

REAL ESTATE BULLETIN

CALIFORNIA DIVISION OF REAL ESTATE

NUMBER XXV

SACRAMENTO, CALIFORNIA

MARCH, 1949

SURVEY SHOWS LICENSEE DISTRIBUTION BY COUNTIES

In connection with the apportionment of our work load, a study of the distribution by area of all licensees of the Division of Real Estate was completed recently. Some figures were developed that might be of interest.

Los Angeles County has far and away the most licensees—40,742, or 52.48 percent of the state total. San Francisco County comes next, with 5,378 licensees, followed closely by Alameda County with 5,334, and San Diego County with 4,903. Alpine County enjoys the distinction of being the only county having no licensees at all.

On complaints and subdivision work, the Sacramento office serves the area north to the Oregon line, east to the Nevada line, and south to Kern, Inyo, and Mono Counties, excluding the coastal strip. This is the largest in terms of land area of any of the division's office territories. The area has 7.02 percent of the total of licensees.

The San Francisco office, responsible for the coastal strip from the Oregon line south to San Luis Obispo County, with the exception of Alameda and Contra Costa Counties, has 16.43 percent of the State's licensees within its jurisdiction.

Alameda and Contra Costa Counties, covered by the Oakland office, have 8.68 percent of all licensees.

The Los Angeles territory, comprising Inyo, Mono, Kern, and San Luis Obispo Counties and everything south, with the exception of San Diego and Imperial Counties, has within its limits 61.56 percent of the licensees.

San Diego and Imperial Counties, under the jurisdiction of the San Diego office, claim 6.31 percent of all licensees.

Do you have a question you think would be of interest to all licensees if answered in the Bulletin? If you have—send it to the Commissioner. We would welcome such suggestions and use them as space permits.

LAW VIOLATIONS RESULT IN DISCIPLINARY ACTION

It would be an ideal circumstance if we could report that the division did not have any complaints against licensees which were serious enough to warrant hearings and disciplinary action. Unfortunately, human nature being what it is, and perhaps because of failure to thoroughly and completely educate real estate licensees, we still have a number of hearings on infractions of the Real Estate Law.

Most licensees seem to have considerable interest in this matter of hearings and in the penalties invoked. Here below we have attempted to summarize some of the cases of the last few months. Perhaps the penalties do not always seem consistent, but the hearing officers and the commissioner take into account the licensee's past record, his willingness to compensate for any monetary loss and other mitigating circumstances in assessing a penalty.

Broker accepted ostensible purchaser's personal note, allowing seller to believe that a cash deposit had been made. When the deal fell through, it was discovered that the note was uncollectible and the seller suffered damage. License suspended.

Broker accepted deposits supposedly to apply to contracts of sale for lots in a subdivision. Failed to turn the payments over to owner and thus commingled funds. Partial restitution was made. License revoked.

Broker was convicted in federal court of violation of Service Man's Readjustment Act (GI Bill of Rights). Since licensee made restitution and court was lenient in its sentence, disciplinary action limited to suspension.

Cooperating broker secured additional commission from purchaser without the knowledge and consent of the seller. Seemed unaware of flagrancy of the offense. Made restitution. Suspension.

Applicant concealed felony charge and misdemeanor conviction in his application for broker's license. Granted broker's license and later his record was uncovered. License revoked.

Broker selling and offering for sale lots in what constituted a subdivision without proper notice to the commissioner. Accepted deposits on parcels when in no position to deliver title. License revoked.

Broker accepted deposit and commingled it with his own funds and was unable, or unwilling, to restore money entrusted to him by purchaser when deal fell through. License revoked.

(Continued on following page)

BULLETIN POLICY

It is planned to confine space in this Bulletin mainly to material of informative nature which would appear to be of direct use and benefit to all licensees.

Through the Bulletin it is believed we can keep you better informed concerning the Real Estate Law and the Commissioner's Rules and Regulations.

In the solution of the mutual problems of the licensees and the division and in the conduct of licensees' business so far as the division may be concerned, it is hoped that this and future issues will be of greater use and value.

Many common questions can be answered in the Bulletin to the end that all licensees may be better informed, and, at the same time, save much correspondence and time. Occasionally "common pitfalls" which could jeopardize the status of the licensee will be pointed out.

D. D. WATSON,
Real Estate Commissioner

Disciplinary Action

(Continued from page 1)

Broker failed to notify commissioner of change of address and did not maintain sign as required. Suspension.

