

# REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, May, 1956

D. D. WATSON, Commissioner

## Have Your License Renewed on Time

**Holders of Renewable Licenses Should Follow These Instructions;  
Not Applicable to One-year Licenses Issued Since October 1, 1955**

The following instructions and reminders concern holders of permanent, renewable licenses—that is, those brokers and salesmen licensed prior to October 1, 1955. The status of those who hold original one-year licenses issued since October 1, 1955, is explained in the adjoining column.

Your official license renewal application form will be mailed to you from Sacramento late in May. Wait for this official form and use it to renew. If not received by June 10th, get form from one of division's offices.

To avoid extra cost, renewal applications and proper fees must be in the mail and postmarked not later than June 30th. Renewals postmarked July 1st, or later, require a double fee. **NO EXCEPTIONS!**

If name or address is changed, show change on renewal application, and indicate in space provided for that purpose whether change is to be effective immediately, or as of July 1, 1956. Enclose extra \$1 fee for each license involving the change of address or name. Salesmen—if you are changing employing brokers as of July 1st, send extra \$1 fee.

Brokers and salesmen—both sign the salesman renewal form. To avoid delay, mail salesman renewals and fees in same envelope with employing broker's. A salesman license cannot be issued until the salesman's employing broker's license is renewed.

Do not mail currency. Pay fees by money order or check. If currency is lost, it is your loss, and in addition you may have to pay additional for late renewal. Make checks and money orders payable to State Division of Real Estate.

Checks—if your check is returned by the bank unhonored for any reason, you must pay a double renewal fee, unless the valid fee is mailed and postmarked prior to midnight, June 30th.

Many renewal applications are received just before the June 30th deadline. Therefore, all licenses cannot be issued to reach licensees by July 1st. Continue to operate on the old license if you made proper renewal and paid fee on time.

Inactive brokers—to keep your right to reinstate your license, you must file renewal application and remit the full renewal fee. You will receive an official form in the mail. Your check mark in the space provided for the purpose will indicate that you want to remain inactive. Your inactive license certificate will be issued and you will retain your right to become active any time during the 1956-57 license year.

Inactive salesmen—you must also file renewal form and pay the full fee. If you want your license to remain inactive, make a check mark in the space provided on the form. Where the salesman license is to remain inactive, the renewal application need not be signed by a broker. If you do not receive a renewal form by June 10th, obtain one at any division office.

REMINDER: There is a \$1 charge in addition to the renewal fee for any change of name, address or employing broker even though the change is made as of July 1st. (Applies also to "inactive" licenses.)

### Notice to Holders of One-year Original Licenses

The license renewal reminders in the columns to the left are intended for those who hold permanent, renewable licenses—that is, those who were licensed prior to October 1, 1955. On that date the license law was changed and new brokers and salesmen are now issued licenses valid for one year from date of issuance. The new one-year original licenses have varied expiration dates; permanent, renewable licenses expire June 30, 1956.

Holders of one-year original licenses will be called to take a second or "final" examination some time in the tenth month of the year for which they are licensed. Second or "final" examinations will be given for the first time in July, 1956. Those passing this second examination are eligible for permanent, renewable licenses.

## VA Announces Policy Change of Interest to Brokers

The Veterans Administration is willing to guarantee a GI loan on property despite liens against it by private organizations which are providing it with community or municipal-type services.

In the past, the VA would approve a GI loan only if such liens were subordinated to the VA-guaranteed first mortgage—that is, if the mortgage obligation had priority over the lien.

This requirement may be waived, the VA has announced, but lenders must secure prior approval from the VA.

In many cases, the VA says, subordination of liens involved serious practical obstacles which tended to hinder veterans' purchases.

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Sacramento, May, 1956

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**DIVISION OF REAL ESTATE**

STATE OF CALIFORNIA  
GOODWIN J. KNIGHT, Governor

D. D. WATSON  
Real Estate Commissioner

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**DISCIPLINARY ACTION—FEBRUARY AND MARCH, 1956**

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to seek a court review. This must usually be done within 30 days after the effective date of the commissioner's decision.

Therefore a list of actions is not published in this *Bulletin* until the 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 or to whom a restricted license is granted after suspension or revocation are not published.

