# inside REALESTATE Santa Cruz County's Real Estate News Source

A publication of the Santa Cruz County Association of REALTORS®

January 2012





# SCCAR's 101st Installation Luncheon Friday, January 13, 2012

**Details on page 7** 

Santa Cruz County Association of REALTORS, Inc.

#### mysccar.org



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#### INSIDE REAL ESTATE Newsletter

Inside Real Estate is the official monthly newsletter of the Santa Cruz County Association of REALTORS® provided as a member service to inform, educate and update REALTOR® and Affiliate members on local, state and national news, as well as the Association's calendar of events.

> Santa Cruz County Association of REALTORS® 2525 Main Street, Soquel, CA 95073 (831) 464-2000 (831) 464-2881 (fax)

### Inside This Month's Newsletter

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Thank You for Your Membership and Support in 2011!

As the year winds down and we enter 2012, we'd like to take this opportunity to thank you for your support and your valued membership!

We look forward to continuing to help you be successful, and we hope next year is filled with new opportunities and achievements.

May your new year be filled with meaning, peace and joy!

From all of us at SCCAR, thank you hor allowing us to be YOUR Association of REALTORS®



I look forward to serving as your president in 2012. I believe that It is the strength of our organization at each level, county, state, all REALTORS® by supporting their Association at the national, state and local levels, can make a positive difference for our community, enhance their professionalism and grow their business. As your president, I hope to be a part of achieving this ideal.

REALTORS® are the largest trade association at the county, state, and national levels. Many members contribute to bring about our success as an Association. I wanted to share some examples of what this strong Association has meant to you:

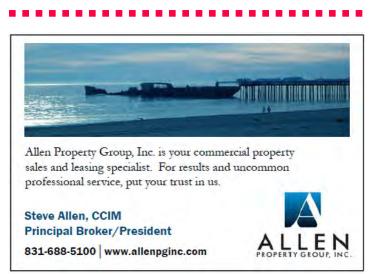
The Santa Cruz County Association of REALTORS® vetted the 2 new rental ordinances, one in the city, and the other in the county. Although adding ordinances in many instances seem unnecessary, elected officials reacted to their constituents and we have the result: a city of Santa Cruz rental ordinance, and a county-wide vacation rental ordinance. Many members of our Association attended meetings and contributed to try to bring about the best outcome possible. SCCAR provides disclosures for our members on our members website at www.mysccar.org. Our Association is providing these disclosures to members at no cost. I urge you to use these disclosures to inform your clients, and protect your risk of doing business.

At the state level, the California Association of REALTORS<sup>®</sup> provides to members, at no additional cost, Digital Ink. As we move forward working with our clients on-line, digital signing of contracts has become highly valuable and saves you time. Go to: http://www.car.org/tools/zipForm6/esign/digitalink to learn all about the value and efficiency of this free service. If you were to purchase DocuSign at NAR, as many REALTORS® across the county have, the cost would be \$129.95 per year. Some financial institutions are balking at accepting digitally signed documents; however C.A.R. is working on your behalf with financial institutions country-wide to accept these documents.

At the federal level, the National Association of REALTORS® offers a great deal of support. President Moe Veissi's slogan is "REALTORS<sup>®</sup> are the Heart of the Deal", which is to say he will be spending his year committed to your success to remaining central to each transaction. In past years, NAR has dealt with technology giants and banks wanting to be central to the real estate transactions. Banks attempted to create real estate offices inside their institutions, and NAR successfully defeated their objective. Various high tech companies have been trying to take over different aspects of the real estate business, and NAR is monitoring these activities, and actively protecting your business.

and federal, that protects your business, assures your rights as private property advocates, and provides you with tools to keep you up-to-date with advances in technology. If you were to try to reproduce the tools alone, it would cost you thousands of dollars. Membership in our organization keeps our business strong.

All of us that serve our Association are committed to continuing to protect private property rights as well as protect your ability to continue as a productive, professional REALTOR<sup>®</sup>. A strong real estate market leads to strong communities of which we can all be proud.



### **Reverse Mortgages**



#### Call us for information on 1st Reverse Mortgage USA **Reverse Mortgage for PURCHASE**

Reverse Mortgage Specialists **Richard Cornelsen** 831-320-8143 dcornelsen@1strmusa.com

Now your home can work for you! Call today for more information.