Broker insisted on retaining deposit which had accompanied offer turned down by seller. Broker claimed his services had been retained by prospective purchaser but had no evidence to substantiate this claim. He returned deposit before hearing but suffered license suspension.

Broker in real estate and business opportunity ostensibly listed businesses for 30 days. Took advantage of obscure clause in listing which made it run for six months unless terminated in writing by the seller. Filed numerous suits for commissions, when businesses were sold by others after the 30-day listing had run. Licenses revoked.

Salesman licensed in business opportunity and real estate collected deposits and failed to account to his broker or to the purchaser. Licenses revoked.

Real estate broker selling house and furniture appropriated certain articles of furniture. Contention was made that the purchaser was aware of broker's taking furniture; that it was a compensation for services rendered to the purchaser. If that had been the case, although such was denied by purchaser, it would have constituted accepting commissions from both parties without the knowledge and consent of both. License revoked—later, the penalty was reduced to suspension.

Broker took money from several women clients representing that he had profitable real property investments into which he would put the clients' money along with his own. He did not so invest and misappropriated the funds. License and renewal rights revoked.

Salesman license suspended because of failure to disclose minor criminal record on his application. In view of later good record and honorable military service, disciplinary action limited to suspension.

Commingling of funds and although at least partial restitution was made and owner of funds did not care to prosecute, nevertheless brokers license was revoked.

Broker took his commission from money deposited by buyer of property which he was selling on a net listing. Broker had not previously made his position clear, license suspended.

Broker represented and collected commissions from both lessor and lessee without the knowledge and consent of both in arranging a lease agreement. Business opportunity and real estate broker licenses suspended.

Broker accepted deposit on piece of property which he was not duly authorized to sell. Attempted to pay the deposit back to the would-be purchaser in small installments. License revoked.

Broker attempted to retain a deposit in a transaction where offers and counter-offers were made but no meeting of the minds was achieved. He contended in his defense that he had performed and was entitled to compensation. License revoked.

Broker accepted substantial deposit on an offer contingent upon the placement of a loan of a specific amount. The loan could not be obtained upon the specified terms and conditions and the transaction could not be completed. After repeated demands the broker gave a check for the amount of the deposit, which check proved to be worthless. License revoked.

Change of Address

Many letters are received from our licensees requesting changes of address, which do not contain the old licenses and pocket cards, or any fees as required. Each change of address for a broker or salesman requires \$1 for each licensee and it is also *necessary that you turn in the old licenses and pocket cards at the time you make your request.*

When proper fee and license are not received, the division cannot make the change without additional correspondence and delay.

Also, all requests should be made by the broker by letter, *both for himself and his salesmen.* The request should be signed personally by the broker. More care in respect to the above will enable the division to give you better service.

San Francisco Office to Move

About May 1st the San Francisco office of the Division of Real Estate is going to move its location to the second floor, 1182 Market Street, San Francisco. This new office is located on the north side of Market Street and will be close to the Civic Center.

It is important for those doing business with the San Francisco office to note this change.

Trick Listing Results in License Revocation

A deliberate scheme on the part of a broker to tie up owners on a listing contract with the intent to extort a commission from them in the event they sold their property, was recently investigated by the Division of Real Estate. This business opportunity broker apparently sent out solicitors to obtain listings at any sales price on a trick listing form. The listing would be taken for any primary term, such as 15 or 30 days and the owner was given the impression that there was no obligation on his part after that time had expired. The unfair part about the scheme was the fact that the listing form contained a provision down in the fine print that the listing would run for six months unless cancelled by written notice sent by registered mail.

The investigation showed that while the broker brought some fifty suits for commission on this contract, he made practically no sales. His plan consisted of securing the listing, watching the published notices of sale, and then immediately to threaten suit if the commission was not paid.

This dishonest plan was brought out in a hearing, and both the business opportunity and real estate broker license of the offender were revoked.

Educational Conferences Open to All Licensees

All real estate brokers and salesmen of California will be given the opportunity to attend valuable conferences on real estate subjects during the coming spring months. A staff of expert speakers on such subjects as financing, appraising, advertising, subdividing, salesmanship, real estate law and practice, etc., will lecture. The conferences, under the auspices of the California Real Estate Association, will be held at 25 points throughout the State, from Eureka to San Diego. Sessions will last two days, and the tuition fee is \$10. Last year's sessions were so successful that the program has been expanded this year and made available to all brokers and salesmen.