**LICENSES REVOKED DURING FEBRUARY AND MARCH, 1956**

Name	Address	Effective date	Violation
Land Filing Service, Inc. Jay B. Van Alstine, Pres. and Gen. Mgr. Real Estate Broker	Rm. 201, 1213 N. Highland, Los Angeles	2/ 1/56 ✓	Secs. 10130; 10131; 10137; 10164; 10176 (e), (f) & 10177 (d), (f)
Van Alstine, Jay B. Real Estate Broker	6429 Drexel Ave., Los Angeles	2/ 1/56	Secs. 10137; 10164; 10176 (e), (f) & 10177 (d), (f)
Cooper, Martin Joseph Real Estate Salesman	7200 Hollywood Blvd., Los Angeles	2/ 1/56 ✓	Secs. 10130; 10131; 10137; 10176 (e), (f) & 10177 (d), (f)
Hardecaste, Jerome B. Real Estate Broker	1511 Laurel Canyon Blvd., Hollywood	2/ 7/56	Secs. 10176 (a), (g), (i); 10177 (f); 10301 (a), (f) & 10302 (e)
Haugan, Clarence Merrill dba Dollar Realty Real Estate Broker	1711 E. 14th St., San Leandro	2/10/56 ✓	Secs. 10176 (e), (f); 10177 (d), (f); 10301 (e), (f); 10302 (d), (e) & Secs. 2830 & 2832 of R. J. Comm. Regulations
Nabhan, George Mitchell Real Estate Broker	2261 Market St., San Francisco	2/17/56	Sec. 10177 (f)
McQueen, Vernon Leroy Real Estate Salesman	1013 Alhambra St., Delano	2/17/56	Sec. 10177 (b), (f)
Lidster, Howard Irvon Real Estate Broker	2508 J St., Sacramento	2/28/56	Secs. 10176 (a), (b), (g); 10177 (f) & 10302 (e)
Ganem, Frank Paris Real Estate Salesman	4557 Centinela Ave., Los Angeles	2/29/56	Sec. 10177 (b), (f)
Auburn Land Inc. dba ALL Real Estate Broker	955 Lincoln Way, Auburn	3/ 1/56 ✓	Secs. 10176 (a), (e), (f) & 10177 (d), (f)
Standiford, Howard Benjamin Vice Pres. and Gen. Mgr. Auburn Land Inc. dba ALL Real Estate Broker	955 Lincoln Way, Auburn	3/ 1/56 ✓	Secs. 10176 (a), (e), (f) & 10177 (d), (f)
Hopp, Augustine Peter dba A. P. Hopp & Co. Real Estate Broker	1112 E. Main St., Alhambra	3/ 6/56	Secs. 10176 (a), (b), (f); 10177 (f) & 10302 (e)
East, Arthur Milton dba Central Realty Exchange Real Estate Broker	1337 Ocean Ave., Santa Monica	3/ 7/56 ✓	Secs. 10176 (e), (f); 10177 (f) & 10302 (e)
Mushik, Trudy Josephine Real Estate Broker	4701 N. Maine, Baldwin Park	3/14/56	Secs. 10176 (f) & 10177 (d), (f)
Winbourne, Tom Ballard Restricted Real Estate Broker	4701 N. Maine, Baldwin Park	3/14/56	Secs. 10176 (f) & 10177 (d), (f)
Woodard, Jim and Company Inc. Real Estate Broker	579 MacArthur Blvd., San Leandro	3/16/56	Secs. 10176 (a), (d), (f), (g), (i); 10177 (f) & 10141
Woodard, James William Inc. Real Estate Broker	579 MacArthur Blvd., San Leandro	3/16/56	Secs. 10176 (a), (b), (d), (f), (g), (i); 10177 (f) & 10141
Citizens Filing Service Inc. Marion Wall Marshall, Pres. Real Estate Broker	1544 N. Highland, Hollywood	3/20/56	Secs. 10137; 10138 & 10177 (d), (f)
Steinhour, Henry Homer Real Estate Broker	King Edward Hotel, Los Angeles	3/20/56	Sec. 10177 (b), (f)
Washington, Edward Lincoln Real Estate Salesman	3444 Hillcrest Dr., Los Angeles	3/20/56	Sec. 10177 (b), (f)
Church, Geneva Doris Real Estate Broker	7332 Sierra Highway, Saugus	3/21/56	Secs. 10176 (f) & 10177 (d), (f)
Ohlschlager, Ann Lorraine Real Estate Salesman	12940 Gladstone Ave., San Fernando	3/23/56	Sec. 10177 (b), (f)

