

REAL ESTATE BULLETIN

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RULES AND REGULATIONS ON SIGN DISPLAY ADOPTED

Size and Location of Signs and Licenses

Effective January 4, 1951, the Real Estate Commissioner adopted new rules and regulations setting forth in plain language the responsibility of brokers in respect to maintaining a proper sign. **In the future, the lettering on the signs required by the law must be at least one-half inch in height.** The new rules specify where signs shall be located under various conditions.

The Real Estate Law has always required that the broker shall *"erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed real estate broker and his name shall be clearly shown thereon."* The law gives the commissioner power to rule on the size and location of the sign. In the past, because of lack of specific interpretation, considerable confusion and misunderstanding has existed. It is believed the new rules and regulations will enable brokers to understand readily just what is required, in respect to maintaining signs.

These specific rules and regulations should result in fair and uniform enforcement of sign and license requirements.

Requiring a minimum size of lettering on signs is not original. A number of other states are also specific in this respect. For instance, Alabama requires four-inch minimum lettering; Georgia and Nevada, three-inch letters, and Pennsylvania, 1½-inch letters. Many states, including California, require a sign, regardless of zoning restrictions or location of an office in a residential area. Others require that signs be displayed in the main lobby in cases where the broker is operating in an office building, hotel or an apartment building.

Most Brokers Meet Requirements

The new rules and regulations regarding signs will mean no changes as far as the average active broker licensee is concerned. **It is the licensee who is operating out of his home, or out of an apartment, or is operating part-time,**

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Offices Checked

The commissioner has instructed his deputies to concentrate on checking real estate and business opportunity broker offices where violations might be indicated. A check of all broker offices in the State eventually is planned.

In this regard, it is to be noted that the Real Estate Law does not require that a licensee spend any specified amount of time at his place of business or transact any specified amount of business. Neither does it require that his office be at any special location.

The Real Estate Law does require, however, that every broker shall have and maintain a definite place of business which shall serve as his office for the transaction of business; that a license shall be displayed where personal consultations with his clients are held; and that a sign shall be erected in a conspicuous place showing his name and indicating that he is a licensed real estate or business opportunity broker.

Elsewhere in this issue you will find new clarified rules and regulations regarding size of signs that shall be maintained. Suggest you read carefully.

NOTICE

The State Personnel Board will give civil service examinations for Property Appraiser and Property Inspector and Appraiser, Department of Veterans Affairs. Final filing date is February 3d. Applications should be filed with the State Personnel Board, 1015 L Street, Sacramento, before that date.

The salary runs from \$268 to \$325 a month for the position of property inspector and appraiser, and \$325 to \$395 for the position of property appraiser.

Listing Forms

It is a poor practice to try to change an "exclusive listing form" to an "open listing" merely by striking out or adding a word here and there. Writing a clearly understandable listing contract is difficult at best without such complications.

A case was recently called to the commissioner's attention in which the words "open listing" were written in at the top of an exclusive listing form. Some of the printed words on the form were crossed out, and the listing was to run "until sold." As a result the owner was afraid to deal with other brokers because just what he had agreed to by signing the form was not clear.

Apparently the broker who altered this form failed in his duty of giving his client the best possible service. Certainly such actions do not help maintain the confidence of the public in real estate brokers.

Action Upon Dissolution Of a Partnership

When a broker partnership is dissolved, the Division of Real Estate must be notified immediately, so that the partnership license can be canceled, and individual licenses issued if necessary. This is extremely important from the standpoint of the individuals concerned because, upon dissolution of the partnership, they are not legally licensed unless they have, or obtain, licenses as individual brokers.

If the dissolving partnership has employed salesmen, it is important that the division be notified of the disposition of the salesman licenses. Upon dissolution of the partnership, the licenses of the salesmen employed by that firm will be canceled, unless arrangements are made to transfer them to the employ of some licensed broker.

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LICENSES SUSPENDED OR REVOKED IN
NOVEMBER AND DECEMBER

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to file a petition for writ of mandate. Generally, this must be done within 30 days after the effective date of the decision.

Although a number of hearings are held on denials of licenses where the applicant's good reputation is concerned, the Real Estate Commissioner does not feel that any public purpose would be served by the publication of the names of those applicants to whom the privilege of licensing is denied.

