

# The CDRE as a Business Partner to Family Law Attorneys in the Bay Area

ROSE GROUP



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ESTATES  
KELLERWILLIAMS.

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## Abstract

The purpose of this paper is to discuss the CDRE as a business partner to Bay Area family law attorneys and scrutinize the real estate transaction as it relates to divorce. It will attempt to address the unique challenges facing divorce attorneys in the high stakes Bay Area real estate market and pinpoint the conditions under which support is available.

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The sooner you tackle your client's real estate matters, the sooner he or she can begin the process of moving on.

## Background

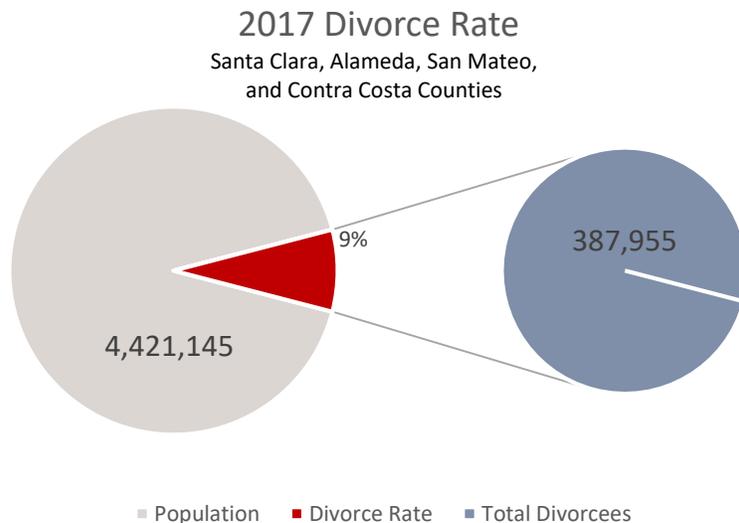
Because law schools typically do not include a detailed real estate component in their curriculums, attorneys handling divorce cases in the Bay Area can unwittingly miss hidden liens and loan modifications in their clients' mortgage contracts. Furthermore, the ready availability of "discount" real estate agents who commit a multitude of sins, like failing to properly prepare homes for sale, mishandling divorcing clients' relationship problems, and/or failing to protect clients from their spouses' attempts to inflict damage on the property or the function of its sale, can cause undue harm to all parties involved in the transaction and result in costly problems for their clients down the road.

## Problem

Imagine, if you will, the case of the perfect client. She listens to your advice, acts on all your recommendations, and is all-in on selling the family home for maximum dollar with minimal fuss.

Unfortunately, her husband handled all the finances, so she doesn't actually know the conditions of her mortgage. What's more, her husband is angry and is doing all he can to sabotage the sale of the home. He's not your client, so you can't talk to him, let alone reason with him. What do you do?

Compounding the problem is the sky-high cost of housing in the Bay Area. Lack of funds can make it difficult for either spouse to move out, and an occupancy dispute can seriously delay your client's access to a down payment on a new home. If this results in a missed mortgage payment, it can result in the reduction of both spouses' FICO scores and can prevent your client from buying a new Bay Area home.



<sup>1</sup> Source:  
[https://factfinder.census.gov/faces/nav/jsf/pages/guided\\_search.xhtml](https://factfinder.census.gov/faces/nav/jsf/pages/guided_search.xhtml)

In much the same way that you're accustomed to relying on experts in the fields of psychology, criminology, and forensic accounting, the CDRE provides the family law community with neutral, third-party advice, testimony and mediation in the field of real estate as it relates specifically to divorce.



## What is a CDRE?

The Certified Divorce Real Estate Expert, or CDRE, is a neutral third-party that helps attorneys on both sides of family law cases navigate the disposition of the most complex and valuable asset involved in a divorce proceeding: the house. She's the person you turn to when you have a complex real estate question. She's the person who sits with your client and his or her soon-to-be ex-spouse to amicably discuss the disposition of real property during a divorce. She is the person who executes the court ordered sale of your client's home.

The CDRE has a fiduciary responsibility to ethically represent both parties in the sale of the home. Her job is to guide clients and law professionals through the home selling process while keeping attorneys up-to-date on the progress of the transaction in case there are issues that need to be addressed in court.

