



Real Estate Bulletin

Official Publication of the California Division of Real Estate

EDMUND G. BROWN, *Governor*

April 1966

MILTON G. GORDON, *Commissioner*

DRE Has Resumed Spot-check Audit Program

As of September 17, 1965, Section 10148 of the Real Estate Law was amended to clarify the Real Estate Commissioner's authority to examine brokers' trust accounts. Immediately, a spot-check audit program was launched, not only to uncover possible irregularities, but also to advise brokers as to adequacy of their record-keeping methods.

The auditors report that most violations fall into the following categories:

1. Mixing personal funds with trust funds;
2. Records not being kept in compliance with the Regulations of the Real Estate Commissioner; and
3. Delays in depositing trust funds.

Interestingly, many brokers whose accounting systems fell short of standard adopted the sample system developed by the auditors. Aware their "hip-pocket" methods of maintaining records were not in keeping with good business practice and the law, a number of brokers welcomed the opportunity to install a simplified basic trust fund record system.

Beginning at page 455 of the 1966 edition of the *Reference Book*, several pages are devoted to the subject of trust fund records. The DRE does not prescribe accounting methods for real estate brokers, but a basic system is illustrated at pages 461-463.

The audit spot-check program is geared to reach all parts of the state. The number of examinations conducted in any given district is related to the number of broker licenses in the area under survey. Offices checked are selected at random within the area.

Do You Want To Sell Business Opportunities? No Reason Why You Shouldn't—But Are You Prepared?

By Coen Sexton, Licensed Real Estate Broker, Sacramento

When the separate license previously required for the negotiation of business opportunity transactions was eliminated by legislative action and possessors of real estate licenses were made eligible to handle such transactions, initially I had some concern about this move. My reaction was not based on any fear of competition or encroachment upon my special field. It stemmed primarily from the very nature and essence of the business itself, and the difficulty I have encountered over the past 20 years in recruiting competent and knowledgeable sales personnel. I envisaged licensees exercising their newly gained privilege by listing all the little businesses up and down the street, giving little thought, if any, as to whether they were actually prepared to fulfill the service expectations of their clients and their obligations as agents. And, as I will relate, my experience has given me some comprehension of the pitfalls and troublesome complexities often evident in business opportunity practice.

Frequently, this question is asked by real estate licensees: "May I list and sell business opportunities?" My reply, as a business opportunity practitioner, is: "Of course you may—but are you prepared?"

Selling Intangibles

Basically, in listing and selling business opportunities, you follow more or less the same procedure as in any real estate transaction with one big exception—you are dealing with an *intangible*—something you cannot see or feel; hence the reason for some of the complications you run into when determining a realistic price for the seller and then demonstrating to the buyer why it is a fair price. There are not too many guidelines to go by, and each transaction is unique. **An agent must remember he is dealing**

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EDITOR'S NOTE: In this article, Mr. Coen Sexton, who has long specialized in the business opportunity field, emphasizes the importance of properly completing the listing form.

Since the repeal of the Business Opportunity License Law, veterans in this field, like Mr. Sexton, have shown a remarkable willingness to share their experiences and the business forms they have devised.

This article warns of the pitfalls in business opportunity transactions, but is not intended to be an expression of the law.

"Packaging Fee" Practices Call For Full Disclosure

The Real Estate Commissioner has learned that some real estate brokers, in negotiating a sale transaction, are receiving a "rebate" from lenders when they also handle financing for the buyer.

Some brokers, interviewed in connection with investigations of this practice, term the sums paid to them as a "packaging fee" for their services in getting loan papers in shape for submission to the lender.

The laws of agency require a full disclosure of material information.

When "packaging fees" or other forms of rebate to the selling broker come from funds advanced in form of "points" or loan fees by both buyer and seller, as is often the case in FHA and VA loans, the disclosure must be

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MILTON G. GORDON
Real Estate Commissioner

JOHN E. HEMPEL
Chief Assistant Commissioner

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DESIST AND REFRAIN ORDERS

Issued for the Period Between
January 15, 1966, and March 31, 1966

Number of orders	Violations
	IN-STATE
6	Sale of real property securities without permit . . . and/or failure to comply with all applicable statutes and regulations.
14	Failure to provide for subdivision public report, promised recreation facilities, proper permit or otherwise meet requirements of subdivision law.
	OUT-OF-STATE
4	Failure to comply with California subdivision requirements.

Disciplinary Action—December 1965—January 1966

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, until a final determination of the court action. Names of persons to whom licenses are denied upon application are not published.

