



REAL ESTATE BULLETIN

EDMUND G. BROWN JR., Governor

Spring 1975

NEW REGULATIONS HIGHLIGHTED...

INCLUDES FEE REDUCTIONS

Following are highlights of several regulations which have been amended or adopted. The complete text of the regulations is available at any district office. All were effective January 1, 1975 except advance fee regulations which were effective March 1, 1975.

Fee Reduction

Regulation 2716 reduced the salesman license fee from \$50 to \$45 and set a maximum late renewal fee of the regular fee plus \$25 for both salesman and brokers.

Disclosure of Transactions

Regulation 2727 requires real estate salesmen or brokers acting as such to disclose principal transactions to their supervising brokers within five days and in writing.

Fictitious Name

Regulation 2730 dealing with fictitious business names was repealed since the definition of such is in other codes.

Subdivisions

Regulation 2790.1 pertains to subdivision filing fee maximums and 2792.3 sets forth the approved form of bond for completion of common facilities; 2792.4 sets forth provisions for enforcement of the bond. Regulation 2792.8 provides for election and removal of governing members in planned developments including management, regulation and control. This regulation also pertains to undivided interest subdivisions.

- Independent contractor? Employer/employee relationship? Regardless of which—see article page 7 on Workmen's Compensation.
- What are those six courses for broker examination qualifications?—see page 7.
- Examinations boomed in 1974!—page 3.
- New NAR President—Art S. Leitch, San Diego Realtor was elected 1975 president of the National Association of Realtors at its convention last November. Leitch is a member of the State Real Estate Commission and was 1964 president of the California Association of Realtors.
- Court decision of major significance to subdivision developers and home builders—page 6.
- Comparison survey of real estate salesmen—page 4.
- See Page 8 for index of 1974 issues of the Real Estate Bulletin.

Regulation 2820.2 eliminates the environmental impact report requirement for a public report if the local government has already granted permission for on-site subdivision construction.

Trust Fund

Regulation 2832.1 clarifies trust fund handling in an account containing funds of more than one beneficiary.

Advance Fees

Advance fee regulation 2852 was repealed and a new section of the same number adopted effective March 1, 1975.

Regulation 2852 prescribes terms of the contract between advance fee rental agent and prospective tenant.

Regulation 2852.1 incorporates provisions formerly included in Section 2852.

Regulation 2852.2 requires an advance fee rental agent to notify each prospective tenant with whom he has a contract of a proposed change of business address and telephone number.

Regulation 2852.3 requires that advance rental fees over and above a \$10 service charge be deposited into a trust fund account and held there until ten days after expiration of the contract with the prospective tenant.

Disclosure of Compensation

Regulation 2904 requires real estate licensees to disclose compensation for rendering collateral financing services.

REAL ESTATE BULLETIN

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The Real Estate Bulletin is a quarterly published by the State of California, Department of Real Estate, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the California Business and Professions Code.

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Disciplinary Action—October—December 1974

REB—Real estate broker RES—Real estate salesman REO—Real estate officer
RREB—Restricted real estate broker RRES—Restricted real estate salesman REC—Real estate corporation

NOTE: A list of actions is not published in this Bulletin until the 30-day period allowed for court appeal has expired; or if an appeal is taken on the disciplinary action stayed, until the stay is dissolved. Names of persons to whom licenses are denied upon application are not published.