LICENSES REVOKED DURING NOVEMBER AND DECEMBER, 1950

Name	Address	Effective date and term	Violation
Franks, J. E. Real Estate Broker	715 Kennebeck Ct., San Diego	11/15/50	Secs. 10177 (f) & 10177.5
Robertson, John Logan Real Estate Broker, Business Opportunity Broker	303-B E. Elmwood Ave., Burbank	11/15/50	Secs. 10177 (b), (f); 10302 (b) & 10302 (e)
Garrett, Don Lawrence Real Estate Salesman	501 S. 18th St., Richmond	12/15/50	Secs. 10176 (i) & 10177 (f)
Colson, John Real Estate Broker	521 43d St., Richmond	12/18/50	Secs. 10176 (a), (b), (e) & 10177 (f)
Crabtree, Ralph Ernest Real Estate Broker	307 D St., San Bernardino	12/20/50	Sec. 10177 (b) & (f)
Schapiro, Jack Real Estate Broker	8505 W. Pico Blvd., Los Angeles	12/20/50	Sec. 10177 (b) & (f)

LICENSES SUSPENDED DURING NOVEMBER AND DECEMBER, 1950

Name	Address	Effective date	Violation
McGrath, Ralph Thomas Real Estate Salesman	236 Center St., San Rafael	11/15/50 90 days	Sec. 10176 (a), (u) & (i)
Elder, Henry Wallace Real Estate Broker	932 Clinton Ave., Fresno	11/15/50 90 days	Sec. 10176 (a) & (i)
Walton, Thomas Paul Real Estate Broker	4808 S. Central Ave., Los Angeles	12/20/50 30 days	Sec. 10177 (a) & (f)

To Maintain an
"Inactive License"

If for any reason you do not want to remain "active" in the real estate business—this is what you can do in respect to your license.

You can turn in your license and request that it be placed on an "inactive" basis (no fee required). By doing this you will not lose your right to obtain your license again when you want to re-engage in the business.

You may continue to maintain an inactive status by paying the renewal fee each year and requesting at the same time that the license be kept inactive.

Licenses Issued

● In the first five months of the 1950-51 license year (July through November 30), the Division of Real Estate issued a total of 87,572 licenses of all types. This represents an approximate 3 percent increase over the 85,210 issued during the same five months of 1949. Real estate broker licenses issued are down about 1,100 from last year, and the increase in total licenses for the year is attributable to a large number of new real estate salesmen.

New Subdivision Filing Forms

New forms for making subdivision filings with the Division of Real Estate have been printed and are available at all offices of the division.

The forms were revised in the interests of clarity and conformity with present laws, rules and policies concerning subdivisions. In doing this, the interests of the subdividers as well as of the public were considered, and much "red tape" was eliminated. The requirements have been listed more clearly, and unnecessary questions, particularly those involving considerable expense on the part of the subdivider, have been left out.

Two forms are now available to meet varying circumstances and to comply more closely with the "intent" of the law.

The new "Combined Notice of Intention and Questionnaire" replaces the old questionnaire and will normally be used. In an exceptional case where it appears that a subdivision as defined by the law is technically cre-

ated, but where no purpose would be served by the issuance of a public report, the new "Notice of Intention" form may be submitted. The commissioner will then determine whether the filing of a complete questionnaire is required.

Old forms of the Subdivision Questionnaire should be destroyed and all filings of subdivisions should be made on the new forms which are available at all the division's offices. No filing using the old form will be accepted after April 1, 1951.

Termite Problem in Contracts of Sale

The division has received many complaints against licensees in which much of the trouble was caused by the termite problem. The problem is serious because brokers have a duty to protect their clients. In addition, no broker wishes to see a deal fall through because of a dispute regarding termite work.

Some of the trouble is due to misunderstandings about pest control. For instance, the division is advised by the termite control industry that it is impossible to give a "clearance" because this definition is so general and all-inclusive that it becomes an impossible stipulation upon which to base contractual relations. If the transaction includes terms which could be shown impossible of fulfillment, the transaction could fall through if strict adherence to the terms is demanded.

It appears the trouble lies in trying to draw a contract regarding termite work before the extent and type of work required is known. The intent of an agreement should be clear, and an indefinite provision may sometimes be an excuse for a withdrawal from an agreement.