Licenses Revoked During December 1965—January 1966

Name	Address	Effective date	Violation
Buckie, Edward Joseph dba Allstate Mortgage Exchange Real Estate Broker Vice Pres., Bonded Contractors, Inc.	5440 Pepperwood Rd., Santa Rosa 3936 Mayette Ave., Santa Rosa	12/ 8/65	Secs. 10176 (a), (b), (i); 10177 (i) and (j)
Goulet, Gerald Eugene Real Estate Broker	4983 Mission St., San Francisco	12/ 8/65	Secs. 10176 (i); 10177 (b), (d), (f) and (j)
Waldow, Carl Bert Real Estate Salesman (Granted right to restricted license on conditions)	2068 Lincoln Ave., San Jose	12/ 8/65	Sec. 10177 (b)
Davis, Robert Alan Real Estate Salesman	1545-211 W. San Bernardino Rd., West Covina	12/ 9/65	Sec. 10177 (b) and (i)
Harrison, Roy Mabry Real Estate Salesman	Lot 2, Tract 53, Arrowhead Woods, Lake Arrowhead	12/ 9/65	Sec. 10177 (b), (i) and (j)
Burns, Calvin H. Real Estate Salesman	4819 Del Monte Ave., San Diego	12/14/65	Secs. 10145; 10176 (e), (i); 10177 (d), (f) and Sec. 2832 of R.E. Comm. Reg.
Goff, William Earl Real Estate Broker	9350 Wilshire Blvd., Beverly Hills	12/ 14/65	Secs. 10130; 10137; 10177 (d), (i) and (j)
Howard, Audrey Ray dba Raymond Realty Real Estate Broker (Granted right to restricted license on terms and conditions)	32203 Helm Pl., Palos Verdes 2191 S. El Camino Real, San Mateo	12/ 14/65	Secs. 10176 (a), (i); 10177 (i) and (j)
Robinson, Adlert Restricted Real Estate Salesman	2985 35th St., Sacramento	12/ 14/65	Secs. 10176 (a), (b), (i), and 10177 (f)
Gallagher, Lowdan Theodore Real Estate Broker	1209 N. Hunter St., Stockton	12/ 16/65	Secs. 10176 (e), (i); 10177 (d), (i); Secs. 2830 and 2832 of R.E. Comm. Reg.
Williams, Fred Calvin Real Estate Broker (Granted right to restricted license after 90 days from effective date of decision on terms and conditions)	2139 W. 77th St., Los Angeles	12/17/65	Secs. 10176 (a), (i) and 10177 (i)
Aamot, Mary Evalyne Real Estate Broker	3329 Alicia Ave., Altadena	12/21/65	Sec. 10177 (b) and (f)
Adams, Roberta Virginia Real Estate Salesman (Granted right to restricted license on conditions)	17810 Superior St., Northridge	12/21/65	Sec. 10177 (b) and (f)
Nattnass, Don Charles Real Estate Salesman (Granted right to restricted license on terms and conditions)	430 Riverside, Newport Beach	12/21/65	Sec. 10177 (f) and (j)
Levine, Meyer Real Estate Salesman (Granted right to restricted license after 90 days from effective date of decision on terms and conditions)	2329 S. Corning Ave., Los Angeles	12/22/65	Sec. 10177 (b) and (f)
Weihe, Hollis Gene Real Estate Salesman	4527 Tolbert Ave., Long Beach	12/22/65	Sec. 10177 (b) and (f)
Burkhart, Charice Marlene Real Estate Salesman (Granted right to restricted license on terms and conditions)	5546 Klump Ave., North Hollywood	12/28/65	Sec. 10177 (b) and (f)
Rady, Charles Wolfgang Vice. Pres., Holland Construction Co. dba Holland Management Co. Real Estate Broker	336 N. Central Ave., Glendale	12/28/65	Sec. 10177 (b) and (f)
Townsend, Lillian Grace Real Estate Salesman (Granted right to restricted licenses on terms and conditions)	712 N. Isabel St., Glendale 11524 Downey Ave., Downey	12/28/65	Sec. 10177 (b), (i) and (j)
Barnes, Ray Merwyn Real Estate Salesman	12219 E. 213th, Artesia	12/29/65	Sec. 10177 (b) and (f)
Seeberger, Otto Arthur, Jr. Real Estate Broker (Granted right to restricted license after 90 days from effective date of order on terms and conditions)	3466 Ingraham St., San Diego	12/30/65	Secs. 10176 (a), (i) and 10177 (f)
Swartout, Bruce Edwin dba Tustin Land & Cattle Co. Real Estate Broker (Granted right to restricted real estate salesman license on conditions)	1999 S. Coast Hwy., Ste. 10, Laguna Beach	1/ 1/66	Sec. 10177 (b) and (f)
Murray, Thomas Albert Real Estate Salesman	8573 Walnut Dr., Hollywood	1/ 4/66	Sec. 10177 (b) and (i)
Newell, Hildie J. Real Estate Broker	650 W. Duarte Rd., Arcadia	1/ 4/66	Secs. 10160; 10162; 10163; 10164; 10165; 10177 (b) and (d)
Ramsey, Kenneth Taylor, Jr. Real Estate Broker (Granted right to restricted license after 90 days from effective date of decision on terms and conditions)	3028 Shattuck Ave., Berkeley	1/ 4/66	Secs. 10176 (a), (g), (i); 10177 (i) and (j)
Johnston, Herbert Respess Real Estate Salesman	17078 Kingsbury, Granada Hills	1/ 5/66	Sec. 10177 (b) and (f)
Mahony, Edmond Anthony Real Estate Salesman	853 Atlantic Ave., Long Beach	1/ 5/66	Sec. 10177 (b) and (f)
Hopper Mortgage Co. Donald Hays Hopper, Member Real Estate Partnership	414 Soquel Ave., Santa Cruz	1/11/66	Secs. 10176 (e), (i); 10177 (d), (i) and 10305
Cohen, Irving Real Estate Salesman	4809 Don Juan Pl., Woodland Hills	1/13/66	Sec. 10177 (b), (f) and (j)
Poster, Evelyn Della Real Estate Salesman	8165 Sunset Blvd., Los Angeles	1/25/66	Sec. 10177 (b) and (f)
Temp, Conrad Robert Pres., LOVE International Inc. Real Estate Broker (Stayed for 3 years on terms and conditions. Respondent shall abstain from acting as a real estate broker for 15 days from effective date of decision)	1481 34th St., Sacramento 3015 J St., Sacramento	1/27/66	Secs. 10145; 10177 (d); Secs. 2832 and 2834 of R.E. Comm. Reg.
Archinal, Franklin Real Estate Broker	243 E. Baseline, San Bernardino	1/31/66	Secs. 10176 (a), (e), (i) and 10177 (f)
Real Estate Salesman	4211 Casa Loma Ave., Yorba Linda		