Advice

Mediation

Property  
Valuations

Documentation  
and Discovery

Home Prep and  
Sale

[RealEstateDivorceBlog.com](http://RealEstateDivorceBlog.com)



"Divorce listings are some of the most complex listings Realtors deal with. Issues of contract sabotage, asset waste, title problems, restraining orders...I maneuver through all those problems to effectively and neutrally sell the property and ensure both parties net the highest proceeds in the shortest time possible." – Shannon Rose, CDRE

DRE# 01422955 / DRE# 01526679

## What a CDRE is not

A CDRE is first and foremost a **real estate** professional. She may belong to a local bar association, practice patient mediation with your clients, and employ empathic listening skills, but she is not an attorney, an accountant or a marriage counselor. Her job is to identify and resolve problems within the real estate aspect of your client's divorce and sell the property as quickly as possible for top dollar.

**A CDRE is not a...**

- × ~~Tax advisor~~
- × ~~Legal advisor~~
- × ~~Marriage counselor~~

## The solution

Partnering with a CDRE will help you meet your fiduciary duty to clients with proactive resolution of real estate problems, thorough preparation of the home for sale, and professional listing and sale of the home with a fast turnaround and minimal fuss—ideally ahead of the case going before a judge.

The CDRE will provide you with complimentary title documents, help you ascertain real property valuations, and consult with a Certified Divorce Lender to help your client qualify for a new home.

Enlist a CDRE to help you perform an in-depth discovery of each real estate asset. Your CDRE will sift through the various elements of ownership to uncover and untangle hidden complications such as liens, modifications, and clean energy loans, which will save you time and energy, and ensure your client has the most thorough representation possible during her most trying time.

## The DREI identifies 4 types of Realtors<sup>2</sup>

Discount Realtor

Standard Realtor

Top Realtor

Certified  
Divorce Real  
Estate Expert

## **The CDRE will...**

- Mediate between contentious spouses to arrive at an amicable resolution to the disposition of the home
- Uncover hidden complications like HERO and PACE loans, loan modifications, and lis pendens
- Provide expert advice to attorneys
- Provide expert testimony in court
- Work with a Certified Divorce Lender to help your client qualify for a new home
- Manage short sales and 1031 exchanges
- Determine competitive property values and recommend a listing price
- Provide you with title and other relevant documents
- Prepare the property for sale
- List, market, show, and sell the property

## **Documents the CDRE will provide at no cost**

- Deeds of Trust
- Legal descriptions
- Property profiles
- Chain of Title
- Comparable Market Analysis (CMA)

*The CMA is a simple estimate derived from a comparison of similar property values. It is not suitable for use in court proceedings.*

## **Documents the CDRE will provide for a fee**

- Fair Market Value
- Fair Market Rent Value

*These documents include a thorough property analysis and are suitable for use in court proceedings.*

Request real estate documents at [RealEstateDivorceBlog.com](http://RealEstateDivorceBlog.com)

## The business model

Advice and real estate documents are, for the most part, a complimentary service provided by the CDRE. The CDRE balances this non-income producing aspect of her business by providing expert testimony in court and becoming the active listing agent on divorce properties. The CDRE can be the attorney's real estate agent of choice or the agent appointed by the court.

Advice

Documentation

Expert Testimony

## When should you contact a CDRE?

The moment you take on a new client with an ownership stake in one or more residential properties, contact a CDRE. By involving a partner early in the process, you increase the likelihood of reaching an amicable agreement before the case gets to trial. The benefit to your client is a faster payout and a smoother transition into a new home.

## Do I really need a CDRE?

Any real estate agent can claim to be a qualified divorce real estate specialist; however, as with any specialty, time, experience, and training are all key indicators of future success. In cases of contentious divorce, the stakes are higher, tempers are flaring, and priorities are skewed away from logic, so you'll serve your clients best by consulting a certified expert who is trained to predict and respond to problems before they threaten to derail your divorce case.

When your client's emotions run high, rationality takes a back seat. The CDRE keeps clients focused on capturing the real value of their home.

# Shannon

## Shannon Rose

As a Certified Divorce Real Estate Expert and non-attorney professional member of the Silicon Valley Bar Association, and bar associations in Santa Clara County, Alameda County, and San Mateo County, Shannon Rose is uniquely positioned to consult family law attorneys on the most advantageous disposition of a dissolving couple's home.

Rose earned her CDRE credential through a master course presented by the Divorce Real Estate Institute. The training program included 40 hours of classroom education, observation and assessment of live family court proceedings, and a 12-week learning lab covering topics such as capital gains and repair, fiduciary service in divorce, and issues surrounding the contentious spouse. The intensive curriculum is written and conducted by a team of attorneys, family court judges and specialization experts, ensuring that program participants receive the best real-world specialized training in family court real estate matters.

In addition to managing divorce real estate transactions, Rose is trained in short sales, foreclosures, property valuation, marketing, 1031 exchanges, and investment property analysis, equipping her with the skills to navigate even the most complex of family law cases.