**LICENSES SUSPENDED DURING FEBRUARY AND MARCH, 1956**

Name	Address	Effective date and term	Violation
Eckley, Grey Rien Real Estate Broker	State Hwy. 9, Ben Lomond	2/20/56 90 days (last 60 days stayed on terms and conditions)	Secs. 10176 (a), (b) & 10177 (f)
Miller, Ralph Joe Real Estate Broker Business Opportunity Broker	1121 E. 7th St., Long Beach	2/29/56 6 months	Secs. 10176 (f); 10177 (f) & 10302 (e)
Glade, Sarah Real Estate Salesman	5616 Laurel Canyon Blvd., North Hollywood	3/ 6/56 10 days	Secs. 10176 (f) & 10177 (f)
Mintz, Paul M. dba Paul Mintz & Associates Real Estate Broker Business Opportunity Broker	3580 Wilshire Blvd., Los Angeles	3/14/56 30 days	Secs. 10176 (f); 10177 (f); 10177.5; 10302 (e) & 10302.5

**Photos of Applicants  
for License Required**

Once again applicants for original license are reminded that applications cannot be processed unless they are accompanied by the applicant's photograph. To avoid delay, all applicants—and this applies even though the applicant is already licensed in another classification—should affix photographs to the examination cards sent in with the application.

The name of the applicant should appear on the back of the photograph in case it becomes detached.

The photograph should be recent, should include head and shoulders only and be of a passport type, that is, about two inches square.

## ILLEGAL SUBDIVISION

### Attorney General's Opinion Scores Subdivision Subterfuge

During the recent period of rapidly increasing land values, enforcement of subdivision laws by the State and counties has taken much time and effort. This has been due largely to the desire of some landowners to make a quick profit with minimum expense.

As a result of subdivision law violations, many purchasers find themselves in difficulties, and the cities and counties are often faced with costly operations in the way of realignment and improvement of roads to conform with a plan of orderly development.

A means of evading the subdivision laws which has been employed by landowners is to divide the land by survey into a number of parcels, and then convey to three or four friends and relatives certain portions of the tract. These people in turn market the individual lots.

#### County Official Requests Opinion

Recently, the San Bernardino County Counsel asked the State Attorney General as to what remedies might be employed to meet this situation.

The question was asked: *"Is there a violation or violations of the Real Estate Law (Business and Professions Code, Sections 11000 to 11021) or the Subdivision (Map) Act where the owner of a large parcel of land has the land surveyed into ten separate lots and where the owner then conveys those lots in three conveyances to members of his family, who immediately reconvey their parcels to other persons?"*

The Attorney General replied that from the facts given, it would appear that the original owner divided or proposed the division of his land for purposes of sale into five or more lots or parcels, and therefore the transactions are in violation of both laws. The intent of the owner with reference to his land must, however, be proved, the opinion added.

Under the subdivision law giving the commissioner jurisdiction, such a violation is a misdemeanor chargeable to the "subdivider." **But in addition, if there has been any conspiracy to violate the law among those persons receiving the original "parcels," this could constitute a violation of the Penal Code, the opinion states. The**

**latter would hold if there were a deliberate plan to violate the law.**

Such violations may be prosecuted within one year from the recording of any deed, lease or contract of sale conveying property sold in violation of the law, and violations start anew with each such deed, lease or contract of sale recorded.

If its ordinances so provide, a county may compel an owner to submit his subdivision to the county planning commission.

#### Subdivision Map Act

In commenting specifically upon the Subdivision Map Act, the Attorney General states that there is a general principle that a man may perform any lawful act with reference to his property unless his action is specifically prohibited under a valid enactment based upon the exercise of the police powers of the State.