Licenses Suspended During December 1965-January 1966

Name	Address	Effective date and term	Violation
Koshell, Michael Esidor dba Mike Koshell Real Estate Co. Real Estate Broker (Stayed permanently)	604 S. Broadway, Santa Maria	12/ 8/65 5 days	Secs. 10137; 10176 (i); 10177 (d) and (f)
Sheldon, David Morris, Jr. Real Estate Salesman (Last 23 days stayed permanently)	90 Trellis Dr., San Rafael	12/ 9/65 30 days	Secs. 10177 (d); 11018.2 and Sec. 2795 of R.E. Comm. Reg.
Watkins, Homer Wilfred Real Estate Salesman	816 Muirfield Rd., Los Angeles	12/14/65 90 days	Sec. 10177 (b) and (f)
Andrews, Howard Wilson Real Estate Broker	5010 S. C St., Ste. 1, Oxnard	12/21/65 to and including 8/25/67	Secs. 10160; 10162; 10164; 10165; 10177 (d) and (f)
(After 30 days from effective date, remainder or any portion thereof may be stayed on conditions)			
Riley, James Elmer Pres. Coast Realty, Inc. Real Estate Broker	8150 Garden Grove Blvd., Garden Grove	12/28/65 15 days	Secs. 10176 (d), (i) and 10177 (f)
Boyer, Marjorie Catherine Real Estate Salesman	5811 Seashore Dr., Newport Beach	1/ 4/66 30 days	Sec. 10176 (e); Secs. 2832 and 2834 of R.E. Comm. Reg.
Donovan, Darlene Donna dba Donovan Realty Real Estate Broker (Last 10 days permanently stayed)	1474 Berger Dr., San Jose	1/ 4/66 15 days	Secs. 10177 (d), (f); 11010; 11018.2 and Sec. 2795 of R.E. Comm. Reg.
Frye, Leon Edward Real Estate Salesman (Permanently stayed)	1496 Santa Paula Ave., San Jose	1/ 4/66 15 days	Secs. 10177 (d), (f); 11010; 11018.2 and Sec. 2795 of R.E. Comm. Reg.
Rukasin, Morris dba Sunview Realty Real Estate Broker (Stayed for 2 years on terms and conditions)	547 E. Thelborn St., Covina	1/ 4/66 180 days	Secs. 10145; 10176 (a), (e), (i); 10177 (d), (f); Secs. 2830 and 2832 of R.E. Comm. Reg.
LaGee, Merliam Denie Real Estate Broker (Permanently stayed)	727 Sir Francis Drake Blvd., San Anselmo	1/ 6/66 15 days	Secs. 10137 and 10177 (f)
Clement, John Veitch Real Estate Broker	2-1500 E. Cliff Dr., Santa Cruz	1/11/66 to and including 6/30/66	Secs. 10160; 10162; 10164 and 10177 (d)
(After 30 days from effective date, remainder or any portion thereof may be stayed on conditions)			
Dietz, Robert Walter Real Estate Salesman	16014 Harland Ave., Van Nuys	1/11/66 30 days	Secs. 10176 (a) and 10177 (f)
Rasmussen, Elmer Mathew Member, Pacific Mortgage Service	5848 Naples Plaza, Long Beach	1/12/66 indefinitely	Secs. 10160; 10162; 10164 and 10177 (d)
August Associates Fred Jandy Ballentine, Pres. Richard Waldemar Schilling, Jr., Vice Pres. Thomas William Howarth, Sec. (Permanently stayed)	1200 S. El Camino Real, San Mateo	1/13/66 5 days	Sec. 10177 (f) and (g)
Bertram, James Russell Real Estate Broker	901 B St., San Rafael	1/13/66 20 days	Secs. 10176 (a), (e); 10177 (f), (g) and Sec. 2832 of R.E. Comm. Reg.
Taber, Luise Elizabeth Real Estate Salesman	579 Thornwood Ter., San Rafael	1/13/66 30 days	Sec. 10177 (b) and (f)
Higinbotham, Bessie Real Estate Broker (Last 45 days stayed for 2 years on conditions)	740 Ventura Blvd., Oak View	1/18/66 60 days	Secs. 10176 (a), (b) and 10177 (f)
Boswell, John Harvey dba Boswell Realty Real Estate Broker (Permanently stayed)	1211 Park Ave., San Jose	1/25/66 15 days	Sec. 10177 (f) and (g)
Brenner, Russell Tallmadge Real Estate Salesman (Stayed for 1 year on conditions)	638 W. Mariposa St., Altadena	1/26/66 60 days	Sec. 10177 (b) and (f)

