



# CREW View

## PROGRAM REVIEW:

## Robert Bruss: Recent Trends in California Real Estate Law

February 2004

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- Program Review
- Member Profile
- February Luncheon
- Mayors' Breakfast Recap
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### Mission Statement

CREW-SF promotes successful and influential women in the commercial real estate industry by providing a forum for business development and professional advancement.

Attorney and writer of several newsletters and columns, including the syndicated "Real Estate Mailbag", Bob Bruss entertained CREW members and guests at the monthly luncheon held at the Palace Hotel on Wednesday, January 14<sup>th</sup>. Though the hour was too short to address all the important changes and developments of 2003 California Real Estate Law, he was able to highlight some of the key issues that were of particular interest to the audience.

*Roberts v. Lomanto* is a case of a breach of fiduciary responsibility. An agent did not disclose a profit she was to make at the expense of the principal. Originally, the Sacramento Superior Court granted a summary judgment for the broker that was subsequently reversed by the California State Court of Appeals. Bruss commented that it was "hard to understand how the trial court's decision could be so wrong when the evidence clearly showed she breached her fiduciary duty to seller Roberts by receiving an illegal secret profit at the expense of her principal." The agent bought her listed property and breached her fiduciary duty to the seller by failing to disclose a "secret profit" \$1.2 million contract assignment fee.



Had she disclosed this profit and naturally, shared with the seller, she would not have ended up foregoing the \$1.2 million fee, her \$110,000 commission, punitive damages and of course, her reputation.

The February case, *Jimenez v. Superior Court*, ruled that the manufacturers of components in mass-built homes can be

held liable for damages to other portions of the homes. In this instance, faulty windows casings caused structural damage.

Two victorious cases involving Fidelity National Title Insurances were noted: *Magna Enterprises Inc. vs. Fidelity National Title Insurance (March 2003)* and *Wolschlager vs. Fidelity National Title Insurance (December 2003)*. In Magna, the case involved a property where access to it was provided by an easement that was not easily accessible! The title insurance for access to the property accounted for access, not necessarily easy access. The court upheld that. In Wolschlager, a property was found to have a \$27,000 lien against it after the purchase as it was not discovered or noted in the preliminary title

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## Program Review, *continued*

report. Although the plaintiff was correct in that Fidelity had made an error, the case should have gone to arbitration first as stated in the title insurance policy provision even though no mention of it is stated in the preliminary title report itself. Thus, the court found for Fidelity Title.

As a cautionary tale to landlords, residential and commercial, he discussed *Madhani v. Cooper*. The court found that a landlord may be held liable for a dangerous tenant's assault if it is foreseeable. In *Madhani*, a tenant had made numerous threats to another tenant who had reported it to the landlord. The landlord did not act on this information. Consequently, when the first tenant assaulted the other, the tenant sued the landlord.



Bob Bruss and Judy Davidoff

In *Syufy Enterprises vs. City of Oakland* (April 2003), a subtenant lost its right to retain possession after the tenant went bankrupt and its master lease was thrown out in Bankruptcy court. The lesson here is to do your homework, evaluate the financial soundness of your sub-landlord or risk losing your sub-tenancy.

Time constraints prevented him from listing all of the important cases of 2003, Bruss emphasized these two key points to the audience: disclose, disclose, disclose and "what you don't know can hurt you". The number of cases listed in the multi-page handout certainly underscored this message!



Bob Bruss (guest speaker), Rosanna Russell (programs committee), Niels Povlsen (Fidelity Title) and Gyda Kelly (CREW member).

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## CREW MEMBER PROFILE

# Elizabeth Champagne

Senior Managing Director, CB Richard Ellis

### Job Description

Elizabeth manages CB Richard Ellis' five Pacific Northwest commercial appraisal offices, in San Francisco, San Jose, Oakland, Sacramento and Seattle. Business development is the main focus of her job. In addition to bringing in new clients and managing existing relationships, Elizabeth is responsible for supervising the administrative functions in her offices, reviewing and approving appraisal reports, and working through any outstanding issues with her 26-person appraisal team.

Business has been very good for Elizabeth's group; in 2003 they posted a record-breaking year in terms of revenue. Strong refinancing and transaction activity should make for continued growth in 2004.

### Career & Education Background

Elizabeth's appraisal career began, interestingly, with a background in agriculture. After earning a Bachelor of Science degree in horticulture, she worked with Department of Agriculture, reviewing residential loans for rural farmers. Her next position, with the



Department of Housing and Urban Development (HUD), took her back to her hometown of Boston, where she worked on the disposal of distressed inner city properties. Elizabeth became more focused on appraisal work in her next job, with the Fish & Wildlife Service, handling land acquisitions for the Wildlife Refuge System. Other career highlights include a position as the Assessor for the City of Newton and work as an acquisitions analyst for a division of Berkshire Mortgage.