EQUAL HOUSING LENDER Borrower/person on title must be at least 62 years old. **Maggie Castillo** 831-840-3384 mcastillo@1strmusa.com





Should a Buyer pay a separate short sale negotiation ("SSN") fee if the payment would exceed the commission being offered by the Listing Agent in the MLS? According to the California Association of Realtors ("C.A.R.") article on "Short Sale Negotiators" dated October 5, 2010 (the "C.A.R. SSN Article"), there are no rules prohibiting a Buyer from paying a SSN fee. However, C.A.R . cautions that requiring a Buyer to pay a SSN fee must be done "very carefully." Realtors must be aware that requiring a Buyer to pay a SSN fee could be problematic, questionable or unlawful, depending on the circumstances. Below are a maze of questions through which a Buyer's Agent must maneuver before advising a Buyer to pay a SSN fee to a third party or a Listing Agent when the fee would exceed the Listing Agent's Offered Commission.

**Is the SSN properly licensed?** A SSN must be a licensed real estate Broker or a licensed salesperson who is working under a Broker. To make sure that a Broker is assuming legal responsibility for the work of the SSN, the proposed SSN Agreement must be between the Buyer and the supervising Broker (and not the SSN). Business and Professions Code 10137 states:

No real estate salesperson shall be employed by or accept compensation from any person other than the Broker under whom he or she is at the time licensed.... For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this part relating to hearings.

One indication that a SSN is not licensed is when the SSN is performing services as a Limited Liability Company, because in California, a LLC cannot obtain a real estate license. Another indication of a problem is when the SSN demands that fees be paid directly to the SSN, and not to the Broker.

Is the Listing Agent Threatening to Withhold an Offer? Sometimes a Listing Agent places a remark in the MLS that all offers, as part of the contract, must include language that the Buyer will pay a certain fee for the SSN. Some also state that offers will not be presented or considered by the Seller unless the required language is in the offer. C.A.R. cautions that the Listing Agent may violate his/her ethical obligation to present all offers to the Seller unless the Seller expressly waives this obligation in writing.

Are there Agency Concerns? If the SSN Agreement states that the SSN is providing services to the Buyer or to both the Buyer and Seller, and at the same time the Buyer is represented by the Buyer's Agent, traditional lines of agency become completely muddled. If the SSN purports to represent the Buyer in any capacity when the Buyer is represented by a Buyer's Agent, a dual agency may arise, complicating several issues, including disclosure, the duty of loyalty and confidentiality. If the SSN Agreement states that the SSN represents the Buyer but then states that the Buyer agrees to "hold

harmless" the SSN, remember that a real estate licensee's duties cannot be signed away.

**Should the Buyer's Agent Pay the SSN Fee**? While not a violation of law, MLS rules prohibit conditional offers of compensation. Under MLS Rule 7.12, an MLS offer of compensation "may not contain any provision that varies the amount of compensation offered based on conditions precedent or subsequent or on any performance, activity or event." Therefore, any attempt to condition payment of the commission being offered in the MLS on the Buyer's Agent paying a fee of any kind appears to violate this provision.

Has the SSN Fee Been Fully Disclosed to All Lenders? A payment of a SSN fee by the Buyer, Seller, Listing Agent or Buyer's Agent must be disclosed, both to the Buyer's lenders as well as to the Seller's short sale lenders. Any attempts to hide this fee could constitute loan fraud (18 U.S.C. § 1014). Depending on the specifics, loan fraud is a crime that can lead to both imprisonment (up to 30 years), fines (up to \$1,000,000), and the loss of the agent's DRE license. The C.A.R. SSN Article states:

Disclosure of the SSN fee should be clear and unambiguous. It should not be hidden in any way. If the SSN is paid by the buyer or seller at settlement, it should appear on the HUD-1 settlement statement (Appendix A to 24 C.F.R. Part 3500). As a precautionary measure, the SSN fee should also be labeled in such a way that there is no question as to what it is. Agents should coordinate with the escrow holder to confirm the SSN fee is clearly labeled and also obtain some evidence that the short sale lender has received the HUD-1 statement that contains the payment to the SSN prior to the close of escrow, to prevent any accusations that there is any type of lender fraud being committed.

