying: Location (i.e., U.S.), investment, and security of property/legal system.

o Reasons for not buying: Cultural differences, lack of understanding of business and real estate practices, difficulties understanding the U.S. lifestyle, customs, and procedures. (Opportunity for REALTORS® to educate/work with clients to increase understanding).

o To supplement the survey, data obtained from realtor.com® concerning U.S. cities most frequently searched by foreigners over 4/2013 through 3/2014 time frame. Cities ranked as follows: Los Angeles, Miami, Las Vegas, Orlando, New York, Detroit, Houston, Ft. Lauderdale, Chicago, San Diego, Washington, D.C., Atlanta, and San Francisco.

- Canadian Searches: Las Vegas, Detroit, Los Angeles, Ft. Lauderdale, Miami, Orlando, Chicago, Naples.

- Chinese Searches: Los Angeles, San Francisco, Irvine, New York, Las Vegas, Detroit, Seattle, Miami, Orlando, Boston Anderson SC, Chicago, Houston, San Diego



September is REALTOR® Safety Month. Here's what you should know to keep yourself safe.

Source: NAR and San Bernardino County Sheriff's Department

"The number of assaults on real estate professionals is on the rise, with the nature of attacks becoming more violent and sometimes deadly." – National Association of Realtors

Realtor Assaults

- In Denver, Colorado a real estate agent was raped while showing a house – 2006
- A Corona, Texas real estate agent was raped at gunpoint, then stabbed while showing a house – 2010
- In Kent, Ohio two real estate agents were murdered and another robbed while showing homes in a week's span – 2010
- 27 year old real estate agent in Des Moines, Iowa was showing a model home when she was murdered – 2011
- A real estate agent in Corona, California tearfully told a jury how she fought off a man who raped and stabbed her while inside a foreclosed home she was trying to sell – 2010

Assault Statistics

- 2008: 170

- 2009: 620
- 2010: 940, 23 were killed
- Handguns were the most common weapon used in assaults on realtors in 2011
- More attacks occurred on a Thursday than any other day
- June and July were the highest months for assaults
- Almost 80% of all assaults took place in the afternoon despite the misconception that danger only lurks at night

Case Circumstances

- Intention of the Incident
 - Robbery
 - Sexual Assault
 - Murder
 - Kidnapping
 - Suicide
- Victims Alone
 - 75% yes
 - 25% no
- Number of Assailants
 - 75% - 1
 - 25% - 2
- Weapons used in incident
 - 55% - Gun (most intimidating)
 - 25% - Physical
 - 15% - Knife
 - 05% - Unknown

Victim Profiles

- Gender of victims assaulted
 - 75% female
 - 25% male
- Age of victims assaulted (highest to lowest)
 - Over 60
 - 40 to 50
 - 30 to 40
 - 50 to 60
 - Under 30

WHAT CAN YOU DO?

Know the Location

- Know the city you are going to be in
 - Key locations
 - Freeway access
- Know the neighborhood
 - Gated entry vs. open
 - In & Out

Have a Plan

- Arrive at the house early and open the windows and turn on the lights
- Meet any neighbors
- Plan your escape routes
- Walk behind your clients
- Avoid basements or attics

Find a Buddy

- Show property with someone you know

REALTOR[®] SAFETY

knowledge awareness empowerment

Check in Often

- Update calendar and keep accurate
- Let someone know where you are at all times
- If it's a last minute appointment, text someone you trust with all details of the showing
- Keep the GPS on your cell phone turned on

Know the Client

- Implement a Client Personal Identification Form System in your office
- Ask clients to meet you in the office prior to going to houses
- Note the make/model of their vehicle and license plate number
- Verify ID – Copy or scan ID

Can You Hear Me Now?

- When showing property in a remote or mountainous area check level of service with cell provider
- In an area with poor or no service tell someone in the office when you will be checking in
- Ask the home owner if you can use their home phone

Recharge Your Batteries

- Make sure cell phone is fully charged before going out
- Invest in auxiliary charging equipment
- Carry a secondary throw away phone as a back up

Car Safety

- Always have your keys with you
- Have the client follow you to the house instead of having them ride with you
- Park in well lit areas
- Keep a charged flash light in your car
- Keep your car in good running condition
- Don't get blocked in

Don't Be In The Dark

- Avoid showing properties in the dark if possible
- In the winter months try to show houses during the day
- Don't forget to use the buddy system

Advertising

- Do not give personal information
- Use your cell phone number and not

your house phone number

- Use your office address and not your home address

Dress For Safety

- Don't wear expensive jewelry
- Dress for the weather
- Only carry the cash and credit cards that you need
- Wear clothes that are comfortable and shoe you can run in

Know the Signs

- Be aware of:
 - Suspicious people in the area
 - Things that just don't look right
 - Obvious signs of forced entry
- Obvious signs of forced entry are:
 - Kicked in door
 - Open door
 - Removed screens
 - Broken windows
 - Broken locks
 - Any other unusual signs

If any of the above signs are present,
DO NOT ENTER THE PROPERTY!!