It has been suggested that much trouble would be avoided if an inspection report is obtained in advance of a sale. Buyer and seller can then determine who shall pay for the work called for in the report and it will be easier to draw up an enforceable agreement.

Berkeley Clause

A clause has been worked out by the Berkeley Real Estate Board through a committee of representatives from the real estate business, banks, appraisers, and pest control operators as follows:

"Property to be examined by a licensed pest control inspector at the expense of the *buyer*. Any work to repair damage from infestation of wood destroying organisms or to correct conditions that caused infestation, to be done at the expense of the *seller*. Funds for such work to be held in escrow and disbursed upon clearance by the inspector."

This agreement does have the disadvantage of making the pest control operator differentiate between corrective and preventive work, but we have been told the use of the clause has been found to be of great value in actual practice by many real estate businesses.

The Berkeley clause may not be perfect but it is at least an attempt to solve this controversial subject and we understand it is working satisfactorily—at least complaints there are at a minimum.

● From July, 1950, through November, 8,378 persons requested their licenses be made "inactive." This represented almost 10 percent of the total number of licenses issued. Of those canceling, 898 have since reinstated their licenses.

Precautions in Hiring Salesman Employees

The question is sometimes asked the commissioner, "What guide should be used by a real estate broker in hiring a salesman to work for him?" There is very little in the Real Estate Law which has any bearing on this subject, but the experience shown by cases brought to the attention of the Division of Real Estate indicates some general principles.

For example, a broker should not endorse the application of an applicant for a salesman license without checking every question on the application to see that it has been answered by the applicant. There are many cases in the files showing that salesman applicants have not answered the question relative to their criminal record before their broker signed the application, and a check by the division showed that there was a criminal record which warranted denial of the application for license. The broker was then in the position of having certified as to the character of the applicant without having made a proper check or knowing what he was certifying to.

It is good practice for a broker or a salesman to have a definite understanding, preferably in writing, of the

Original Applications

An applicant for an original license can expedite its issuance by filing his application in person at any of the offices of the Division of Real Estate. This way his fingerprints may be taken at the time the application is filed.

This procedure will permit an earlier processing of the fingerprints and will usually speed the issuance of his license. **No license is issued until the applicant's fingerprints have been checked and cleared.**

basis on which the salesman is employed and is to be compensated for his work. The understanding should be specific as to the amount of money to be paid for listings, splitting with other salesmen in the organization, the disposition of listings if the salesman leaves the broker's employ, and so forth. It is also advisable to have an understanding as to whether or not a salesman may speculate or buy on his own while an employee of the broker.

Naturally, personal habits of a prospective employee, such as neatness in appearance and personality traits, are always important in the selling field.

Finally, a broker should not hire a salesman carelessly because as far as those dealing with the broker's salesman are concerned, the acts, conduct, and representations of the salesman are those of the broker.

The Real Estate Law and Rules and Regulations

Comments and inquiries made by real estate brokers and salesmen indicate that many of them do not have, or are not familiar with, the Real Estate Law and the Commissioner's Rules and Regulations.

It should be noted that neither the Real Estate Law nor the Commissioner's Rules and Regulations read separately will give complete knowledge of a licensee's obligations under the law. **When the commissioner is-**

sues rules and regulations, these rules have the force and effect of the law itself.

Every broker and every salesman is urged to be familiar with and to keep up-to-date copies of the Real Estate Law and the rules and regulations available for ready reference. Such copies can be obtained from any office of the division. The Real Estate Law costs 25 cents and the Commissioner's Rules and Regulations are free.

Real Estate Books

The commissioner wishes to acknowledge real estate reference books, some of which are newly published and written by men long identified with California real estate.

- Appraisal Process by George L. Schmutz
Essentials of California Real Estate Law (Revised) by Ivan Thorson
How to Finance Real Estate by Stanley L. McMichael
Land in California by W. W. Robinson
Questions and Answers on Real Estate by Robert W. Semenov
California Real Estate Reference Book by L. B. Williams
Simplified Appraisal System (Thorson)
Questions and Answers (Pasadena Realty Board)
Appraising Manual (McMichael)
How to Operate a Real Estate Business (McMichael)
Selling Real Estate (McMichael)

- In the first five months of the 1950-51 Fiscal Year, 794 subdivisions were filed with the Division of Real Estate. Contrary to expectations, November filings held up well when 144 new tracts were started. This is 37 percent more than the filings recorded in November, 1949, and is only 15 fewer than the monthly average for the year. It had been generally expected that new subdivision filings would decline substantially as a result of federal credit controls.