Housing Act Provides Rent Supplement Programs

Realty groups nationally and at local levels are supporting the FHA rent supplement program authorized by the 1965 Housing Act, but no implementing appropriation had been provided when this article went to press.

The program has the backing of President Johnson, who declared it "responds to the critical shortage of decent, low-income housing in many of our cities." He called attention to the new regulations which nullify previous objections that the original rules were so drawn there was danger of benefits going to families far above the low-income bracket.

This phase of the total program authorizes FHA insurance for financing construction of privately owned housing of modest design and cost, intended for low-income families. Safeguards are provided against the possibility such housing might be built in an area where sufficient accommodations of this type already exist.

During the life of the mortgage, the FHA would disburse to the mortgagor the difference between what the tenants pay—generally 25 percent of family incomes—and the economic rent established for units in the project.

The "Section 23" Program

There is also provision in the act for what is known as the "Section 23" leasing program. In communities where overbuilding and overdevelopment have occurred, this plan should help absorb vacancies.

The first step is approval of a leasing program by the local governing body. Owners of rentals can arrange leasing agreements with the local housing authority and thus make their accommodations available to low-income families. The Public Housing Administration says real estate brokers are invited to find and negotiate for rentals. The PHA will then enter into a contract under which the annual contributions would be paid to the local housing authority, which in turn will reimburse owners for the difference between the rent low-income families are paying and the lease price agreed upon.

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ATA POLICY NOW ALTA

The ATA title policy, specially developed for out-of-state insurance companies and other nonresident lenders, is now known as the ALTA (American Land Title Association) policy.

Despite the change in nomenclature, it is still essentially an extension of coverage afforded under the standard policy, and insures against such risks as unrecorded liens or easements, rights of parties in physical possession, including tenants and buyers under unrecorded instruments; rights and claims which a correct survey or physical inspection of the land would reveal; mining clauses and reservations in patents and water rights.

Stolen Salesman License Test Booklet Recovered

Perhaps because he wanted to study the test at leisure, a man, taking the real estate salesman license examination in Los Angeles, left the examination room with the test booklet in his possession.

He was soon located and the booklet was recovered. He was charged criminally, and upon his plea of guilty was convicted of theft.

What caused this man to purloin the booklet only he knows, but certainly he has no immediate hope of obtaining a license as a real estate salesman in California.

DO YOU WANT TO SELL BUSINESS OPPORTUNITIES?

(Continued from

in the area of an individual's livelihood and he must be prepared with the right answers and advice. People will rely on your good judgment, which means if you are wrong they may lose their life savings. Would you ever want to find yourself in such a position?

Listing Form

One of the most important tasks undertaken by a broker is to fill out an authorization to sell with care and skill, as it represents a firm employment contract. The broker should be thoroughly familiar with the necessity of inserting complete data, and, if he employs salesmen, they should receive competent instruction on this important step in the sale. Reproduced on the opposite page is a copy of "fill-in" information on the listing of the sale we shall discuss later. The entire form cannot be printed because of space limitations. I believe the form I have developed and use is satisfactory. It states clearly what is expected from the seller and is not designed to give the agent some masked advantage. It has been my experience that, if a prospective seller wants to remove or make changes in the printed matter, trouble is usually in the offing and it is better to stop right then and there.

The authorization to sell should include all the pertinent facts the agent will represent as being true. One should pay particular attention to income (profit and loss statement) and be satisfied as to its correctness. This also holds true for all other statements.

Although a lease was not involved in the sale described in this article, when there is one it is important the agent be thoroughly acquainted with its contents. Many sales are not completed because the purchaser will not accept the lease, or the lessor will not accept a new lessee.

A complete description of what is being sold should be clearly stated, including the estimated amount of inventory of stock in trade. Since my commission is based upon the gross sales price, including inventory price

of stock at time of possession, I usually make it a practice to help take the inventory. This also enables me to be present to iron out any differences that sometimes creep in between buyers and sellers. I usually try to get the sellers and buyers to agree to "current wholesale cost" when taking inventory, but often they agree to use retail price less a stipulated discount, hinging upon markup.

Price and terms are very important again, because of the intangible factor. You will note that fixtures, equipment, business, trade name, and goodwill are listed at a price not including inventory of stock in trade. However, when a listing is taken, we usually estimate the value of the stock. The figure should be realistic in order to enable the agent to qualify the buyer. In the sale reported in this article, the listing shows the estimated value of the stock as \$7,000 (plus or minus).