Licenses Revoked

Name	Address	Effective date	Violation R.E. Law/Regulations
Farmer, Robert Lee (RES)	26541 Espalter, Mission Viejo	10/16/74	10177(b)
Koivisto, Dean Loren (RES)	2219 Glacier Ln., Santa Monica	10/16/74	10177(b)
Bordley, Robert Randolph (RES)	4444 Desertwood Pl., Pleasanton	10/17/74	10177(b) (f)
Keele, Keith Stafford (RES)	1600 Madrone, W. Sacramento	11/10/74	10177(a) (f)
Tarvin, Della Grace (RES)	494 Mercury Dr., Nipomo	11/12/74	10177(b)
Newman, Roy Rodger (REB)	P.O. Box 592, 402 Colusa Ave., Ste. B, Yuba City	11/13/74	10177(b)
Robinson, Frank Issac (RES)	23 Gateway Dr., Pacifica	11/13/74	10145, 10176(a) (e) (g), 10177(d) (f)
Moseley, Katherine Mittie (REB)	6815 Neptune Pl., La Jolla	11/19/74	10177.5
Ellis, Roy Arland (REB)	10061 Sierra Ave., Fontana	11/29/74	10177(b)
Alquist, Robert Maurice (RES)	3207 Forbes Ave., Santa Clara	12/ 3/74	10177(b) (f)
Byers, Dow Jackson II (REB)	4421 Granger St., San Diego	12/10/74	10177(b)
Gymrek, Paul Martin (RES)	6959 Woodman, Van Nuys	12/10/74	10177(b)
Lawrence, Marvin Eugene (RES)	1900 Ave. of the Stars, Ste. 940, Los Angeles	12/10/74	10177(d)
Spath, Donald F. (RES)	2645 Arabian Ranch Ln., Vista	12/10/74	10177(b)
Washington, Bert H. (RES)	1131 South Masselin Ave., Los Angeles	12/10/74	10177(b)
Hull, Wallace (RES)	3151 W. Vallejo Dr., Anaheim	12/11/74	10177(b)
Fortson, Charles Ogilvie Jr. (RES)	300 Johnson Ave., Los Gatos	12/31/74	10177(b)

Licenses Revoked With Right to a Restricted License

Name	Address	Effective date	Violation R.E. Law/Regulations
Schuh, Robert Louis (RES)	4305 Gesner, Ste. 205, San Diego	10/ 1/74	10177(b)
Anders, David Lloyd (RES)	1501 Daisy Way, Antioch	10/22/74	10145, 10176(c) (i), 10177(d) (f) (j)
Skinner, Mary Mails (RES)	872 Laine St., Monterey	10/29/74	10177(d), 10177(f), 10177(g)
Boerner, Norma Jean (RES)	19154 Cieneqa Ave., Covina	11/ 6/74	10177(b)
Cook, Robert Dittmer (RES)	3774 Peralta Blvd., Fremont	11/ 7/74	10177(a) (b) (f)
LeBrane, Sandy (REB)	301 Randolph St., San Francisco	11/13/74	10176(a) (c) (g) (i), 10177(d) (g) (h), 10145
Brewer, Robert Arthur (REB)	600 W. Ave. J, Lancaster	11/15/74	11010, 11018.2, 10177(d)
Stelle, Joseph (REB)	44738 N. 10th St. West, Lancaster	11/15/74	11010, 11018.2, 10177(d)
St. Onge, Dorothea Olive (REB)	Box 13824 Dry Creek Rd., Auburn	11/21/74	10177(g)
Bateman, Paul Martin (RES)	1919 Poochill Blvd., La Verne	11/26/74	10177(a) (f)
Logan, Robert Terry (RES)	P.O. Box 2008, Dublin	12/ 4/74	10177(b) (f)
Shideier, Ward Samuel (RES)	P.O. Box 3213, Blitzen Rd., S. Lake Tahoe	12/ 5/74	10177(b)
Martin, Richard Allen (REB)	1419 21st Street, Sacramento	12/ 6/74	10145, 10177(d)
Officer—R. A. Martin & Associates, Inc.			
R. A. Martin & Associates, Inc.	1419 21st Street, Sacramento	12/ 6/74	10145, 10177(d)
Hamaguchi, Raymond Kirt (RES)	4133 Palmwood Dr., Los Angeles	12/10/74	10177(b)
Walker, Gerald Gershon (RES)	10600 Sepulveda Blvd., Mission Hills	12/10/74	10176(a) (b) (i)
Dunham, Joan Marie (RES)	1341G North Main St., Walnut Creek	12/27/74	10177(b) (f)
Zmerzhikar, Philip Lee (RES)	5000 Coast Highway I, Pacifica	12/27/74	10177(f)