Commenting further: *"We assume, therefore, that before these most important rights can be interfered with, the law must be clear and unambiguous in its prohibition. This does not mean that a man can, in fact, divide his holding into five parcels within a year period and then by the simple expedient of using a dummy for a portion of the conveyances evade the provisions of the Subdivision Map Act. On the other hand, if the owner makes a bona fide conveyance so that the end result is that the original owner does not, himself, divide the property into five or more parcels, he does not come within the provisions of the Subdivision Map Act."*

#### Have It in Writing

Have a policy manual or a written agreement between yourself and your associates and salesmen which outlines the responsibilities of each party. It guarantees a businesslike arrangement and is not a sign of distrust.

## Five Real Estate Employees Win Merit Awards in March

Five employees of the Division of Real Estate were recognized for their valuable contributions toward improving efficiency by the Merit Award Board in its regular March meeting.

Top award winner was Michael J. Maslach, Deputy Real Estate Commissioner I, who received two awards totaling \$165. Another winner was Lila B. Shafer, Hearing Reporter, who received cash awards totaling \$30 for her two adopted suggestions. Anne R. Williams, Senior Stenographer, was awarded \$25; Joseph J. Nunes, Deputy Real Estate Commissioner I, Los Angeles, \$20, and a certificate of commendation was presented to Rosalind Galland, Intermediate Stenographer, Oakland.

The State Merit Award Board was established to stimulate state employee suggestions for improved operational efficiency and economy. The amount of each award is based on estimated savings resulting from the adoption of the idea. Estimated savings of \$5,194 for the first year are expected as a result of the suggestions of Division of Real Estate employees named above.

## Would-be Broker Convicted by S. F. Court

John A. Lafka, on a technical charge of acting as a business opportunity broker without a license, was convicted in a San Francisco municipal court and was sentenced to 30 days in the county jail with one day suspended. He was also placed on probation for six months and was ordered to make restitution of money taken in a purported business opportunity transaction.

The case grew out of a complaint made to the Division of Real Estate. Investigation revealed the nature of Mr. Lafka's operations, and arrest and trial followed. Involved was the sum of \$750 which Mr. Lafka was ordered to return under the terms of his probation.

## New Commissioner's Conferences Register Success

### Question and Answer Sessions Prove Popular and Will Continue

The round table meetings being held by the commissioner at various points throughout the State have been met with enthusiasm. At this writing, seven meetings have been held in all, at Whittier, Pasadena, San Gabriel Mission Playhouse, Santa Ana, Glendale, Burbank and Encino.

The conferences are designed to explain the workings of the Division of Real Estate and to give licensees the opportunity to discuss personally with the commissioner and his deputies those laws which he administers. While early conferences were devoted largely to talks, it was found that question-and-answer sessions had more popular appeal. Recent meetings, therefore, have been devoted to the answering of written questions submitted by those in attendance, as well as questions direct from the floor. The success of the latter type of program had led the commissioner to announce that future meetings will be conducted along this plan.

#### Large Turnout

The first seven meetings attracted an attendance of over 4,000 licensees. Invitations to attend were mailed to all brokers and salesmen in meeting areas.

All phases of the division's work are open for discussion. Licensing, examinations, qualifications, investigations, hearings, subdivisions and mortgage loan regulations have been covered. Great interest is shown in the recent amendments to the license law providing for the double examination.

After meetings have been completed in the population centers of Southern California, the panel will gradually move north, eventually as far as Eureka. The program will wind up around August 1st. A second series is slated for southern coastal communities.

#### Interest in Law Changes

The subjects which proved to be of greatest interest were those concerned with the new license regulations and the second examination, also the provisions of the mortgage loan law. Next in order of popularity were the subdivision regulations and pitfalls in the business which lead to complaints.

Commissioner Watson has been gratified with the response to these meetings and the numerous letters from licensees urging that they be made an annual affair. He believes that the meetings will bring about a better understanding of the laws and regulations of the division, resulting in a substantial reduction of complaints and in better service to the public generally.

While all future meetings have not been definitely scheduled, a tentative schedule has been adopted which is published below.

Every licensee and person interested in the real estate business is cordially invited to attend the meetings scheduled for his vicinity. Please make note of the date of the meeting planned for your area and plan to attend.

### COMMISSIONER'S CONFERENCES

#### SCHEDULE FOR MAY, JUNE AND JULY

Following is the schedule of conferences to be held by Commissioner Watson during the months of May, June and July. Please make note of the dates. Licensees in each area will receive further notice by mail.