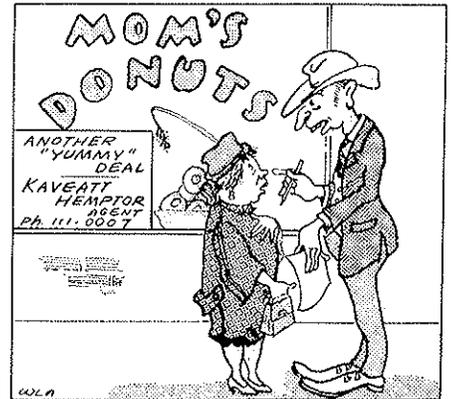
Prior to adoption of this policy, I sold businesses on a flat price basis, which included the stock inventory. I would run into trouble on this in the sale of smaller businesses. Occasionally, when the buyers took over, the stock on hand had diminished well beyond their expectations, creating a troubled atmosphere, to say the least. In one instance in the sale of a small restaurant, several days before the buyers took possession the merchandise on hand amounted to \$250, but, when they took over, the inventory consisted of two potatoes and an onion in a sack.

No Exact Formula Available

I know of no formula to determine an exact figure or price on a business as a whole, but there are many formulas to help determine within a close range, depending upon the nature of the business. In the case of a janitorial service, for example, the factor of three times the monthly gross income might be used under certain circumstances and conditions.

In smaller businesses, some owners do not deduct a salary for themselves from the gross earnings, and this naturally distorts the true picture of the

CAN YOUR BUYER OPERATE THE BUSINESS WITH GOOD CHANCES OF SUCCESS?



"I'm a little dubious of tying all my savings up in this place, Mr. Hemptor—it doesn't seem too busy, and I'm a poor cook and baker anyway—that doughnut machine looks complicated to me and worn out as well."

"Lady, you can master that machine in five minutes—it requires just a little cleaning—all you really need to know is how to operate the cash register—and I'll teach you how to do that in a hurry—we'll need a \$1,000 deposit and you'll soon be the Doughnut Queen of this town."

investment involved. If a person is buying himself a job, he may not look askance at such reasoning, but, when this condition presents itself, it must be considered in determining price.

Before leaving the listing, I would again stress that the agent should be thoroughly familiar with the necessity of writing in the proper information and the importance of setting down the facts. Particular attention should be paid to securing a copy of the profit and loss statement and the lease, a list of fixtures and equipment and a complete description of the property. Also, exactly how and when are the moneys involved to be paid and what are the specific terms, including rate of interest, monthly payments, etc.

Before the owner signs his acceptance of the agreement, the agent should have him read it, making sure he understands the price, terms, commission, expiration date, and that it is an exclusive right to sell authorization.

A carefully drawn listing is of inestimable value and is needed to back the representations made in presenting the property to a prospective purchaser. **What does one do when the seller refuses to supply proper and necessary information? A piece of**

NO REASON WHY YOU SHOULDN'T - BUT ARE YOU PREPARED?

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advice on this point: If you don't refuse the listing, don't represent anything unless you can back it up.

History of a Sale

The following is a brief account of the sale mentioned earlier. It involved a hotel, bar and cafe combination located in a mountain community. The property included buildings and lot, all fixtures, equipment and furnishings, on-sale and off-sale liquor licenses and the trade name of the business. The owner's motive for selling was easy to understand. He was 75 years old and wanted to retire. He was primarily concerned with insuring a monthly income for himself and his wife.

Prior to showing the property to the couple who eventually purchased it, I was convinced their past extensive business experience were such that they would have little, if any, difficulty in operating such a business successfully. They purchased it after only one showing, but the reader may be assured the transaction was far more complex than this sounds. Space will not permit a full account of the lengthy negotiations, particularly in

regard to meeting the down payment requirement. The purchasers were short of cash but had other business and real property equities. Finally, I evolved an arrangement which I felt protected the seller's interests, and he and his attorney agreed.

Considering all circumstances, the seller's attorney advised him to sell on an unrecorded contract of sale instead of taking back a trust deed.

With the seller's protection assured, two escrows were opened—one for the personal property and one for the real property. In this area (Sacramento) very few title companies will handle a business escrow, but attorneys will take care of this phase of the operation, pertaining to bulk sales, etc. The "notice of intended sale" conforming with the requirements under the Bulk Sales Act was duly recorded and publicized. The Uniform Commercial Code was not in effect at the time of this sale. Such a sale made after January 1, 1965, may involve the filing of a financing statement with the Secretary of State, the recorder's office, or both, since personal property is involved as collateral.

The transfer of the two liquor licenses was started with the Department of Alcoholic Beverage Control by taking the buyers to the local office, where they made the application personally. A 30-day period of investigation is here involved and the sale had been made contingent on the ABC's approval of the transfer of licenses.

The building inspector and health inspector were notified to make certain the buyer could receive a business license for the premises. An agent should familiarize himself with these inspection procedures which vary from jurisdiction to jurisdiction. The building inspector may call for compliance with some new building ordinance, or the health inspector may require a new interior paint job. These are matters calling for "roundtable" discussions, and the agent must expect to negotiate with skill to arrive at a satisfactory agreement between buyers and sellers.