Licenses Suspended

Name	Address	Effective date	Violation R.E. Law/Regulations
Ness, James Edwin (REB) (REO)	251 W. Grand Ave., Escondido	10/16/74	10145, 10177(d)
Off.—Paradise Valley Realty, Inc.		60 days	
Paradise Valley Realty, Inc.	251 W. Grand Ave., Escondido	10/16/74	10145, 10177(d)
Larson, Edward Leonard Sr.	858 Rubis Dr., Sunnyvale	11/19/74	10176(a)
McFadden, George Earl (RES)	8323 So. 122nd, Seattle, Washington	11/19/74	10177(g)
Cody, John Walter (REB)	1000 N. Coast Hwy., Ste. I, Laguna Beach	11/21/74	10145, 10177(d) (g)
Db a Century 21—Real Estate as Housemasters		5 days	

Licenses Suspended With Stays

Name	Address	Effective date	Violation R.E. Law/Regulations
Schwet, Joseph George (RREB) Dba Loyal Associates (60 days stayed for 2 years on terms and conditions)	4014 Geary Blvd., San Francisco	10/ 3/74 180 days	10145, 10176(c) (i), 10177(d) (f)
Hathorn, Willie Marvis (REB) Dba Peoples Realtor (Stayed 1 year on terms and conditions)	PO Box 21266, 1091-B McCreery Ave. San Jose	10/30/74 45 days	10145, 10176(c), 10177(d)
Everett, Richard Hayden (REB) Dba Dreith & Norton Associates (Stayed for 1 year on conditions)	1347 Linda Mar Shopping Center, Pacifica	11/21/74 20 days	10176(a), 10177(d) (f) (g) (j)
Allen, Joe Arthur (REB) Dba Plaza Realty (Stayed for 1 year on conditions)	1501 Woodside Rd., Redwood City	12/ 3/74 60 days	10177(d) (f)
Jacobs, Burton Palmer (REB) Dba Thunderbird Realty (Stayed for 1 year on terms and conditions)	622 Pearson Rd., Paradise	12/ 5/74 30 days	10176(a)
Olson, Arthur Hillman (RES) (Stayed for 1 year on terms and conditions)	973M East Avenue, Chico	12/ 9/74 20 days	10177(d), 11010, 11018.2
Schlaf, Irvin Dehal (REB) Dba Fairview Realty (All but 10 days Stayed for 1 year on terms and conditions)	973M East Avenue, Chico	12/ 9/74 90 days	10177(d), 11010, 11018.2
Bell, Robert Weir (REB) (Stayed for 2 years on terms and conditions)	73 Plaza Square, Orange	12/11/74 30 days	10177(d), 11010, 11018.2
Holder, Jeannette Frances (REB) (Stayed permanently)	P.O. Box 6447, 4760 Calle Camarada, Santa Barbara	12/11/74 60 days	10177(d), 11018.2
Sharpless, Leonard Monroe (REB) (Stayed for 2 years on terms and conditions)	73 Plaza Square, Orange	12/11/74 30 days	10177(d), 11010, 11018.2
Simonsen, Donald Abbott (REB) (Stayed permanently)	P.O. Box 6447, Vieja Dr. at Puente, Santa Barbara	12/11/74 60 days	10177(d), 11018.2
Nathanson, Mark (REB) (Stayed for 3 years on terms and conditions)	9171 Wilshire Blvd., Ste. 332, Beverly Hills	12/24/74 30 days	10177(b)
Union Mortgage Co. (REC) (All but 5 days Stayed for 1 year on conditions)	5602 Van Nuys Blvd., Van Nuys	12/27/74 30 days	10240, 10241, 10242(a) (b)
Union Home Loans (REC) Dba Hacienda Home Loans (All but 5 days stayed for 1 year on conditions)	2641 W. Olympic Blvd., Los Angeles	12/27/74 30 days	10240, 10241, 10242(a) (b)

Indefinite Suspensions Under Recovery Fund Provisions

Name	Address	Date	Fund payout
Harris, Robert Edward (REB)	5000 Coast Highway, Pacifica 94044	11/ 4/74	\$2,200.00
Wolf, Barry (REB)	P.O. Box 1716, 408 Crescent, Oakland	11/ 7/74	\$5,000.00
Woodman, Benjamin Earl (RES)	910 Camellia Way, San Jose	11/22/74	\$5,000.00

1974 A Big Year for Exams

The Department of Real Estate administered 60,995 real estate license examinations during calendar year 1974.