Undisclosed payments in short sale transactions, especially those paid outside of escrow, may violate the law, including laws against loan fraud and licensing laws. If any lender in the transaction discovers undisclosed payments and decides to pursue legal action, all parties to the transaction may get dragged in the dispute.

**Is there a RESPA Violation**? Real Estate Settlement Procedures Act (RESPA) relates to residential loans which are insured by any agency of the Federal Government. RESPA prohibits the charging of "unearned fees". Examples of unearned fees are fees which are not actual, necessary, and distinct services to justify the additional charge; fees where nominal or duplicative work is done, or fees in excess of the reasonable value of goods or facilities provided or the services actually performed. A SSN fee may be seen as an "unearned fee" in light of federal policy relating to a commission payable on a short sale. On February 24, 2009, Fannie Mae sent Announcement 09-03 to its servicers instructing them not to negotiate commissions on short sales below the amount negotiated by the Listing Agent, unless the commission exceeds six percent.

*Continued on Page 5* 

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The SCCAR Board of Directors ratified the nominations for the Local Candidate Recommendation Committee (LCRC) for the 2012 Trustees. Please welcome back Betty Danner and welcome the two new Trustees; Dietrich Brandt and Charles "Buzz" Rogers! They will serve two-year terms.

The seven (7) 2012 LCRC Trustees are Candie Noel, Steve Allen, Sandy Kaplan, Buzz Rogers, Betty Danner, Dietrich Brandt and Renee Mello (LGR representative). Additionally, the following non-voting members are Barbara Palmer (President - Ad Hoc), Dale Gray; Secretary (Government Affairs Director) and Kathy Hartman (Association Chief Executive Officer).

This will be a very interesting year for candidates, with the California redistricting taking effect, and new candidates surfacing on the local level while seasoned politicians continue to face challenges.

In 2012, LGR and Government Affairs, will continue to bring you informative speakers, the Annual Mayors) Breakfast, and updates on issues we are involved with. Please share what we send out with your office colleagues.

# Short Sale Negotiation Fees

Continued From Page 4

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On August 20, 2009, Freddie Mac confirmed that its servicers cannot renegotiate the sales commission below the amount agreed to by the real estate Broker and the Seller/Borrower. However, if the negotiated commission exceeds six percent, servicers are required to limit it to six percent.

What Are Some "Red Flags"? A Buyer should be extremely concerned about agreeing to pay a SSN fee if:

- The SSN Agreement is with a licensee, and not a Broker;
- The SSN requires payment directly to the SSN (and not the SSN's Broker);
- The SSN Agreement requires the Buyer to waive all claims against and hold harmless the SSN;
- There is no noted acceptance of a SSN fee on the short sale approval letters;
- The SSN asks for payment outside of escrow;
- The SSN demands compensation before close of escrow;
- The SSN fee is not fully and accurately disclosed on the HUD-1 form;

• The SSN demands compensation even if the Buyer cancels escrow; or

• The SSN demands that the compensation be held in escrow.

We are also looking for more REALTOR® and Affiliate members who have personal ties to local elected officials so, when necessary, we can call on you for your assistance in "opening a door" for a committee member to address an issue. Please email me who you might know, and how you know them, to <u>dale@mysccar.org</u>.

Don't forget that we have two new Disclosures available to members on the <u>SCCAR</u> Members) Web site developed through the efforts of LGR. One addresses the City of Santa Cruz Rental Inspection Ordinance and the other addresses the County of Santa Cruz Vacation Rental Ordinance. Make sure to include these in your listing and selling presentation folders!

And finally, your financial support, through our REALTOR® Action Fund contributions, funds our ongoing efforts to protect our industry and your ability to do business. There are still contribution levels higher than the \$49 included in your 2012 Dues. Please consider increasing your contribution!

Stay involved in 2012. It is in YOUR best interest and that of your clients!