The "seller's permit" and a "clearance receipt" relating to sales tax were obtained from the State Board of Equalization, the latter protecting the buyer against "successor's liability." Clearance was obtained from the State Department of Employment on the unemployment insurance tax. In selling businesses involving many employees, adjustments pertaining to prepaid vacation periods, sick leave, etc., have to be worked out. For instance, a buyer may balk when he learns that one of the employees is due for a two-week vacation.

This sale did not call for a noncompetition agreement; the matter of doing business under a fictitious name was handled outside of escrow. These and other items, including partnership agreements, are executed by attorneys.

At the close of escrow, inventory of stock in trade was taken and paid for in full at that time.

I close with one repeated caution: The agent cannot be too careful in his representations and in his paperwork in business opportunity transactions.

FILL-IN INFORMATION ON BUSINESS OPPORTUNITY LISTING

Seller as hereinafter authorized to sell to you the following described property, lying and being in the City of Mt. Helena, County of Amador, State of California, known, designated and described as follows:

Name of Business Doe's Mt. Helena Resort Established 15 years

Location 123 Main St. (Lot 3, Sub. #1, Wells Tr.) Telephone XYZ-4321

Lease and Option Transferable (None). Rent \$ None per month. Security \$ None

Lease Dated - Expires - Option - Years -

Lot Size 100' x 201' Store Size 80' x 160' Living Quarters 3 rooms

Stock at Current Cost \$ 7,000 Employees 10 - 1 janitor, 2 cooks, 2 maids, 4 waitresses & 1 bartender

Average Gross Per Month \$ 10,000 Average Net Profit Per Month \$ as per attached profit & loss statement

Business Hours 6 a.m. - 2 a.m. Days Per Week Closed None

Reason for Selling Owner 75 years old -- too much work -- retiring

Accountant Lloyd L. Lloyd, 213 Main St., Mt. Helena

Real and/or Personal Property, to-wit: Building and lot, furnishings, fixtures and equipment (inventory attached) as now used to conduct said business, on sale and off sale general liquor licenses, business, goodwill and trade name of said business

for the sum of Eighty thousand and 00/100 Dollars (\$ 80,000) plus - Inventory of Stock in Trade at Current Wholesale Cost on the following terms, to-wit: All cash or seller will accept a minimum down payment of twenty thousand dollars (\$20,000) plus wholesale cost of stock inventory at time buyer takes possession. If sale is made with minimum down payment, seller shall carry balance of purchase price of sixty thousand dollars (\$60,000) on a contract of sale, relating to the real property, fixtures and equipment, payable five hundred dollars (\$500) or more monthly, including interest at six percent (6%) per annum. The first payment due thirty (30) days from possession.

SUBDIVISION

DEVELOPMENTS AND ITEMS OF SIGNIFICANCE

4-4-4 SPLIT

DRE Task Force Investigates Subdivision Violations

Although many local jurisdictions, by "lot-split" ordinances, regulate division of land into less than five parcels, state law and subdivision regulations in some counties do not apply when a piece of property is divided into not more than four parcels. So some landowners, operators and licensees attempt to circumvent state and local law by making what is commonly referred to as a 4-4-4 split. They divide a large acreage into four parcels and then divide each of the parcels thus created into four smaller parcels and so on. When this is done as a preconceived plan and by use of corporate or personal dummies, the state subdivision law is violated.

Moving against such violations, the Real Estate Commissioner assigned added personnel to investigatory work in cooperation with local authorities.

These splits usually involve one or the other of two procedures. In the first, a group of persons, often related or having common financial interests, divide land by executing grant deeds among themselves, or by other means, so that no one person holds title to more than four parcels, although all have embarked upon a common venture. A simple example is where Smith owns 20 acres of land and grants to Mrs. Smith four 2½ acre parcels, retaining a similar number of parcels for himself, thereby creating eight parcels which are thereafter offered for sale.

The second procedure is where Brown sets up several private corporations and arranges for each corporation to take title to no more than four parcels in a given area. Thus Ajax, Hercules and Samson Companies are the ostensible sellers of four parcels each, but these companies are merely Brown doing business under a guise.

Practices of this kind do not promote orderly growth and thus have resulted in obstructing overall planning, and in financial damage to unwary purchasers.

Licensees who accept listings on, and offer for sale or lease, lots and

LICENSEE SHOULD HAVE BASIC KNOWLEDGE OF TAX LAWS

"Where a sale of a taxpayer's principal residence is followed within a period of one year by the purchase of a new residence, or if a new residence was purchased within a year prior to the sale of the taxpayer's principal residence, gain is recognized only to the extent that the adjusted sales price of the old residence exceeds the cost of the new one."

Most brokers are probably aware of the income tax advantage offered by the above provision in the Internal Revenue Rules. The licensee will be well advised to keep in mind that this provision is not intended to apply to sales of all properties, particularly investment and income properties.

PARCEL MAPS

In 1965 legislation was enacted providing for a new type of map, the "parcel map," defined in new Sections 11503.1 and 11575 through 11580 of the Business and Professions Code (Subdivision Map Act). It authorizes local agencies to provide in their ordinances for a "parcel map" to be used for land divisions which are not within the definition of a "subdivision."

parcels in illegal subdivisions, located in California or out-of-state, subject themselves to possible disciplinary proceedings against their license and felony charges.