Those interested may contact the Real Estate Board in the conference city, or the California Real Estate Association, 117 West Ninth Street, Los Angeles 15. An informative circular with application for enrollment is available.

The two-day conferences are scheduled as follows:

Pasadena	March 29-30	Stockton	May 12-13
San Bernardino	April 4-5	Ventura	May 16-17
Pomona	April 7-8	Santa Ana	May 18-19
Whittier	April 12-13	Sonoma	May 23
Culver City	April 14-15	Ukiah	May 25
Palo Alto	April 21-22	Eureka	May 27
Fresno	April 25-26	Red Bluff	May 31
Bakersfield	April 28-29	Oakland or Berkeley	June 6-7
Southeast Los Angeles	May 3-4	Salinas	June 9-11
San Francisco	May 9-10	Long Beach	June 13-14
		San Diego	June 16-17

What Makes a Subdivision?

Many licensees, as well as the public, are often confused as to "just what constitutes a subdivision."

In the usual subdivision, the course of action and the extent of regulation are as follows:

The MAP ACT as set forth in Section 11535 (and following sections) of the Business and Professions Code places control of the "design and improvement" of subdivisions in the governing bodies of cities and counties. In practice this control is usually delegated to city and county planning commissions. Thus, in effect, the MAP ACT vests with planning commissions the authority to control the design, layout, and standards of subdivisions, to make sure they fit into the general over-all area planning and requirements. These planning commissions usually regulate the preparation of maps, plans, specifications, and roads or streets and otherwise establish the mechanics and requirements as to what the subdivider must do to secure approval of his subdivision plans. **THIS APPROVAL, however, does not give the subdivider the right to sell.**

Under the subdivision sections of the REAL ESTATE LAW Section 11000 (and following sections) of the Business and Professions Code, the owner or subdivider, BEFORE offering any part of a subdivision for sale or lease, **MUST FILE WITH THE REAL ESTATE COMMISSIONER A "NOTICE OF INTENT TO SELL," and shall meet other requirements of the law and of the Rules and Regulations of the Commissioner.** A COMMISSIONER'S PUBLIC REPORT on the subdivision must be issued BEFORE any portion of the subdivision may be offered for sale.

From the above, it should be clear that the Real Estate Commissioner has nothing to do with the enforcement of the MAP ACT—BUT he does have jurisdiction under the REAL ESTATE LAW over the offering for sale or lease of any part of the subdivision.

If you will carefully analyze the above, you will note the two laws are actually supplemental to each other.

EXCEPTION!!!

The foregoing describes the process followed in preparing most subdivisions for the market, but sometimes there are exceptions to that procedure because the definition of a subdivision in the MAP ACT differs from the definition of a subdivision in the REAL ESTATE LAW.

IN THE MAP ACT "a subdivision" is defined as real property divided for the purpose of sale into five or more parcels WITHIN ANY ONE-YEAR PERIOD.

IN THE REAL ESTATE LAW a subdivision is defined as land DIVIDED OR PROPOSED TO BE DIVIDED for the purpose of sale or lease into five or more lots or parcels regardless of whether the sales occur within one year or over a longer period of time.

Thus, the difference is a matter of time—five parcels within a one-year period in the MAP ACT . . . five parcels OVER ANY PERIOD in the REAL ESTATE LAW . . . **NOTE THE IMPORTANT DIFFERENCE!!!**

Thus, it follows that there are many situations where the MAP ACT does NOT apply but where the provisions of the REAL ESTATE LAW DO MAKE NECESSARY a

PLEASE TAKE NOTE

Do not mail requests for 1949-1950 license renewals until you have received your license renewal forms. These renewal forms will be mailed to you about May 30th, allowing you ample time to fill them out and get them in to the division.

Compliance with this request on your part will guarantee you better service and lessen the possibility of error.

We repeat, please wait for official renewal forms before requesting 1949-1950 renewal licenses.

filing of "intention to sell" with the Real Estate Commissioner, and the issuance of a Public Report before selling.

For example, suppose you own a 15-acre parcel of land. In January of 1948, you sold off a half-acre parcel. Before 12 months had passed you sold off two more like parcels (making a total of three sales within a 12-month period). After this period of 12 months from the date of the first sale had passed, you propose to sell off two or more additional parcels. You must (if you have not done so before) file with the Real Estate Commissioner a notice of intention to subdivide and secure the Commissioner's Public Report, even though you do not have to conform with the provisions of the MAP ACT.

