OPENING REMARKS

“Traffic congestion is a symptom of success, not decline. I know the L.A. economy is doing well if I can’t get anywhere quickly.”

Beacon Economics’ Christopher Thornberg on one of the positive economic signs he sees in Los Angeles. (See page 6.)

“Incredible honor dining w/Pres-elect @realDonaldTrump last night. He truly wants to advance #healthcare for all.”

Billionaire investor and wealthiest Angelino Patrick Soon-Shiong tweet about his dinner Nov. 19 with President-elect Donald Trump.

“We have this giant new tax. It’s the piling-on effect of all these taxes and regulations that is so concerning.”

TOM SCOTT of the National Federation of Independent Businesses on statewide Proposition 65’s impact on vaping businesses. (See page 1.)

“I think people want to be entertained and clients want to see that you have enough style.”

Interior designer Jeffrey Alan Marks on flaunting his sartorial flair. (See page 55.)

A LOOK AHEAD

REAL ESTATE: State ruling puts brokerages on notice in regards to disclosure.

By Hayley Fox Staff Reporter

California real estate companies might need to start taking extra care when operating as agents for both the buyer and seller of a property after a state Supreme Court ruling last week.

In a closely watched case involving a luxury Malibu property sale in which there were discrepancies in square footage calculations, the high court ruled that real estate agents from a single brokerage firm who are working both sides of a residential transaction have an equal disclosure responsibility to the buyer.

The ruling sets a precedent that will likely prompt brokerages to spend time and resources on better educating and training agents on their fiduciary responsibilities, said Dan Schechter, a professor at Loyola Law School with expertise in real estate finance and law.

“I’m sure that dual agents are going to be erring on the side of disclosure from now on,” he said.

The current dual agency disclosure statute states what agents can’t share — such as a seller’s willingness to come down on price — but it doesn’t clearly explain what agents should communicate, said Schechter.

A property is common, and most agreements have built-in disclaimers that advise buyers to obtain their own measurement, the recent case will likely spur more stringent carve-outs that clearly put that responsibility on the buyer, Schechter said.

Although the ruling deals specifically with residential sales, it might have similar implications in the commercial market, he said.

“The Supreme Court decision deals with that narrow situation when you have the same firm and yet different sales agents,” said Eric Sussman, professor at UCLA’s Zirman Center for Real Estate. “In that case, because there’s the same parent brokerage firm representing both sides, the fiduciary duties are heightened and increase.”

In the Malibu case, Hong Kong resident Hiroshi Horikike employed a Coldwell Banker Residential Brokerage Co. agent to help him purchase the home with an ocean view in 2007 for almost $12.3 million in cash. The seller of the house also used a Coldwell agent, making it a dual agency deal, which is legal in California but not in all states.

After the sale was complete, Horikike discovered the square footage of living space was less than 9,500 square feet, not the 15,000 square feet that was advertised. He sued Coldwell on multiple grounds, including breach of fiduciary duty.

Upholding an appeals court ruling, but reversing a lower court’s decision, the court sent the Horikike case back to trial court to determine possible liability and damages.

Schechter said dual agencies have many advantages, such as collecting double commissions and being able to streamline the purchase process.

“As long as unfair advantage isn’t taken by one side or another,” Schechter said. “a dual
Although disputes over the square footage of a property can be stressful, the Supreme Court said it was important to ensure fair and accurate measurement. "Representing both parties in a transaction is crucial to maintaining trust and ensuring a smooth process," explained the court. "Agency can be a very good thing."