Coming full-circle back to her appraisal roots, Elizabeth moved into management roles at several full service real estate

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**Member Profile, continued**

firms. Elizabeth earned her MAI designation in 1992, a significant achievement in an arena that has traditionally been dominated by men. Her memories of the long exam process are especially vivid, as she was 8½ months pregnant when she sat for the tests!

In 1994, she moved to California and was immediately offered a position running the commercial arm of a statewide appraisal firm. In 1997, Elizabeth joined CB Richard Ellis in her current position as Senior Managing Director of the company's Pacific Northwest appraisal division.

***CREW Membership***

Elizabeth joined CREW in December 2003. A former NEWIRE (New England Women in Real Estate) member, she recognized that CREW network could offer a great forum for new business development. In addition, she feels it is important to give something back to younger women who are looking for career guidance and advice from someone who is familiar with the issues facing women in commercial real estate.

CB Richard Ellis has also been very supportive of CREW membership, recognizing that employee participation in such organizations will benefit their business.

***Personal Information***

Elizabeth and her husband Tim have two children, aged 11 and 15. When she has spare time, she enjoys playing tennis.

**FEBRUARY LUNCHEON**

**A Special Date**

CREW San Francisco is partnering with BOMA and NAIOP to present the February Luncheon featuring, **Dr. Ken Rosen**, a noted economist from the Bay Area. He will provide the audience with his economic outlook and its effects on real estate in the Bay Area on Thursday, February 26 at 11:30 a.m. at the Palace Hotel. Please note the special price (for this event only) of \$45 for members (in advance) and \$65 non-members (and members at the door). For the reserved price, please register by Friday February 20. Contact Mary Anne at 925-947-6662 or register online at [www.crewsf.org](http://www.crewsf.org).





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## Annual Mayors' Breakfast Recap

Every year in January, the mayors of Oakland and San Francisco, along with some key speakers, hold a breakfast (alternating between each city) addressing members of the real estate community. This year, the event was held on Thursday January 29 at the Oakland Convention Center. Below is a snapshot of each person's comments:

**Richard Weiss**, City National Asset Management: gave the economic outlook and felt that the U.S. economy is in a recovery mode with low digit growth at about 4%. In the financial markets, domestic economic growth continues to be strong as interest rates continue to be low.

**Daniel Cressman**: Executive Vice President Managing Director with Grubb & Ellis. The real estate market will continue repositioning itself with negotiations driving the deals.

**Ken Rosen**: Economist and Chairman of the Fisher Center for Real Estate and Urban Economics, U.C. Berkeley: Expects moderate growth in 2004; no boom in the market as political risks are still at stake. Job growth is simply not taking place in California. Job creation has not occurred in Northern California. The high housing prices make it difficult for employers to attract employees to this area. Our housing costs are 2 ½ times the entire country. Companies are trying to do more with fewer employees and are outsourcing jobs overseas India, China and Russia to

name few. He estimates that there is a 1.1% growth rate to add employees and unemployment will decrease quite slowly. Tech investments will not boom as we have seen in the past although defense will due to the increased spending in this sector. Predicts a rise in the inflation rate as interest rates will rise by 2005.

**Jerry Brown**, Mayor of Oakland: Referred to Oakland as the Elegant Density and discussed the restoration efforts in the neighborhoods and of the Fox Theatre.

**Gavin Newsom**, Mayor of San Francisco: Unemployment rate in 2002 was 7.3 %. As of December 2003, it was down to 5.3%. He sees growth in emerging industries such as biotechnology. Currently, he is working on a Workforce Development Strategy that will target emerging industries and ensure that the workforce is trained and employable in these areas.

Some positives in the market: the hotel tax revenue has been increasing in the past six months. Hotel occupancy has increased from 65% in 2002 to 67% in 2003. Property tax revenues have gone up by 2% and business tax is increasing as well.

He is putting together a Marketing Plan for Business Revitalization and commitment to the homelessness project.

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## Plug into the CREW Network through committee service!

Now is the time to register your interest with CREW Network to participate on a committee for the 2004 membership year. CREW Network committees provide a great opportunity for you to become more involved at the national level, network with other members, learn more about the operations of CREW Network and demonstrate your leadership ability. Participation for the following committees is open to all members:

**Awards Committee** — Promotes the annual CREW Network Awards Program, encourages and judges submissions

**Editorial Advisory Committee** — Provides editorial guidance for the monthly electronic newsletter, CREW netWorks.

**Program Committee** — Identifies and evaluates proposals for programs and speakers at conferences and annual Convention

Committee service begins in January and will run through December 31, 2004. Contact CREW Network today by emailing to [crewnetwork@crewnetwork.org](mailto:crewnetwork@crewnetwork.org) if you would like to be considered for any of the committees listed above.