Plan to attend these interesting discussions. They won't take much of your time. All are evening meetings scheduled for 7:30 p.m. They last two hours and there is no dinner or other social affair in connection. The information gained may help you to comply with the law and avoid difficulties.

Long Beach—May 15	Los Angeles—June 19
Inglewood—May 16	Westwood—June 20
Torrance—May 17	San Diego—June 21
Bakersfield—June 5	Santa Barbara— July 10
Fresno—June 6	San Luis Obispo— July 11
Stockton—June 7	Monterey—July 12
San Jose—June 8	
Santa Rosa—June 15	

## CREA Conducts Series of Successful Conferences

With the theme "How to Click in '56," the California Real Estate Association has this spring been conducting its series of educational and sales conferences, and, as usual, they have been highly successful and stimulating. Each conference has been featured by inspirational messages on sound selling techniques presented by nationally prominent speakers well grounded in the art of modern methods of merchandizing real estate.

The meetings are divided into two groups. Group I is for sales personnel and concentrates on customer counseling and proven principles of merchandizing. Group II is a workshop session for managers, with emphasis on personnel management and proper office procedures.

Since all licensees have been and are welcome to the benefits of these meetings, the commissioner regrets that the March *Bulletin* had to go to press too early to publicize them fully.

However, licensees in Northern California will be interested to know that conferences are scheduled for Chico, June 4th; Redding, June 6th; and Eureka, June 8th. For full details, contact your local board or write to California Real Estate Association, 117 West Ninth Street, Los Angeles.

## One-Year Broker Licensees May Hold Salesman Status

If you held a permanent, renewable salesman license (one issued for the 1955-56 year, prior to October 1, 1955) and now hold an original one-year broker license (issued on or after October 1, 1955), you may want to take the precaution of maintaining your permanent salesman license status, pending passing the second or "final" examination for broker license.

If so, you may request issuance of an inactive salesman license certificate—fee \$1. Give your home address.

The inactive license must be renewed prior to June 30th each year to maintain its status. Renewal fee is the same as for active license.

## QUESTIONS AND ANSWERS

Below we start what may become a regular feature of the *Bulletin*—a Question and Answer column. If you find it interesting and would like such a column in each issue, please let me know and we will try to provide the space.

All should understand that we can only answer questions that pertain to the license law and Commissioner's Regulations and to subdivision and mortgage loan law and problems. We cannot answer questions of general law or attempt to interpret contracts.

If you have questions you want answered, send them with your name and address to the Editor of the *Bulletin*, Division of Real Estate, 1021 O Street, Sacramento (14).

*W. J. Jansen*

1. Q. Does a branch office have to be run by a broker instead of a salesman?

A. No. A salesman may run a branch office as long as he is supervised by the broker as required by law.

2. Q. A salesman I was going to hire brought me a form from the Division which I was to sign and in which it asked if I agreed to exercise close supervision over him. What was this for?

A. He probably held a restricted license. In most such cases, the commissioner reserves the right to approve the employing broker. Restricted licenses are sometimes issued after a regular license is revoked or suspended.

3. Q. Does the new provision in the law for a double examination apply to business opportunity licenses also?

A. Yes. It applies to all licenses (except limited) issued by the Division.

4. Q. In running a classified ad, is the salesman allowed to advertise his name before the broker's name?

A. This is not prohibited. The law states that the name of the broker must be published also.

5. Q. If a broker is ill for six months and does not know when he will be able to work full-time, must he inactivate his license?

A. Not unless he chooses to. However, he must maintain his office and sign, and display his license as required by law if he does not inactivate his license.

6. Q. Is there a penalty for not inactivating a license?

A. No, but if the broker fails to maintain office and sign, his license could be suspended or revoked.

7. Q. Does California have a reciprocal agreement with any other states regarding the licensing of brokers or salesmen?

A. No. A licensee from another state must meet all the California qual-

ification requirements, including examinations.

8. Q. I have been a real estate salesman for 10 years. If I apply for a business opportunity license, will I have to take both an entrance and final examination to get a renewable license?