Is there a "Safe Harbor" for Paying for the Services of a SSN? According to the C.A.R. SSN Article, the "least problematic" method of payment is for the Listing Agent to simply pay the SSN out of the Listing Agent's side of the commission. For example, if the commission for a transaction is 6% and the SSN fee is 1%, the listing Broker could offer 2.5% to the cooperating Broker on the MLS. Out of the 3.5% listing side of the commission he or she would earn, he or she would pay 1% to the SSN and keep 2.5%. The listing Broker may wish to explain in the MLS that he or she is paying a SSN fee out of his or her share of the commission and because of that, he or she is offering 2.5% to the cooperating agent, which is how a reduction of the compensation by the short sale lender will be handled under MLS Rule 7.15.2.

What Should the Buyer's Agent tell the Buyer? The services of a SSN are frequently essential to a successful short sale transaction. With respect to SSN compensation, it is important to remember that this is a complex area and there are no black and white rules to follow. However, if a Buyer's Agent becomes aware of any illegal or improper behavior by a SSN, the Buyer's Agent should discuss the issues with his/her Broker, disclose the problem to the Buyer and when appropriate, refuse to participate further in the transaction.

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### C.A.R. is Excited to Provide Your Latest FREE Member Benefit!

With 58% of home buyers finding their agent online, you've got only one quick opportunity to make a good first impression. The REALTOR® Badge is a personalized website widget that verifies your REALTOR® status, your required DRE license number and displays your education, specialization and licensing information directly from C.A.R. and NAR.

The REALTOR® Badge is an easy way to add value to your reputation and online presence! Showcase how valuable you are by adding your additional designations and certifications. Place the badge on your website to give your current and prospective clients the assurance that you are more than a real estate agent, you are a REALTOR®! In addition to your website you can easily add it to your blog(s), property listing pages and more. Get the REALTOR® Badge in just three simple steps at www.realtorbadge.com

- 1. Enter your NRDS **K** '(NAR member number)
- 2. Select the size of badge
- 3. Copy the HTML code

Display your badge proudly and help buyers/sellers understand why a REALTOR® is critical to a successful transaction and why you're the REALTOR® they should choose!





#### Y jcwau'{qwt'ò go dgtujkr'y qtvjA

As a REALTOR® you understand how valuable you are to your clients, but have you taken a moment to understand how valuable your REALTOR® Association is to you?

You've been working harder than ever in this market to keep deals together, service your clients, and keep your business running successfully, so there's a good chance that you have been too busy to realize what an asset your REALTOR® membership is. To help you to better understand and capitalize on those benefits that your Association offers, here is a short summary:

- Open 5 days a week from 8:00 a.m. to 4:30 p.m.
- Friendly, knowledgeable staff
- Online monthly newsletter
- Diverse educational opportunities
- Informational Summitu annually
- Networking opportunities
- Annual updates on industry issues
- Fun Member Mixers
- Room Rental: conference with your clients, office meetings, classes
- Professional Standards Services
- REALTOR® Store with products to help you conduct business
- Legal Updates from Association legal counsel
- Political Advocacy
- zipForm<sup>®</sup>, zipForm<sup>®</sup> Mobile Web Edition, zipLogix Digital Ink<sup>®</sup>
- Weekly email updates via the eScoop
- Display Key and iBox problem solving by knowledgeable staff
- Committee involvement and leadership opportunities
- Membership includes membership in your state and national association of REALTORS®

And so much more.....

SCCAR Staff is on hand and ready to answer any questions you may have about your membership and your benefits, call us any-time, 831-464-2000!

# Keep Your Benefits Active & Avoid Late Fees!

Submit your 2012 Dues payment by January 18, 2012 to avoid a \$55 late fee and inactivation of your membership and key. After February 27, 2012 an additional C.A.R. late fee will apply.

If you have not received your Dues invoice, please call us at 831-464-2000. Remember, we can take your payment over the phone!

For those members who paid by December 31<sup>st</sup>, the drawing for our SCCAR Dues Billing Contest will be held Friday, Jan. 6<sup>th</sup>!

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# You Are Cordially Invited to the Santa Cruz County Association of REALTORS®

101st Installation of the 2012 Officers and Directors



#### Honoring 2012 President Barbara Palmer and the incoming Officers and Directors

Friday, January 13, 2012 from 11 am - 2:30 pm at the Cocoanut Grove Sunroom, 400 Beach Street Lunch will be served.