## Great Opportunity!

Realcomm 2004 will be held at the San Francisco Marriott, June 3<sup>rd</sup> and 4<sup>th</sup> – just a few months away.

The organizers are actively seeking proposals for the educational program. Participants will speak on topics that focus on technology and business solutions for commercial real estate. To be considered a speaker or a panelist on a program selection committee, submit a proposal online on their website, [www.realcomm.com](http://www.realcomm.com) and clicking on the Speaker link. Proposals are due **March 31, 2004**. Those selected will be contacted by phone or email.

## Use the Job Bank

The Job Bank Chair invites all members to submit job announcements to the CREW Job Bank. Members can post a job on the CREW website at the Job Bank link, or email, fax or telephone your job announcement to Mary Catherine Wiederhold, Esq. at:

Senior Living Valuation Services  
1458 Sutter Street  
San Francisco, CA 94127  
Email: [mcwiederhold@slvsinc.com](mailto:mcwiederhold@slvsinc.com)  
Phone: (415) 749-1387  
Fax: (415) 749-1487





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## New Members

Please join the Board in welcoming CREW's newest members:

**Bonnie Chui:** Owner and broker of B.C. Realty in Oakland. She can be reached at 510-835-8888 and [bcleader@comcast.net](mailto:bcleader@comcast.net).

**Shannon Dolan:** Commercial tenant representative with Cornish & Carey in San Francisco. She may be reached at 415-445-5105 and [sdolan@ccarey.com](mailto:sdolan@ccarey.com).

**Jennifer Fink:** Attorney at Hanson, Bridgett, Marcus, Vlahos & Rudy in San Francisco. She can be reached at 415-995-5837 and [jfink@hansonbridgett.com](mailto:jfink@hansonbridgett.com).

**Gyda Kelly:** Senior Commercial Escrow Office with First American Title Company in Walnut Creek. She can be reached at 925-927-2195 and [gkelly@firstam.com](mailto:gkelly@firstam.com).

**Courtney Minisce:** Investment Sales with Pacific Union in San Francisco. She specializes in apartment sales. Contact her at 415-345-3054 and [cminisce@pacunion.com](mailto:cminisce@pacunion.com).

**Laura Ratajczak:** Recruiter for Renoir Staffing Services, Inc. in Oakland, focusing on commercial real estate placements. Contact her at 510-836-2220 and [lratajczak@renoirstaffing.com](mailto:lratajczak@renoirstaffing.com).

## "You News"

**Mary Kay** has joined First American Exchange Company as vice president and counsel, where she manages the region's reverse 1031 exchange department.

You News celebrates individual member's achievements such as closing a great deal, expanding a business or announcing a promotion/new job. Please share with us any of your recent endeavors and we will gladly publish it in a forthcoming issue. Submit to Martha Woodard at [martha\\_woodard@yahoo.com](mailto:martha_woodard@yahoo.com).

### Honorary Member

Coming soon...Honorary Member CREW Luncheon in March...2004's honorary member will be State Senator Jackie Speier. Stay tuned for more details in the next CREWView.





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COMMERCIAL REAL ESTATE WOMEN

**Calendar — FEBRUARY 2004**

**10 TUESDAY**  
5:30 p.m. to 7:30 p.m.

**Board Meeting**

Steefel, Levitt & Weiss conference room, One Embarcadero Center, 30<sup>th</sup> Floor. For more information, please contact Judy Davidoff at (415) 788-0900.

**20 FRIDAY**  
8:00 to 9:00 a.m.

**Membership Committee Meeting**

At Newmark Realty Capital, Inc., 595 Market Street, Suite 2700. Contact Terri Slocombe for information at (415) 956-9898.

**23 MONDAY**  
12:00 noon to 1:00 p.m.

**CREW Book Club and Brown Bag Lunch**

The Book Club meets in the offices of Wolfe Commercial, 505 Sansome Street, 14th floor. The book to be discussed is *1000 Days In Venice* by Marlena de Blasi. For additional information, please call or email Jennifer Raike at (415) 835-2305 or [jraike@ortc.com](mailto:jraike@ortc.com) for more information.

**26 THURSDAY**  
11:30 a.m. to 1:00 p.m.

**Monthly Luncheon Program**

*Speaker:* Ken Rosen. At the Sheraton Palace Hotel, San Francisco. Please contact Mary Anne at 925-947-6662 or register online at [www.crewsf.org](http://www.crewsf.org) (for early bird rate, register by Friday, February 20). See the article on page 4 for more details.