Real estate salesman license examinations accounted for 46,039, almost 14 percent less than the 53,250 logged in 1973. Broker examinations amounted to 14,956, more than double 1973's volume.

Climaxed by an unprecedented number of broker applicants filing for examination during the last quarter of 1974 DRE employees were in a tight squeeze to meet qualifying, scheduling, and scoring demands. A total of 7,574 applicants were filed in the three month period.

Over 3,850 broker candidates were scheduled for the all day examination on three separate dates at five major city locations during December alone. Even qualified applicants who waited until the last minute to file, received

telegrams and long distance calls up to the evening before the test advising them of their eligibility for the examination the following day.

The Herculean effort needed to process and score such volume, the bulk of them from Los Angeles, prompted the Los Angeles staff to send the test papers to Sacramento by plane and private vehicle so the tests would be ready for scoring on Monday following the Saturday, December 21, test. Over 800 tests were given in one sitting in Glendale Civic Auditorium.

All license examinations are developed and scored in Sacramento where all of the examination staff worked Christmas Eve afternoon in order to get the test results out to anxiously waiting examinees with a skelton crew on the afternoon before Christmas.

The unusual number of broker license applicants was prompted by added educational requirements taking effect on January 1, 1975.

Delivery of Pest Control Inspection Report

Assembly Bill 3629 (Lancaster) effective July 1, 1975, provides among other things that a structural pest control operator who makes a property inspection report must certify evidence or non-evidence of infestation to the person ordering the inspection or to his agent in the manner prescribed by 8519 of the B&P Code.

Section 1099 was added to the Civil Code to require that the transferor of real property or his agent, deliver to the transferee (buyer) a copy of the structural pest control inspection report "as soon as practical before transfer of title of any real property or the execution (signing) of a real property sales contract" provided the report or certification is a condition effecting the transfer or financing of the property.

The language of Section 1099 suggests that the person primarily responsible for delivering the inspection report, notice of work completed and/or certification is the seller of the property. When a certification has been timely delivered to the buyer this aspect of the transaction would normally be concluded.

It is apparent, however, that many sellers will not be aware of this requirement unless so informed by the real estate agent in the transaction. It is not at all improbable that a court, if called upon to construe this requirement of law, will place the primary burden of furnishing documentation upon the real estate licensee due to his presumed special knowledge and expertise.

In any event, the real estate licensee as agent of the seller of the property has an obligation to inform the seller of the requirements that must be met with respect to pest control documentation prior to conveying the property to another. This obligation would only extend to the agent if a pest control inspection was a part of the real estate transaction.

SALESMAN APPLICANT

Survey

Where do the 4,000 to 5,000 monthly applicants for real estate salesman licenses come from? These and similar questions were asked of salesmen applying for licenses in the year 1969 (548 sampled) and same questions asked of 1,194 applicants in 1974.

Following are statistics from the two surveys:

AGE

	By percent	
	1969	1974
	18-24.....	8.2
25-29.....	13.8	19.1
30-34.....	13.4	16.9
35-39.....	14.1	12.2
40-44.....	12.3	9.7
45-49.....	15.5	14.4
50-54.....	10.6	7.9
55-59.....	6.6	6.3
60-64.....	3.3	3.1
65-Up.....	2.2	0

SEX

Male.....	68.5	63.8
Female.....	31.5	36.2

MARITAL STATUS

Married.....	77.5	70.7
Unmarried.....	22.5	29.3

FORMAL EDUCATION BACKGROUND

Grammar school.....	2.9	.6
High school.....	27.8	27.3
Some college.....	27.0	26.4
2 years or more of college.....	23.8	20.0
College graduate.....	10.9	15.2
Graduate work.....	3.4	3.8
Masters or other degree.....	4.2	6.7

STEPS TAKEN TO PREPARE FOR EXAMINATION

Community college courses.....	9.5	8.5
Private R.F. school.....	74.5	76.6
State college or University courses.....	1.8	1.2
University extension courses.....	2.0	.3
Self study.....	12.2	13.4

HAVE YOU SELECTED AN EMPLOYING BROKER?