COMMISSIONER IS WED

Real Estate Commissioner Milton G. Gordon and Sandra Driver, daughter of Mr. and Mrs. Robert Farr Driver of Del Mar, were married on Saturday, April 2. The wedding, attended by immediate members of the Gordon and Driver families, was followed by a reception at the Del Coronado Hotel in Coronado.

Division of Real Estate oldtimers noted that Gordon was the only bachelor to serve as commissioner in the 47-year history of the division.

Texas and Florida Pass "Price Kiting" Legislation

At least two states, Texas and Florida, have passed laws making the use of dual contracts illegal. The Florida law defines dual contracts as "two [concurrent] contracts concerning the same parcel of real property, one of which states a purchase price in excess of the true and actual purchase price." Users of the contracts have resorted to this form of manipulation to get bigger mortgage loans, as lenders see only the contract reflecting the inflated sales price.

Every licensee knows, or should know, this practice is illegal. The FBI has uncovered a number of violations in which government insured or guaranteed loans were involved and they have been vigorously prosecuted, but that agency's jurisdiction does not extend to conventional financing. Lenders in some states have been backing legislation specifically aimed at the fraudulent practice of "price kiting," declaring it a criminal act subjecting the guilty party to fine or imprisonment.

In California, Real Estate Commissioner Milton G. Gordon created a special task force of personnel from the Department of Investment and the Attorney General's office to investigate "price kiting" and recommend further steps to eradicate it entirely. A number of real estate licensees participating in this practice have suffered suspension or revocation of licenses.

EDUCATION-RESEARCH PROGRAM

University of California — State Colleges — Junior Colleges

STATE COLLEGE RESEARCH STUDIES NOW AVAILABLE

Three new research studies have been completed at state colleges and copies are available through the Division of Real Estate, Sacramento.

Fresno State College

At Fresno State College, Drs. John A. Crosby and Richard C. Spangler reported on "The Urban Fringe Influx—A Study of Real Estate Marketability." The first part of the study concerns itself with problems arising from conversion of land to urban uses; the second with the effect of real property taxes on Fresno fringe area development.

In the "marketability" portion of the study, Dr. Crosby treats of the sale potential of a given piece of property and discusses effect of distance from an urban environment.

In the "property tax" portion of the study, Dr. Spangler examines assessment procedures, their influence on property tax administration and ultimate effect on land development. Specifically, Dr. Spangler tries to determine if assessments in any given year are equitable as between different parcels of land, and if assessment procedures remain constant over a period of time.

Spangler concludes land sales activity attracts the assessor's attention. During a period of rising land values, parcels escaping attention may be favored in that their assessments are not revised upward as frequently as perhaps they might be. Development activity, on the other hand, may bring higher assessments and tax bills. Land values, and therefore assessments, are normally increased by subdividing activity and certainly by the creation of a subdivision. Economists say that land is developed because it has already increased in value—subdividing is an acknowledgment of the fact that demand for the land has materialized. Spangler concludes the act of subdividing may add something to value,

but it is not the basic factor in determining land value.

Spangler also notes that assessors do not have adequate personnel to appraise all parcels each year, so they concentrate on areas exhibiting the most activity. He feels savings realized by holding down the assessor's expenditures for fieldmen could well be a false economy.

San Francisco State College

"San Francisco consumer buying plans and economic expectations" were studied by Drs. Roy C. Cave and William J. Mason, faculty members of San Francisco State College.

The authors note consumer demand in San Francisco is affected by special regional and local conditions, and by high average personal income level compared to the nation as a whole. They say San Francisco consumer and housing demands differ from the national pattern and local surveys are necessary for useful forecasts. The authors feel changes in "expectations of consumers" may offer a more reliable indication of changes in demand than shifts in announced buying intentions.

Their observations about real estate buying conditions include:

- a. 50 percent of the persons responding to the author's August 1965 survey expected the next 12 months to be a good time to buy real estate.
- b. Real estate market expectations are affected sharply by income expectations.
- c. Those who expressed the greatest optimism about real estate in the next 12 months headed households with two or more persons; were employed in professional, clerical and sales, or skilled occupations, and were high school or college graduates.

As to buyers or potential buyers:

- a. 23.6 percent of the homeowners

REPORTS AVAILABLE

The research reports on "The Urban Fringe Influx—A Study of Real Estate Marketability" and "San Francisco Consumer Buying Plans and Economic Expectations" are obtainable from the DRE's principal office, P.O. Box 2407, Sacramento 95811, at \$1 per copy, plus sales tax.

Reprints of Dr. Connett's suggestions on itemizing "closing costs on residential transactions" will be sent free upon request.

questioned had bought new homes, while 76.4 percent said they bought "used" homes. 72.5 percent bought their homes before 1961.