Servicemen's Protection

Draftees, national guardsmen and reservists called into active military duty to bolster the Nation's armed forces are protected against loss of their homes and installment purchases by the 1940 Soldiers and Sailors Relief Act. The authority and coverage of this act have never been terminated.

Under certain circumstances, taking possession of the serviceman's home or other property for nonpayment of a loan constitutes a misdemeanor under the protective federal act. Servicemen's families occupying rented quarters are covered by the act.

Sign and License Regulations—Continued

(Continued from Page 1, Col. 1)

who must make arrangements to conform with the new regulations and the law as it has existed for many years.

If a broker cannot conform with the law and these new specific regulations as adopted by the commissioner, he should surrender his license and request his license be made "inactive" until he is in a position to comply. (See article on page 2, *To Maintain an Inactive License.*)

The new regulations in respect to signs and licenses follow:

Section 2771. Size and Location of Sign. The signs required by Sections 10164, 10287, and 10527 of the Real Estate Law to be displayed at the broker's office shall be readily apparent from the exterior of the office to anyone entering the premises through the main entrance.

The minimum size of lettering that shall be used on the sign required by Sections 10164, 10287, and 10527 of the law shall be one-half inch in height.

The sign shall be located more particularly as follows:

(a) **Offices Located in Office Buildings.** The sign shall be located on or adjacent to the door constituting the main entrance from the common hall to the office or suite of offices.

(b) **Offices Located in Ground Floor or Storeroom Locations.** The sign shall be placed on the main entrance door, or on a wall or window immediately adjacent to said door.

(c) **Offices in Individual Residences, Duplexes, Apartment Buildings, or Other Residential Units Having Individual Exterior Entrances.** The sign shall be placed on the door which constitutes the main outside entrance to the residence designated as the office, or on a wall or window immediately adjacent to said door.

(d) **Offices in Apartment Houses, Hotels, or Other Residential Units, Having a Common Front Entrance.** The sign shall be placed on the main entrance door to the individual apartment designated as the office, or on the wall immediately adjacent to said door.

(e) **Brokers Employed by Other Brokers as Salesmen.** Brokers who, by written agreement, are salesmen employees of another

broker or brokers, and who do not engage in any real estate transactions independent of their employer, are not required to maintain a sign on the outside of the office. Under such conditions, the posting of such broker's license on the premises, as required for salesmen, will constitute and represent the sign as required by law.

Such a broker, however, will be still considered as a broker by the division in respect to all the requirements and responsibilities set forth in the Real Estate Law applying to brokers.

(f) **Brokers Who Rent Desk Space in a Real Estate Office.** Brokers who rent desk space within real estate offices, and whose business is conducted separately and apart from that of the broker from whom said quarters are rented, shall maintain a sign on the main entrance door or on a wall or window immediately adjacent to said door.

(g) **Offices Within Institutional Offices.** Brokers who designate as their office a location within a general office not engaged principally in the real estate business, such as a financial institution, shall display the sign within the space or area maintained and designated as the broker's office.

(h) **Officers or Employees of Any Company, Institution or Association** who hold active broker licenses, and who designate the location of the company, institution or association as their business address, shall comply with the rules relating to signs as set forth herein.

(i) **Attorneys, Engineers and Members of All Other Professions** who hold active broker licenses issued by the Division of Real Estate shall comply with the rules relating to signs as set forth herein.

(j) **Signs maintained at branch office locations** shall comply with the rules relating to signs as set forth herein.

(k) Nothing in this rule shall be construed to authorize the maintenance of an office in conflict with local zoning ordinances or other laws.

Section 2772. Wording of Sign. In addition to the name of the broker on the signs required by Section 10164, the words "licensed real estate broker," "real estate broker," or "realtor" may be used to indicate that the broker is a licensed real estate broker. By substituting "business opportunity" or "mineral, oil and gas" for "real estate," the same wording may be used to comply with Sections 10287 and 10527.

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