Yes.....	65.6	49.8
No.....	34.4	50.2

OF THOSE WHO SELECTED AN EMPLOYING BROKER, HOW MANY DID YOU CONTACT BEFORE DECIDING?

One.....	71	48
Two.....	11	14
Three.....	11	18
Four.....	3	9
Five or more.....	5	11

Here are some conclusions that can be drawn from the comparisons:

—More young people between the ages 18 and 34 are entering real estate than they did in 1969, 11 percent more.

—More women are seeking licenses in 1974 than they did in 1969, about six percent more.

—Fewer married people are seeking licenses but more unmarried find the real estate business attractive.

—Over 76 percent of the applicants sampled have prepared themselves through private vocational school training.

—Fewer applicants are selecting a broker prior to sitting for their examination.

—Applicants are becoming more selective in choosing their broker.

The new address of the San Francisco District Office:
One Hallidie Plaza, Second Floor,
San Francisco, CA 94102

SENSE AND NONSENSE

Editor's Note: Sometimes common sense is so limited that a little nonsense spreads further . . . try this for a subtle message from one of our readers.

Dear Mr. Broker:

This message started with the hope of bringing relief and happiness to tired real estate salesmen.

Unlike most messages of this nature, this does not cost money.

Simply send a copy of this message to ten of your community's laziest salesmen who are equally tired.

Then bundle up your exclusive listings and send them to the man at the top of the list.

When the laziest salesman reaches the top of the list, he should receive

over three million listings; a few will be dandies, and one of them should please any client.

Have faith in this message . . . one broker, so far, broke the chain and his salesman sold his personal residence right out from under him—it was the only listing left!

Sincerely,

Your good friend

P.S. At the time of this writing a salesman friend of mine reached the top of the list. He received so many listings the IRS is now investigating his low income. Took three trucks to carry the evidence.

DRE Senior Appraiser

Stirling Long, a 13-year employee of the DRE, has been promoted to

Senior Property Appraiser heading the five-man appraisal team of the department.

Long began his career with the state in 1958. He did right-of-way work with the Department of Water Resources until 1961 when he was employed as a Deputy Real Estate Commissioner. Because of his appraisal background he was promoted in 1962 to an Associate Property Appraiser. In this capacity he has appraised all types of real estate offerings both in and out of California.

Current responsibilities of the DRE appraisers involve appraisals of some in-state and all out-of-state properties proposed for qualification in California under the subdivision or real estate syndicate statutes as well as appraisals in connection with DRE regulatory investigations. Long is a native Californian, a graduate of UCLA and currently resides in Los Angeles.

Why a restricted license?

A probationary license: issued with great care under mitigating circumstances

Editor's Note: Regular Bulletin readers who scan the disciplinary actions under "Licenses Revoked" will usually find several names listed who were granted a right to a restricted real estate salesman or a restricted real estate broker license. This article is written to clarify the nature of the Real Estate Commissioner's jurisdiction, his authority to deny, suspend or revoke licenses as well as his authority to issue restricted licenses under certain conditions.

The commissioner is authorized by law to revoke, suspend and deny licenses to practice real estate. He may also issue orders to licensees or nonlicensees for the purpose of immediately stopping violations of the law. He may revoke a license and authorize the issuance of a restricted license under certain conditions.

Desist and refrain orders may be issued and restricted licenses suspended without a formal hearing. All other disciplinary actions involving licensees require a formal hearing before discipline can be ordered by the commissioner.

Hearing Officers

Formal hearings are conducted by hearing officers from the State Office of Administrative Hearings. The Department of Real Estate contracts with that agency for the services of the hearing officers who are licensed attorneys.

Hearings are conducted under procedures set forth in the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1) and are similar in many respects to court trials.