"I know that everyone has unique desires during the home buying and selling process. That's why each person's experience is tailored to suit them. In this market, this is what stands out to people and this is why they want to do business with me." -Shannon Rose, CDRE

Short Sales

Foreclosures

Property  
Valuations

Marketing

1031 Exchanges

Investment  
Property Analysis

### **Appraisals**

Performed by a certified appraiser, this official evaluation is the one required by most lenders before they will issue final approval of a buyer's loan. It includes a physical measurement of the square footage of land and structures and sometimes includes permit and zoning research. An appraisal is not the same as an AVM or CMA.

### **As Is Clauses**

An "as is" clause stipulating that a property will be sold without repairs can, in some cases, create problems during the sale of a house. To some degree, repairs are an inevitable element of a property sale. In lieu of a resolute "as-is" clause in your divorce order, try substituting more flexible verbiage to attract the best offers and minimize the financial stress on your divorcing clients:

*"The property shall be sold with minimum or no repairs, unless required by law, an underwriting guideline, or suggested by the listing agent for the purposes of obtaining a higher offer upon mutual agreement by the parties."*

### **Automated Valuation Model (AVM)**

The automated valuation model, aka Zillow Zestimate et al., is performed by an electronic algorithm. AVMs are based almost entirely on public information and comps. Zestimates and other AVM products do not account for the actual condition of the property, zoning, or any past upgrades not listed on the public record.

### **Buyer Requested Repairs**

Most items can be negotiated through escrow with a credit to the buyer in lieu of actual repairs which releases your client from paying repair bills up front with money they can't afford to spend.

Allowing divorcing clients to believe their home should have no repairs at all can lead to conflicts down the road when a prospective buyer's lender demands repairs as a prerequisite to funding.

## Calculating Equity (Fair Market Value)

Fair Market Value helps to establish your clients' property values and calculate the equity they've built in their homes—but it's only part of the picture. You'll also need to account for mortgage balances, payoff amounts, and any negative amortization, prepayment penalties, deferred principal balances, energy-efficient rehab programs, and personal liens and judgments.

The equity calculation looks like this:  $EQUITY = PROPERTY\ VALUE - TOTAL\ PROPERTY\ EXPENSES$  (mortgage payoffs, HOA dues, outstanding property taxes, income tax liens, outstanding judgments, PACE loans, etc.)

The documents you'll need to have on-hand when calculating equity include:

- Mortgage Payoff
- HOA balance due
- Property tax bill
- Liens and judgments

## Comparable Market Analysis (CMA)

This estimate, provided by a real estate agent, is primarily an assessment based on comparable properties and information found in the Multiple Listing Service (MLS). It may or may not include a cursory visual inspection of the property, but typically does not include measurements, permits or zoning research.

Agents can include in their assessments the invisible neighborhood boundaries that either enhance or detract from a home's desirability. For instance, an agent might adjust the value of a home because it's "in the village" or "on the other side of the street." They will also take into account the proximity of desirable school district boundaries and adjust for homes located in established tracts that were designed by sought-after architects or built by respected builders. There are no line-items on an appraisal for these distinctions, but they do have intrinsic value to buyers.

**EQUITY = PROPERTY VALUE – TOTAL PROPERTY EXPENSES**  
(mortgage payoffs, HOA dues, outstanding property taxes, income tax liens, outstanding judgments, PACE loans, etc.)

## **Debt-to-Income Ratio**

Most loan programs require a 40-50% debt to income ratio. That means that if a person makes \$10,000 per month, their total revolving debt (house payment, credit cards, car payments, student loans, etc.) cannot exceed \$5,000. If a client's expenses are too high, an offset of only \$200 per month can disqualify them from borrowing.

## **Deferred Principal Balance**

This is a type of loan modification in which a balloon payment of deferred principal is due upon the sale of the home. This is an important characteristic to remember when calculating equity, especially in cases where the client is opting to retain the property through a mortgage buyout.

## **Energy Efficient Rehab Programs**

These property improvements are financed through programs such as HERO and PACE, which are loans wrapped up in property tax bills. These loans must be repaid when a home is sold so pulling tax bills is an important element discovery.

## **Lender Required Repairs**

Mainstream loans contain underwriting guidelines that not only require buyers to qualify but require that the house qualifies, too. An operable heat source, a working stove, a filled swimming pool with running pump, and many other health and safety items must be present and functional, or the loan could fall through.

## **Mortgage Balance**

This is the principal balance of your client's loan plus any unpaid interest that has accrued since his or her last payment. Is it not the mortgage payoff.

## **Mortgage Payoff**

The payoff is the total of the mortgage balance plus any fees, penalties and additional interest. The payoff is the bank's down-to-the-penny calculation that reflects every dollar your client needs to pay to satisfy the loan in full.

