

November 30, 2023

TO: Sue Hennike
El Dorado County
Deputy Chief Administrative Officer

RE: Hazardous Vegetation and Defensible Space Ordinance

Sue,

The El Dorado County Association of Realtors (EDCAR) greatly appreciates that your team has allowed our leadership to provide our professional insight on the proposed changes to the Hazardous Waste and Defensible Space Ordinance. We believe that the proposed changes may have unintended impacts on homeowners in El Dorado County, and we hope you take the following into consideration.

Thank you for taking the time and energy to hear our members concerns, please consider the following:

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- 1. Section 8.09.020 – Findings – Item C Reads:** *“All parcels in the County have been identified and designated as being within either a State Responsibility Area (SRA) or Local Responsibility Area (LRA) Moderate, High or Very High Fire Hazard Severity Zone by the California Department of Forestry and Fire Protection (CAL FIRE) in accordance with the most current edition of the Fire and Resource Assessment Program (FRAP) Map. The County is located in a mountainous and/or hilly region of Northern California. The County has a diverse and complex landscape which includes mountains, forests, chaparral or grass covered wildlands which have the potential to fuel a catastrophic fire event;”*

EDCAR Feedback:

- When did Cal Fire designate all parcels in the County as being within either a State Responsibility Area (SRA) or Local Responsibility Area (LRA) Moderate, High or Very High Fire Hazard Severity Zone in accordance with the most current edition of the Fire Resource Assessment Program (FRAP) Map? When will the Map be available to the public?
- The State requires that a Natural Hazard Disclosure Statement be prepared and given to all Buyers of Real Property. One of the six potential Hazardous areas to be disclosed is when the property is located in a Very High Fire Hazard Severity Zone.

With the adoption of this local Ordinance will Sellers be required to disclose whether a property is in a Moderate or High Fire Hazard Severity Zone?

- 2. Section 8.09.070 – Duty to Remove and Abate Hazardous Vegetation and Combustible Material – Item C Reads:** *“Prior to the close of any Real Estate Transaction subject to Civil Code section 1102.19 within the County, the seller of any real property shall obtain a defensible space inspection report from an Investigating Official that the property is in compliance with this Chapter and provide that report to the buyer at or before the close of escrow. If the property inspected is found not in compliance with this Chapter the Responsible Person(s) will need to perform the necessary wildfire protection measures as specified within the inspection report and have the property inspected again prior to escrow or the buyer shall agree to achieve compliance within 90 days as specified in this Chapter. If an Investigating Official is unable to provide a defensible space inspection report at the time of escrow, the buyer shall request a report from an Investigating Official stating the property is in compliance with this Chapter within 90 days after the close of escrow, unless otherwise approved by the Enforcement Official. Nothing in this subsection, including the existence of an agreement between a buyer and a seller, shall limit the ability of the Enforcement Official to enforce the provisions of this Chapter.”*

EDCAR Feedback:

- In general, the Realtor® Associations are opposed to Point of Sale regulations. It is important to state that REALTORS are in support of the policy in home hardening and defensible space for homeowners. The association has no objections to the physical requirements of the inspection, but rather has serious concerns over the mandate that this policy is be carried out primarily through sales of homes.

The purchase of a home is often one of the most significant financial and complex transactions that a person makes in their lifetime. Combined with today's limited inventory, high prices and mortgage rates, the dream of buying a home can be complicated with a variety of contingencies that have limited homeownership opportunities to fewer households. Although the purpose of this inspection is good policy and justifiable in today's extreme fire prone environment, it doesn't make sense to solely enforce these inspection requirements on those few households that are trying to sell or buy a home.

By only requiring an inspection of homes that recently sold, it will take El Dorado County decades to have achieved any significant compliance in obtaining the inspections. According to our research, by the year 2050 there would be just under two-thirds compliance within the total number homes in the County. With the risk of fires being so severe, it is impractical to enact such an important policy that only is triggered at the infrequent times of when a home is sold or transferred. Public safety measures, such as this proposed ordinance, should not be imposed on a small class

of people (homebuyers and sellers) when the benefits of enforcement serve the greater good of the entire community.

- Does the requirement for inspections of “real property” include vacant parcels, commercial-industrial improved property, and manufactured homes in Mobile Home Parks?
- **Add language that the seller may provide the buyer a defensible space inspection report obtained within the six-month period preceding the date the seller enters into a transaction to sell real property, or after the seller enters into a transaction to sell real property and prior to close of escrow. (AB 38 provides language supporting this.)**
- Instead of 90 days allow 180 days after the close of escrow for the buyer to achieve compliance with a report, whether the report is obtained during or after the close of escrow. Weather conditions alone may not provide the opportunity to obtain an inspection report during escrow or immediately after the close of escrow. And obtaining quotes from service providers and then scheduling the work may take longer than 90 days. **(AB 38 states the buyer shall obtain documentation of compliance within one year of the date of the close of escrow.)**
- The California Association of Realtors Fire Hardening and Defensible Space Disclosure and Addendum (FHDS) allows a seller and buyer to determine which party shall obtain compliance.
- Will all Investigating Officials be required to submit their Defensible Space Inspection Reports to the County or another agency? Will the public have access to property Inspection Reports?
- AB 38 Only requires a point of sale inspection of real property located in a High or Very High Hazard Severity Zone. Why is El Dorado County requesting inspections in some areas that are Moderate or No Fire Hazard Severity Zones when AB 38 does not require it?
- **Item D.4 Reads:** *“The Responsible Person(s) who perform Hazardous Vegetation management activities that remove or dispose of Vegetation is required to comply with all federal, state, or local environmental protection laws and obtain permits when necessary. Environmental protection laws include, but are not limited to, threatened and endangered species, water quality, air quality, and cultural/archeological resources.”*

EDCAR Feedback:

Should a Defensible Space Inspection Report require the removal of an Oak tree, will the property owner be required to obtain a permit to remove the tree?

3. Section 8.09.110. – Enforcement Procedure – Reads: *“A request that such Hazardous Vegetation, and/or Combustible Materials be removed or Abated by the date specified in the notice, which shall be no less than 15 calendar days following the mailing or posting of the Notice;”*

- **EDCAR Feedback:**

Instead of 15 calendar days make it 60 calendar days following the mailing or posting of the Notice;

EDCAR Recognizes that this is a complicated and lengthy process for the county, and we appreciate your efforts in making modifications that will benefit property owners and the real estate profession.

Thank you again for taking these comments into consideration, and if you have any further questions please reach out to our leadership.

Sincerely,



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