A member of the commissioner's legal staff presents the case against an accused licensee or an applicant whose truthfulness, honesty and good reputation are called into question by a criminal record or other reasons. The respondent licensee is normally represented by legal counsel, although an attorney is not required in such hearings.

Proposed Decision

After the hearing a "proposed decision" is prepared by the hearing officer and submitted to the commissioner. The proposed decision sets forth findings as determined by the hearing officer. If a violation has been proven, the proposed decision includes the hearing officer's recommended penalty. The recommended penalty may be a suspension or revocation of

a license, a suspension with a portion stayed under certain conditions, or a license revocation with a restricted license authorized. In some cases the restricted license may be authorized only after a period of time has elapsed from the date of revocation. This has the effect of allowing the licensee, in due course, to go back in business under the "probationary" condition of a restricted license. The commissioner may also issue a restricted license to an applicant for an original license whose honesty, truthfulness or good reputation is questioned but who has demonstrated rehabilitation. The commissioner may suspend a restricted licensee without a hearing if there is any evidence of further wrongdoing or a violation of any condition attaching to the restricted license.

After a restricted license is suspended, the commissioner must proceed to a formal hearing. A restricted license confers *no property right* in the license and a restricted licensee has no automatic right to renew the license.

The commissioner has wide discretion as to the requirements and conditions that are imposed on a restricted licensee. A restricted real estate broker may be required to make detailed periodic reports of all his real estate transactions. Such reports are submitted to an office of the department and reviewed by the commissioner's deputies. In some instances it is required that he approve of the broker employing a restricted salesman to assure proper supervision. A restricted salesman is usually required to show the

commissioner's decision granting a restricted license to any prospective employing broker and thus make him aware of the reasons for the restricted status. The broker must acknowledge in writing to the commissioner that he is aware of these facts before a restricted salesman will be transferred to his employ.

Mitigating Circumstances

In situations where trust funds have been commingled or misappropriated, a restricted license is sometimes authorized after full restitution has been made. Where partial restitution was made before the hearing, the licensee may be required to pay the balance over a prescribed period under the terms of a restricted license. Failure to comply with all restrictions and conditions is cause for immediate suspension of the restricted license.

If the commissioner believes the hearing officer's recommended penalty is too lenient or that the proposed decision is materially deficient for some other reason, he may reject the proposed decision and formulate his own decision; but only after considering the complete record (transcript) of the hearing. The commissioner is also authorized to reduce a penalty recommended by a hearing officer on his own motion or on a petition from the respondent.

Many restricted licensees who have remained active in the real estate business have ultimately had full license privileges reinstated after making a satisfactory showing to the commissioner that restrictions are no longer necessary in the public interest. In any event, after a decision is final, a full year must pass before a petition for reinstatement can be acted upon.

DON'T JUMP THE GUN

Brokers and salesmen are cautioned against dealing in mobilehome sales before the law, as it applies to real estate licensees, becomes effective July 1, 1975.

THANKS, BOB

*A Tribute to Robert W. Karpe from the
Editor and DRE staff*

There are parts of a building which taken away will cause collapse. Certainly removing the foundation would cause a cave-in; the plumbing would be useless. But, when the parts of a building are carefully built together, it stands erect.

Robert W. Karpe, former Real Estate Commissioner, understood the concept of putting things together to form one purpose as he advocated his four goals shortly after appointment in 1971. And when the job was done, he said "I wish each citizen could have the privilege of working with Department of Real Estate people—to observe the sense of mission and devotion to purpose—to share experiences toward self-improvement among real estate licensees—in short, to work for a purpose".

Meeting with considerable success in policing California's more than 156,000 square miles of land from unlawful subdivision was a giant stride for any man and Karpe leaves a good track record. Although his goal to protect California's majestic mountains and broad deserts may not be fully realized for years to come, it did leave its mark. His battles with promotional, bare lot subdividers, like his years as a star football player, may have left a few bruises and scars on both sides, but praise for his work has come from all sides.

In one of his talks to real estate licensees, he said, "Twenty years ago I picked up a clod of dirt from my yard and crumbled it. As it sifted through my fingers I realized for the first time that this was more than just dirt, I was holding a rare treasure, a tiny piece of America". His thoughts and reflections, often published in the *Bulletin*, were always inspiring and received many written and spoken compliments.