- Trust your gut
- Notify law enforcement immediately
- Have emergency numbers before you arrive

Requests for Repair and Use of the RR Form

C.A.R.'s Request for Repair form (RR) facilitates the negotiation of repairs by allowing agents and their clients to focus their efforts on the essential issues of repairs, credits and contingency removal.

This Q&A addresses the most common questions about the RR form fielded by the Legal Hotline attorneys. It will explain the advantages of the form; answer technical questions associated with filling it out; and provide practical tips for both listing and buyer's agents.

Q 1. Does the seller have an obligation to make repairs?

A The seller has no obligation to make any repairs with two exceptions: 1) those repairs that are agreed to by contract and 2) those repairs that are required under state law (such as smoke alarm installation, water heater bracing and carbon monoxide detectors) and retro-fit requirements under local law.

As for the first exception, the RPA-CA under paragraph nine explicitly states that the sale is "as-is." Thus, at the outset, the RPA-CA requires no contractually agreed to repairs. On the other hand, paragraph nine does require the seller to maintain the property in substantially the same condition it was in on the date of acceptance (and to remove debris at close). Therefore, the seller is effectively agreeing to repair any damage to the property which occurred during escrow.

The second exception is for legally

required repairs under state and local law. Water heater bracing, smoke alarm installation and carbon monoxide detectors as point of sale requirements are state law exceptions to the general rule that the seller has no obligation to make repairs. Even so, these state laws allow the cost of these repairs to be negotiated and thus apportioned between buyer and seller. In most residential one to four sales, a seller must additionally certify that the installation has been done in compliance with the law (even if the buyer had in fact made the repairs). Installation of carbon monoxide detectors is similar but without the seller certification requirement.

Municipal, county and other local laws may create additional point of sale or retrofit requirements which typically place the responsibility for the repair on the seller. But as with the state point of sale requirements, who must perform and pay for these local requirements may be negotiated.

Q 2. Doesn't the seller have an obligation to make repairs for dangerous conditions or violations of health and safety laws?

A No, the seller is not obligated to repair a property merely because it is dangerous or in violation of health and safety laws. The existence of a dangerous condition does not create a point of sale repair requirement even if the defect is in violation of

building codes or other laws. The key to understanding this is that these health and safety laws are not point of sale requirements. The law simply does not require the repair to be made as a condition of transfer.

Of course, any such problem of which the seller or agent are aware must be disclosed.

Q 3. Can you explain the basic way in which the RR form is supposed to work?

A The RR form works in three parts. Think of it as an offer, counter offer and acceptance all rolled into one form.

First, the buyer makes the "offer" by filling out the first portion of the form entitled, "Buyer Request." In it, the buyer lists the various items for repairs, and attaches inspection and other reports. The buyer then asks the seller to either repair the items or give a monetary credit or some combination of the two. The buyer signs it and sends it off to the seller.

The second part, the "Seller Response To Buyer Request," is essentially the seller's "counter offer." Here the seller states which repairs he will or won't agree to and how much of a credit if any he will give, either in lieu of repairs or in addition to some repairs. Additionally the seller can ask the buyer to remove specified contingencies as a condition to agreeing to the repairs. The seller signs under number 2 and sends it back to the buyer.

continued on page 25

Lastly, the buyer can either accept or reject the seller's counter. If the buyer accepts it, he or she simply checks box 3A and signs that section (along with a signed contingency removal form if the seller attached that). The completed form is then returned to the seller.

If the buyer doesn't agree with the seller's counter then the buyer will reject it by checking 3B, and signing that section. If the buyer chooses to, he or she can begin all over again with a new RR form. The new RR form should be designated RR form No. 2 and should be attached to the now rejected RR form No. 1.

Q 4. Can a buyer use the RR form to ask for a credit in lieu of repairs?

A Yes. The RR gives the buyer the option of asking for either repairs or a credit or both.

Practice Tip: Ask for a credit. A credit will typically avoid many of the snags and disputes that may arise with a repair. With a credit, there is no issue of completing the repair prior to close, nor can any dispute arise over the workmanship or materials involved in the repair.