It is hoped that the above analysis will clarify this "subdivision" question for any who may now or in the future become engaged in selling subdivision properties.

We do urge any licensee who is confronted with a subdivision problem to clear with the proper local authorities and with the Division of Real Estate.

Inactive Salesmen

BROKERS—If you are holding the licenses of salesmen who are no longer active in your employ—**RETURN THOSE LICENSES TO US FOR CANCELLATION.**

This should be done for your own protection and also it will clear our records.

IF YOU HAVE HAD BRANCH OFFICES WHICH ARE NO LONGER OPERATING, RETURN THOSE BRANCH LICENSES FOR CANCELLATION.

Whitelock & Read Reappointed

Governor Earl Warren has reappointed Frank L. Whitelock of Beverly Hills and Maurice G. Read of Berkeley, both past Presidents of the California Real Estate Association, as members of the State Real Estate Board. The new appointments run for four years, terminating January 15, 1953.

Each of these men, busy as he is with personal, public, and trade association work, has been willing to devote time and constructive effort to his duties and responsibilities as a member of the State Real Estate Board.

Refunds Make Trouble

From July 1 through November 26, 1948, the Division of Real Estate returned \$911.33 in checks, money, and postal notes to applicants or licensees who had made overpayments of fees. During the same period additional refunds totaling \$4,084.88 were made through the usual fiscal channels—sometimes a rather lengthy process.

The total sum of \$5,996.21 represents many hundreds of small transactions that were largely due to overpayments, and most of which resulted in delay and unnecessary correspondence.

If you have the slightest doubt of the proper fee or cost, consult the simple schedule given below. And (although this caution may seem unnecessary to most of you) **DON'T REMIT CASH!!!**

Schedule of Fees

	Amount for broker	Amount for salesman
Original license	\$20	\$5
Renewal of license	5	2
Late renewal	10	4
For each branch office	1	-
For each change of name, address, duplicate license or reinstatement of canceled license within the license year	1	1
For transfer of salesman	-	1
Reexamination	10	5

NOTE: If corporation or partnership is applying for license and designated officer is already a broker, the corporation or partnership fee is \$5.

Publication Prices

Directory to licensed brokers (upon request)	Free
Directory to other than licensed brokers (includes tax and mailing)	\$1.75
Reference Book and Guide (includes tax and mailing)	1.55
Real Estate Law (pamphlet form) (Includes tax and mailing)	.25

Real Estate Broker Attempts to Practice Law

We have from time to time advanced a word of caution to real estate brokers in the matter of unlawfully practicing law. Some time ago in the Appellate Division of the Los Angeles County Superior Court, a broker was held guilty because he advised a client as to the kind of legal document which should be used, and charged a fee of \$10 for executing it. The court held that he did more than the mere clerical work of typing in certain furnished information on a blank form. The court also was of the opinion that the charge of \$10 would have been out of all reason for a mere clerical service.

Division's Personnel

Commissioner D. D. Watson is reassigning certain duties to key personnel of the division.

Mr. Ray Westcott, Supervising Deputy of the Los Angeles office, and Mr. Gaylord Nye, Supervising Deputy of the San Francisco office, will be relieved of considerable detail work through assignment of more responsibility and supervision to other selected deputies.

In this manner, Mr. Westcott and Mr. Nye will be available for more effective contacts in and over-all supervision of the southern and northern areas of the State respectively.

BROKERS, PLEASE SIGN YOUR OWN REQUESTS FOR CHANGE OF ADDRESS. If you have someone other than yourself sign a request for change of *your* license address, we must write to you to get a verification over your signature. Thus, you are delayed and unhappy about it, and both you and this agency have extra correspondence.

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REAL ESTATE

STATE OF CALIFORNIA

EARL WARREN, Governor

D. D. WATSON

Real Estate Commissioner

R. S. DAVIS

Asst. Commissioner

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OFFICES

Sacramento, Principal Office	1020 N Street
Fresno	1842 McKinley Avenue
Long Beach	537 American Avenue
Los Angeles	Room 1101, Ninth and Hill Bldg.
	Ray D. Westcott, Supervising Deputy
Oakland	505 California Building
San Diego	517 Bank of America Building
San Francisco	Room 302, 417 Montgomery Street
	Gaylord K. Nye, Supervising Deputy

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