It was Commissioner Karpe who also told the people at DRE to "Keep costs down" (another goal). Starting with a surplus of \$5,352,457 when he took office, DRE now has a surplus of \$7,500,000 after endowing \$500,000 to the University of California; \$1,200,-

000 to state universities for endowments for real estate and scholarships and \$1,900,000 to community colleges for endowments to enhance real estate programs and scholarships. These endowments, will operate perpetually; like a long road that has no turning back. The reader will recall, also, the lowering of subdivision and license fees in 1972 and again in 1975.

Being a real professional in his field made it natural for Bob to step in the shoes of his predecessors and to carry the ball toward the real estate professional goal. After all, Bob was a product of the professional movement. He tackled the real estate courses back in the early 50's when the Bears pioneered with real estate curriculum development at Berkeley.

Certainly Commissioner Karpe had unity and purpose in mind when he fostered the movement to work toward a color-blind real estate industry. He believed that two real estate organizations, Realtors and Realists, could accomplish more by sitting at the same table than by marching separately.

But this man from Bakerfield also believed that "big brother" should not interfere with a free interplay of communication, and last year he expressed on several occasions that the Realtor/Realist meetings should now be sponsored by the participants; that government should withdraw to a role more in the background.

At the department sponsored farewell party he flattered us with this toast:

"To THE GRAND DEPARTMENT OF REAL ESTATE STAFF . . . dedicated to better service to the real estate consuming public of California, . . . through discipline when necessary; . . . through the finest practical subdivision regulation in the Nation; . . . through continued educational improvement; . . . through working with the responsible industry toward these same goals."

Just before leaving the DRE, he said, "Thank you for the many opportunities to participate and serve in the dynamic, ever-changing life of the Great State of California."

QUALITY IMPLIED IN NEW CONSTRUCTION

The Supreme Court of California has recently held in the case of *Pollard v. Saxe & Yolles Development Co.*, 12 C 3d 374, that the doctrine of implied warranties of quality and fitness is applicable to the sale of newly-constructed real property in California. This decision is one of major significance to the residential subdivision developer and home builder.

Warranties of quality and fitness have long been implied in the sale of tangible personal property and these warranties are now codified in California's Commercial Code. In the sale of improved real property on the other hand, the courts have heretofore applied the rule of caveat emptor in the absence of fraud, misrepresentation or an express warranty by the vendor.

In the *Pollard* opinion, the court notes that in recent years, many of the rules governing transactions in tangible personal property have been made applicable to real property transactions. For example, the courts of California have previously held that an implied warranty against defective construction exists in the case of a contract by a builder to construct an entire building for another party.

The court observes that it would be inconsistent to imply a warranty of quality in the case of a contract by a builder for material and labor, but to refuse to imply the same warranty if the sale of the real property did not take place until after the structure had been completed by the builder. The court also determined that it would be inconsistent to perpetuate a distinction with respect to the quality and fitness of a product based solely upon the legal concept of real as opposed to personal property.

The builder or seller of newly-constructed real property, like the manufacturer or marketer of certain tangible personal property, implies that skill and expertise was employed in creating the product. Moreover, concluded the court, the purchaser of a structural improvement to real property is in much the same position as the prospective purchaser of an auto-

mobile, boat, major household appliance, etc. The consumer does not ordinarily have the expertise or the opportunity to judge for himself the quality of the product that he intends to buy.

NEW LICENSE FEES

The law sets maximum license fees and requires the Real Estate Commissioner to hold a regulation hearing annually to determine if the fees are appropriate. Income and expenses are taken into consideration.

Effective January 1, 1975, after such regulation hearing, the real estate salesman license fee was reduced from \$50 to \$45 for a four-year original or renewal license. A maximum limit of a penalty of \$25 was also placed on both salesman and broker late renewal fees.