- b. 80.9 percent bought their homes with the assistance of a real estate agent. Half the homeowners paid less than \$20,000 for their present homes and now consider them worth more.
- c. 40 percent owe less than \$10,000 on their first mortgage.
- d. Most original loans were "conventional." 8.4 percent of the homeowners queried had borrowed on their equity. Of these, 12.5 percent used the money for other dwellings, mostly of the vacation type, while 43.8 percent used the money for home modernization.
- e. 7.9 percent of the homeowners said they plan to sell their present property and 64 percent of the potential sellers intend to sell through a real estate broker.

Humboldt State College

Dr. Russell R. Connett from Humboldt State College has completed a report on "closing costs on residential transactions." In his work, Connett investigated, defined and reported on costs known to figure in the purchase of a residential property. He divides closing costs into three broad categories—financial, legal, and prepayable expenses—and summarizes his explanations of terms under these groupings. Checklists and estimates of closing costs for both the buyer and the seller are included.

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How Long to Pay Off A Contract of Sale?

A real property sales contract entered into after January 1, 1966, must stipulate the time required to complete payment in accordance with the terms of the contract, and the basis upon which a tax estimate is made.

These provisions are set forth in Section 2985.5 of the Civil Code, passed in 1965. Often the contract purchaser is relatively unsophisticated and unlikely to ask questions and determine how long his payments under the contract will continue or what he might expect in the way of taxes.

The Division of Real Estate has received a number of complaints involving new subdivisions where underestimated taxes resulted in a substantial increase over expected monthly payments. Hopefully, this disclosure law will help avoid repetition of these unfortunate situations.

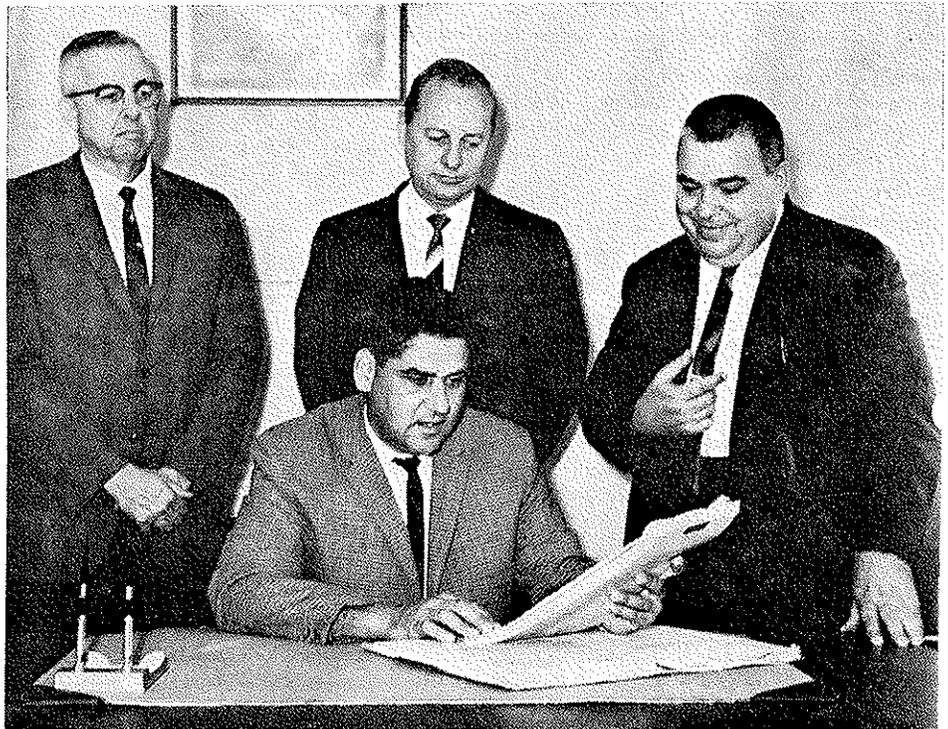
This law requires disclosure of the basis upon which the tax estimate is made when, in fact, the tax is estimated, but does not require an estimate. The contract may be silent in regard to taxes; if so an explanation is not required.

"Packaging Fee" Practices Call for Full Disclosure

(Continued from Col. 3, Page 749)
made to both buyer and seller.

When only the buyer or the seller pays the loan fee, the selling broker must disclose his "packaging fee" or

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San Diego District Office Deputies Confer With Supervising Deputy—Standing (l. to r.): Deputy Real Estate Commissioners John C. Scudder, John T. Dickinson and John G. Sertick. Seated: Richard B. Nicholls, Supervising Deputy. The San Diego District Office services San Diego and Imperial Counties and has 10,000 licensees under its jurisdiction.

RENT SUPPLEMENT PROGRAMS

(Continued from Col. 3, Page 751)

The annual supplement cannot exceed the amount which would be paid

rebate, if any, to that party to the transaction.

The Real Estate Commissioner is taking this means to alert all licensees to the fact of this requirement, as there will be an intensified enforcement program to eliminate abuses in this field.

in the case of a newly constructed project in the community designed to accommodate the comparable number, size and kinds of families. To be eligible for rental assistance, a family's annual income must be below a stipulated level, which will vary with location and family size.

Further information on the "Section 23" program can be obtained from the PHA Regional Office, 450 Golden Gate Avenue, Box 36027, San Francisco 94102.