Please RSVP by Friday, January 6, 2012

SCCAR 2012 INSTALLATION & AWARDS LUNCHEON RSVP FORM
RSVP to SCCAR 2525 Main St. Soquel, CA 95073 Phone 831-464-2000 Fax 831-464-2881 or online at www.mysccar.org

Name	_Office						
Billing address	City	_ Zip					
Number of tickets at \$40 per person: Total amoun	t due: \$ Phone:						
CheckVisaMastercardAmexDiscover Acct	#:	Exp. date:					
Please choose an entrée : By Land & Sea (chicken & salmon) Petite Cut Prime Rib Vegetarian *No refunds will be given if you cancel on or after January 7th.							

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#### January 2012

# It Was Definitely Happening at 'A Holiday Happening'!









SCCAR Members delighted in holiday cheer at the SCCAR 'Holiday Happening' held on December 7<sup>th</sup>. Tasty treats, beverages, and networking provided a wonderful atmosphere for members to enjoy camaraderie and the season!

With your generosity the Second Harvest Food barrel was filled to capacity, helping to feed those in need this season. It was a pleasure for us to ring in the season with our very valued SCCAR Members. We hope you had a terrific time and enjoy a blissful season.















#### Register Online by visiting our Education Calendar or our Online Registration Center

#### Matrix Essentials

Friday, January 6, 10:30 - 12 pm Cost: Free to SCCAR Members with pre-registration Instructor(s): MLS Listings, Inc.

This 90 minute course will provide you with the basic skill requirements for the Matrix search application. Upon completion you will have learned: Application Navigation, Inputting Search Queries, Map Search, Reporting & Results Options, Driving Directions, Adding Search Fields, Saving Searches, Emailing & Printing

#### Matrix Advanced

Friday, January 6, 1 - 2:30 pm Cost: Free to SCCAR Members with pre-registration Instructor(s): MLS Listings, Inc.

This course will provide you with advanced skill levels for the Matrix search application. Upon completion you will have learned: Sorting Results, Statistics from Results, CMA's from Results, Area Statistics, Customizing Results, Building Hotsheets, Emailing Results, Auto Emailing.

#### Tax Strategies for Real Estate Professionals

Wednesday, January 18, 9:30 - 11:30 am Cost: \$5 SCCAR Member Early Bird (1/5/12). \$10 SCCAR Member after 1/5/12, \$20 Non-member anytime Instructor(s): Kelly Clark of Bradford and Company, Inc.

GIVE YOURSELF A RAISE...attend Tax Strategies for Real Estate Professionals. Many of us assume our accountants take care of our taxes... but forget that WE are the ones giving them the numbers and records they are using to prepare our tax return. This seminar will help identify between \$2,500 and \$27,000 in NEW deductions that can be used right away to pocket thousands in tax savings. These deductions are based in tax LAW, but presented in simple English that all of us can easily understand.

#### Matrix Easy 1 (hands on)

Friday, January 20, 10 am - 12 pm Cost: Free to SCCAR members with RSVP Instructor(s): MLS Listings, Inc. This 90 minute workshop course will provide you with the basic skill requirements for Matrix Search & Report. You will learn a select group of fundamental Matrix functions in this hands-on workshop. Please bring your laptop. Very Limited seating!

#### Matrix Easy 2 (hands on)

Friday, January 20, 1 - 2:30 pm Cost: Free to SCCAR members Instructor(s): MLS Listings, Inc.

This 90 minute workshop course will provide you with the basic skill requirements for Matrix Search & Report. You will learn a select group of fundamental Matrix functions in this hands-on workshop. Please bring your laptop. Course Prerequisite: Matrix Easy 1 (Jan. 20th) Very Limited seating!

#### **Realist MLS Training**

Tuesday, January 31, 1:00-2:30pm Cost: FREE to SCCAR Members with RSVP Instructor(s): MLSListings, Inc.

This 90 minute course will provide you with the basic skill requirements for the Realist application. Upon completion you will have learned: Application Navigation; Foreclosure Reports; Map Labeling; Map Search; Saving Searches; Inputting Search Queries; Reporting & Results Options; Data Exporting.