The following is a listing of the new license fees:

	Broker	Salesman
Active Original or Renewal..	\$75.00	\$45.00
Late Active Renewal.....	100.00	67.50
Inactive Original or Renewal	37.50	22.50
Late Inactive Renewal.....	56.25	33.75

Reinstatement To Active Status

If a broker or salesman original or renewal license is obtained under any inactive fees, reinstatement to active status within the license period will cost \$4 plus an amount equal to that paid for inactive status with the exception of the brokers renewing after January 1, 1975, on a late inactive status which fee will be \$43.75 plus \$4.

Examples: Salesman inactive original or renewal—\$22.50

Reinstatement—\$26.50 (\$22.50 plus \$4 reinstatement fee)

Salesman late inactive renewal—\$33.75
Reinstatement—\$37.50 (\$33.75 plus \$4 reinstatement fee)

Broker inactive original or renewal—\$37.50

Reinstatement—\$41.50 (\$37.50 plus \$4 reinstatement fee)

Broker late inactive renewal—\$56.25
Reinstatement—\$47.75 (\$43.75 plus \$4 reinstatement fee)

Note: Fee reductions do not apply to Mineral, Oil and Gas licenses.

WORKMEN'S COMPENSATION LAW

Each person who makes application for the real estate broker license examination signs his name below the statement. "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation".

Independent contractor status and employer-employee relationships are the subject of interest to nearly everyone in the real estate

brokerage industry.

Regardless of whether brokers consider their salesmen employees or independent contractors the Labor Commissioner has held that real estate brokers must carry workmen's compensation for their salesmen.

Questions regarding workmen's insurance coverage should be directed to your insurance broker and/or the nearest office of the State Labor Commissioner.

Statutory Course Requirement

Applicants for real estate broker license must have successfully completed the following statutory college level courses, or their equivalent, prior to being scheduled for the real estate broker license examination:

1. Real Estate Practice
2. Legal Aspects of Real Estate
3. Real Estate Finance
4. Real Estate Appraisal
5. Accounting or Real Estate Economics
6. And *one* of the following:
 - Real Estate Principles
 - Business Law
 - Property Management
 - Real Estate Office Administration
 - Escrows
 - Advanced Legal Aspects of Real Estate
 - Advanced Real Estate Finance
 - Advanced Real Estate Appraisal

Equivalent experience or degree attainment operates only in lieu of licensed salesman employment. It does not exempt the applicant from the real estate course requirement.

If you are one of those who failed the broker exam during 1974, you will be eligible for re-examination after completing course five and six added to the former four course requirement in January 1975.

Members of the California Bar are exempt by law from completing the above courses, but are required to pass the written examination.

New Research Report

The Demand for External Degree Programs Among California Real Estate Licensees is the title of a new report that describes the results of a survey conducted to determine interest in higher education among active real estate licensees in California.

Available for \$1.50 plus tax, check or money order, from DRE, 715 P Street, Sacramento, Ca. 95814.

NAR PRESIDENT

Art S. Leitch, San Diego Realtor, was elected 1975 president of the National Association of Realtors at its convention last November.

Leitch is a member of the State Real Estate Commission and was 1964 president of the California Association of Realtors.

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Subdivision Trust Funds

Some subdividers contract separately with purchasers of homes in subdivisions for what they call "extras" which are not standard in the homes being offered for sale. For instance if a purchaser wants an extra fireplace, the subdivider may charge an additional \$700 and enter into a separate contract for the fireplace, or if a purchaser wants special wallpaper, the parties agree that it will cost extra.

Any such extras are a portion of the purchase price and must be impounded under the 11013 Sections of the B & P Code. This does not preclude the subdivider from entering into a contract with a purchaser which provides for a portion of the funds to be paid to the subdivider as damages in the event of default by the purchaser. However, it does mean that the funds must be impounded and the monies may not be disbursed until the parties have met the conditions in these sections.

When there is a preliminary public report, all funds including extras must be impounded with a provision for full refund without deduction if the buyer should elect not to proceed with the purchase.

Impounding of the "extra" funds is not required where the prospective purchaser enters into a separate contract for extras with another contractor who is in no way connected or associated with the subdivider.

If you are not sure whether certain monies are considered trust funds, *don't* assume they are not—find out!