A. Yes. the two licenses are separate and distinct.

9. Q. When a broker employs a salesman, must the salesman stay with him for the remainder of the license year?

A. No. He may transfer as often as he desires.

10. Q. If a salesman's license has been canceled because he secured a broker license under the new law, can it be reinstated or put on an inactive basis?

A. Yes. He can put it on an inactive basis during the term of that license for a \$1 fee. The salesman license can be kept on inactive status by paying the regular renewal fee if application for renewal is made prior to expiration date. This can also be accomplished within one year after expiration of the license by paying double renewal fee plus \$1. Of course he can't hold both an active salesman and broker license at the same time.

11. Q. Is it permissible for 10 to 15 brokers to place their licenses in one office with only a telephone answering service? Shouldn't every broker be made to maintain a separate office?

A. There is no limit to the number of brokers who may occupy one office, as long as they comply with the law. They must display proper signs, post their licenses, and the space they occupy must be a place where they consult with clients, etc.

12. Q. If a salesman is guilty of misrepresentation, can the broker be held responsible for this act?

A. In order to revoke or suspend a broker's license for the acts of his

salesmen, he must have guilty knowledge of them. However, if the broker fails to exercise reasonable supervision over the salesmen his license can be revoked or suspended under the terms of a recent change in the law [Sec. 10177(h)]. In addition, he may be civilly liable for any losses suffered by the client. It is therefore well to be careful in employing salesmen.

13. Q. For how many years may a person keep a real estate license inactivated?

A. Indefinitely, provided he renews and inactivates the license during each license period.

14. Q. Can a salesman use a printed card using only his own name and not showing the broker's name.

A. The rule states that any advertising carrying the salesman's name must also carry the broker's name. A business card is a form of advertising.

15. Q. I have a salesman license. If I attempt to get a broker license and fail the entrance examination twice, do I jeopardize my salesman license?

A. No, unless too much time has elapsed. You can reinstate the salesman license during the license year, or during the following year by paying a double fee.

16. Q. How do I go about studying for second broker examination at the end of the year?

A. This second examination is now being prepared, and the commissioner has not yet determined its full scope definitely. A little later we will have information on this question.

17. Q. May a broker holding an original one-year license have his previous salesman license reinstated without examination, should he decide or choose not to take the second broker examination to qualify for permanent license?

A. Yes, provided he had a renewable salesman license and he reinstates it the same year he secured the original broker license, or in the year following by paying a double fee. If you have a permanent salesman license, it is well to keep it on the inactive list until you are sure you can pass the new final broker examination. Otherwise, you might end up with no license at all.

18. Q. If a broker advertises fictitious listings in order to lure buyers to inquire about property through his office, what penalty can be imposed?

A. This could constitute false advertising. The broker would be sub-

(Cont. on Page 239, Col. 1)

## New Subdivision Manual Published by Division

For the benefit of brokers, subdividers, homebuilders, land owners, title companies and lending institutions, the Division of Real Estate has published a Subdivision Manual containing a full explanation of the Real Estate Commissioner's jurisdiction and requirements in the development of new subdivisions. The new manual should fill a long-felt need, as it is believed it answers most of the questions commonly asked about the commissioner's jurisdiction and required procedures when a new subdivision is contemplated.

The various types of subdivisions and procedures applying to each are discussed. Full information is given on filing methods, the effect of blanket encumbrances, the requirements of the law in the matter of handling deposits, etc.

This 45-page booklet is available at all offices of the division at a price of 26 cents, which includes sales tax. It may also be ordered from the Sacramento office at the same price, mailed postpaid. If you want to order by mail, please use the order blank at the bottom of page 239 of this *Bulletin*.

## Hasty "Sold" Signs

Do you "jump the gun" and place a "Sold" sign on property as soon as you have a signed offer and a deposit? If so, you may get into a peck of trouble. Better wait until the deed is recorded in the purchaser's name.

This is even more important when you are working on an open or a cooperative listing. You might do your fellow broker serious harm, as well as your seller, if you post the "Sold" sign before the deal is actually consummated. A "Sold" sign is tantamount to taking the property off the market. In any case, you had better get permission of the seller to post the sign.