Unless otherwise stated, all Education & Professional Development offerings are held at the SCCAR offices at 2525 Main Street, Soquel, CA 95073



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#### January 2012



Dennis Spencer 2012 Affiliate Chair Win Home Inspection SC/Wat 831- 621-6303 dspencer@wini.com



The New Year is upon us and it's time to start laying out goals. Some might say it's time to make your New Year's resolution, I say it's time to be more resolute! Our economy is still struggling a bit and the best way for each of us to flourish is to do our jobs better, smarter, and more diligently. In other words....be more resolute! So, if you're searching for a New Year's resolution feel free to borrow mine and we'll be resolute together.

Join fellow SCCAR members on Friday. January 13, from 11:20 to 2:30 at the Cocoanut Grove for the installation of Barbara Palmer our 2012 SCCAR President along with the new directors and officers. Barbara will be following in the footsteps of past President Extraordinaire Candace Bradfield. Barbara brings a wealth of knowledge and experience from her 30 plus years in the real estate field and we are all excited to follow her leadership.

The Affiliate committee was busy in December! Through the Association and its members we organized a holiday gift giving for

some less fortunate families. The gifts were donated by SCCAR Members and provided to the Salvation Army to be distributed to local families in need. Norma I. Milete and Dimitri Timm deserve special mention for their efforts to make this happen!

The Affiliate Committee also made a few changes that will make it easier for all Affiliates to attend the meetings, join the committee, and participate in our activities. We've moved our meetings to the second Thursday of the month immediately after the Real Estate Tour & Marketing Meeting, which means it will be very convenient to attend our meetings! One of our goals is to increase our presence and participation in the coming year and foster opportunities for the Affiliates and Real Estate Professionals to interact. We would appreciate your ideas, suggestions, and involvement. In the future, the Affiliate articles in the SCCAR Inside Real Estate Newsletter will feature an SCCAR Affiliate. We will pick an Affiliate member at random, interview the person, and then write a description of the service they provide! It could be you......!



# SCCAR - January 2012

Sun	Mon	TUE	WED	Тни	Fri	SAT
1 Happy New Year!	2 SCCAR Closed	3	4 ATOSC Meeting 3:30 pm <u>Precision Ultrasound</u> 8 am	5	6 LGR Committee 8:30 am LCRC 10 am * <u>Matrix Training</u>	7
8	9 Events Meeting 11 am	10 SCAORHF Meeting 2:30 pm	11	12 Affiliate Meeting 9 am	13 Board of Directors 8:30 am <u>101st Installation</u> 11 am - 2:30 pm	14
15	SCCAR Closed	17 C.A.R. Meetings	18 <u>Tax Strategies Course</u> 9:30—11:30 am C.A.R. Meetings	19 C.A.R. Meetings	20 <u>Matrix EZ1 &amp; EZ 2</u> 10:30 am & 1 pm <i>C.A.R. Meetings</i>	21
22	23 Education Meeting 9:30 am	24	25	26	27 New Member Orientation 8:30 am—4:30 pm	28
29	30 Budget & Finance 8:30 am	31 <u>Realist</u> 1—2:30 pm				

#### SCHEDULE OF EVENTS

- Fri, Jan. 6: Matrix Essentials 10:30 am & Matrix Advanced, 1:30 pm. <u>Register</u> today.
- Fri., Jan 13: 101st Installation 11 am—2:30pm. Cocoanut Grove, Sunroom. <u>RSVP</u> by 1/6/12.
- Wed. Jan. 18: Tax Strategies for Real Estate Professionals. Identify between \$2,500 and \$27,000 in NEW deductions. <u>Register</u> today. Fri. Jan., 20: Matrix EZ1 &
- EZ2 hands on training. Limit 6. <u>Register</u> today.



### ADVERTISE IN 2012!

Keep Your Business in Front of Your Target Market

Reach over 1,100 real estate professionals for as low as \$36 a month!



**SCCAR Welcomes the Following** 

**New Members!** 

**REALTOR®** Members – December 2011

Mary Anne O'Laughlin David Lyng Real Estate

Thomas Melville Bailey Properties, Inc.



Contact Andrea today to reserve your space at 831-464-2000 or andrea@mysccar.org