Practice Tip: Attach supporting documentation. Regardless of whether the buyer is asking for a repair or credit, the buyer's agent should always attach to the RR form inspection reports, cost estimates, and supporting documentation of the repair items. The aim is to present your buyer's repair or credit request in a manner that will persuade the seller to agree.

Q 5. What if the lender does not allow the credit?

A Then the lender's conditions must be respected, and the credit cannot be paid. There should be no attempt to arrange for a credit to be made outside of escrow after a lender disapproves a credit.

The simple solution of course is for the buyer's agent to talk to the lender in

advance to find out what the maximum credit is.

Q 6. Should the seller's response under item 2 of the RR include a demand that the buyer remove contingencies?

A Although not required, it is something the seller should ask for. One of the advantages of the RR form is that it permits the parties to negotiate a simultaneous agreement for the seller to make repairs and for the buyer to remove contingencies.

The idea is to prevent the seller from having to make repairs while the buyer still retains a cancellation right. Generally, a seller who spends time and money on repairs expects to recover his costs at close. But if the buyer does not close, then the seller might feel entitled to retain the deposit. While there can be no guarantee that the seller will retain the deposit, negotiating repairs and contingency removal simultaneously will have the effect of putting the buyer's deposit at risk should the buyer not close.

Practice Tip: Attach the CR form as part of the seller's response. The seller's response (in item 2 of the RR form) gives you the option of writing in the contingencies to be removed or specifying them on an attached "Contingency Removal" form (CR). We advise that you use the CR form. Attaching the CR form provides a clearer statement of exactly which contingencies the buyer is removing, and thus reduces the chances of mistakes in this regard. Additionally, the CR form itself contains risk management language advising the buyer on the effects of contingency removal.

Q 7. If the buyer removes contingencies prior to the seller making the repairs, wouldn't the buyer be giving up a cancellation right should the seller fail to make the repairs?

A No. Once the seller agrees in writing to make repairs the seller is obligated to do so five days prior to close. Paragraph

15 of the RPA-CA requires that the repairs will be made in good and skillful manner, and additionally, comply with applicable law including governmental permit, inspection and approval (if required).

This is an obligation of the contract and is not waived by the buyer's removal of contingencies. At the final verification or walkthrough the buyer has the right to verify that the repairs have been completed as agreed per paragraph 15. If not, such failure may possibly constitute a material breach of contract entitling the buyer to cancel.

Q 8. Can the simultaneous agreement for the seller to make repairs and for the buyer to remove contingencies be negotiated before the end of the buyer's 17 day inspection period?

A Yes. There is nothing in the RPA-CA preventing the parties from agreeing to this at any time, even before the end of the 17 day inspection period. However, it is important that the buyer should have received all disclosures and conducted all inspections prior to releasing contingencies.

Q 9. I am a buyer's agent, and have presented the seller with a request for repairs. But the seller hasn't responded to it at all. Isn't the seller required to provide some type of response?

A No. There is no obligation in the RPA-CA for the seller to respond. The seller should respond out of courtesy. Or, at least, the listing agent should respond just on the basis of professionalism. But there is no legal obligation requiring any response.

Q 10. I am a buyer's agent and have presented the seller with a request for repairs. The seller has responded not using the RR form but with just an addendum form. Is that the correct procedure?

A There is no one way to negotiate repairs. However, the RR form provides clarity and structure that allows agents

and principals to negotiate without having to draft all of the surrounding language. You lose the structure and possibly the clarity if you were to rely upon a stand-alone addendum.

Ideally, if there is insufficient space under item 2, then the seller can still use the RR form, but write in under item 2 "See attached addendum" to incorporate a lengthier seller response. That way, the language of the RR is still retained.

Q 11. When must the seller complete repairs?

A Five days prior to close. Per paragraph 16 of the RPA-CA the buyer has the right to make a final inspection of the property to verify that repairs have been completed as agreed within five days prior to close.

Practice Tip: A listing agent should

try to get the buyer to remove contingencies prior to the seller actually making repairs. Otherwise, the seller may end making repairs without the assurance that the buyer is actually closing.

Q 12. Does submitting a request for repairs automatically extend the contingency removal period?

A No. There is nothing in the RPA-CA which grants a buyer additional time to remove contingencies simply on the basis of having made a request for repairs.

Q 13. Where can I obtain additional information?

A This legal article is just one of the many legal publications and services offered by C.A.R. to its members. For a complete listing of C.A.R.'s legal products and services, please visit car.org/legal.

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