An interest rate increase of only  $\frac{3}{4}$  to 1% can critically impact a divorcing client's debt-to-income ratio and, ultimately, determine whether or not they'll be able to keep their home.

## **Negative Amortization**

In a negative amortization loan, the homeowner's minimum monthly payments are not sufficient to cover the interest due on the loan. Therefore, the loan balance continues to increase, even when the homeowner remits all payments on time. Further, if the loan is, or ever was, in foreclosure, additional fees will also apply. These fees are typically not reflected in the mortgage balance but will appear on the mortgage payoff document.

## **Personal Liens and Judgments**

Title companies typically demand that all liens be satisfied during a property buy-out or sale. Income tax liens, HOA liens, and personal judgments should all be researched before attempting to calculate equity.

## **Prepayment Penalties**

If pre-payment penalties are stipulated in your client's loan, it will be important to discover whether the penalties are "hard" or "soft." In a soft prepay, the homeowner can pay off the loan from the proceeds of the sale without penalty. However, in the case of a hard prepay, additional—and often significant—penalties will be due upon selling the home.

## **Quitclaim Deed**

To finalize the sale or transfer of property, you must follow through with an official recording of legal ownership by filing a Quitclaim Deed. Neglecting this final step can cause problems for your client down the road.

## **Statutory Repairs**

State and local ordinances require that all buildings must be up to code before they are sold. These are mandatory requirements and can vary by municipality. A qualified building inspector can help determine which statutory repairs apply to your client's house.

## **Valuations**

The Bay Area is home to every conceivable style of home built in a multitude of ecologically diverse regions. A strong CDRE with extensive area experience will provide you with a valuation that takes into account the various nuances that make your client's home unique.

"One 30-day late payment can drop both spouses' FICO scores by 100-150 points, 60-days late can drop scores by 150-200 points." – from [DREI](#)

## Conclusion

By bringing in a CDRE to manage the property transaction in your divorce cases, you'll gain access to qualified support that helps you resolve issues of contract sabotage, asset waste, title problems, restraining orders and more. The CDRE maneuvers through all those problems to effectively and neutrally sell the property and ensure both parties net the highest proceeds in the shortest time possible.

To schedule a complimentary chat and discover more ways Shannon can help you resolve the real estate challenges plaguing your divorce cases, call 650.550.8646.

You're also invited to connect socially. Visit the real estate divorce blog to find social links, get helpful advice, or connect to discuss a case: [realestatedivorceblog.com](http://realestatedivorceblog.com).

I look forward to meeting you and becoming your trusted advisor in family law real estate matters

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## Service Areas

Santa Clara County  
Alameda County  
San Mateo County  
Contra Costa County  
Santa Cruz County

## Awards, designations and memberships

CLHMS (Certified Luxury Home Marketing Specialist)  
SRES (Senior Real Estate Specialist)  
CDPE (Certified Distressed Property Expert)  
CDRE (Certified Divorce Real Estate Expert)  
Silicon Valley Bar Association  
Santa Clara County Bar Association  
Alameda County Bar Association  
San Mateo County Bar Association

## About Rose Group

Shannon Rose is the principal and operating leader for Rose Group in Los Gatos, California. Rose Group, with KW Bay Area Estates, is a trusted real estate team focused on providing a smooth transactional experience to home buyers and sellers throughout the Bay Area and across the U.S. Comprised of exceptional agents and a dynamic support staff, Rose Group is equipped to manage all transaction types including short sales, foreclosures, and 1031 exchanges, as well as provide property valuations, investment property analysis, and expert marketing to their valued clients.

## References

<sup>1</sup> Source: U.S. Census  
<https://www.census.gov/quickfacts/fact/table/US/POP815217#POP815217>

<sup>2</sup> Source: Divorce Real Estate Institute  
<https://shannonrosecdre.files.wordpress.com/2019/04/four-types-of-realtors.pdf>



# Reach for a partner

Reach for a partner who can skillfully—and neutrally—navigate the real estate aspect of a dissolving relationship, aligning the focus of both parties in service to a larger picture: selling the home for the highest price in the shortest period of time.



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**CLHMS • SRES • CDPE • CDRE**

Bar Association Memberships:  
Silicon Valley • Santa Clara County  
Alameda County • San Mateo County



Shannon Rose is the principal and operating leader for Rose Group in Los Gatos, California. With Keller Williams Realty, Rose Group is comprised of licensed Realtors® and a dynamic support staff who, since 2004, has focused on providing trusted, expert representation to buyers and sellers in the Silicon Valley Real Estate market.