**Be Sure to Renew Your License on Time**

## Broker Awarded Commission as "Procuring Cause"

A recent appellate court decision brought out some interesting observations on the broker's performance as the "procuring cause" in a sale. The court, in awarding the commission, also disposed of the argument that, since the salesman was not authorized in writing to accept the listing for his broker, the seller was relieved of paying a commission.

The facts considered were briefly as follows: In his employing broker's name, the salesman obtained a listing on a sizable ranch property, whose resources he knew fairly well through previous experience. The next day he talked to a cattleman whom he thought might be interested in just such a ranch.

The salesman was well informed on the property's possibilities and the cattleman expressed interest, but said he was too busy to look at the property immediately. The ranch owner was informed by telephone and by letter that the cattleman was a potential prospect who would probably come up to look at the ranch.

### Salesman Keeps Trying

The salesman visited the cattleman from time to time, explaining the potentialities of the property. Eventually the cattleman went to see it alone and was shown about by the owner. They entered into a purchase and sale agreement without either the salesman or his employing broker being present.

Upon the seller's refusal to pay commission, the broker sued in superior court and judgment was entered in his favor. The case was appealed, but the appellate court sustained the trial court and the award of the commission was upheld.

In its decision the appellate court quoted the trial court's language: "*In these brokerage commission cases, the cause is usually \* \* \* a mental condition or interest created in another person's mind that becomes a motivating force that causes him to act, and the motivating force continues without cessation, until it brings about the consummation of the act, and the person who created such interest in the*

*other person's mind that resulted in the act is said to be the procuring cause of the act.*

### Interest Aroused

*"There is no evidence that (the cattleman) had any thought or notion of buying this ranch before the broker contacted him. His interest was so much aroused that he promised to go 'to look at it.' A force was at work in his mind. Who created that with regard to the Big Spring Ranch? Did this interest ever subside? True, he talked with (the owner) about the ranch. Can it be said this was the sole cause of his going to look at the ranch and ultimately buy same? Did not the broker first create the interest in his mind, did this not continue, and perhaps (the owner) did augment and add to this interest the broker had created? There is no evidence that this original interest had subsided and (the owner) created it anew. He said before he left Shasta County he was coming up to look at the ranch. Under this evidence, the court will find the broker was the procuring cause of the sale."*

It is interesting to note the court's usage of the term "broker" throughout its remarks, and it illustrates the nature of the broker-salesman relationship.

In their appeal the attorneys for the sellers urged that the judgment be reversed because, among other things, the salesman was not authorized in writing to accept the listing for his broker. The court dismissed this contention by saying simply, "There is no merit to the point," citing another California case. (Article based on *Oaks v. Brabs*, C. A. 2d 182.)

## Cooperative Agreements

When one real estate office cooperates with another office on the sale of an exclusive listing, some form of written agreement should be developed. An understanding is particularly important—cooperation extends beyond the terminal date of the listing agreement. This and other ideas developed at recent sales conferences.

## More Questions and Answers

(Cont. from Page 237, Col. 3)

ject to loss of license and also prosecution under the law.

19. Q. In what respect do the recent changes as to examinations affect the inactive licensees?

A. Not at all. If you have maintained an inactive license since before the new law went into effect, you can reinstate it at any time and secure a renewable license.

20. Q. If a broker or salesman inactivated his license prior to October 1, 1955, and he reactivates it subsequent to that time, is it necessary for him to be re-examined under the two-examination setup?

A. No.

21. Q. Does working in an office of a real estate or construction company satisfy the experience requirements for broker license, even though I did not engage in the sale of real estate?

A. A committee of State Real Estate Commission members considers each case on its own merits. You would probably be given some credit for experience, but probably not enough to qualify for license.

22. Q. I have an original broker license. How will I know when to appear for my final exam?

A. The Sacramento office will endeavor to notify you sometime during the ninth month by sending you an application for the examination. You file it with the \$5 second examination fee. Upon receipt of the application and fee, you will be notified when and where to appear.

23. Q. In many offices there are licensed brokers working in the capacity of salesmen. In such instances, how far may such brokers go in representing their employing brokers?

A. That all depends upon the employment agreement between the brokers. As far as the commissioner is concerned, each person holding a

broker license has all the rights of a broker. The law imposes no special requirements when one broker works for another.

24. Q. Must the name of a broker employed as a salesman be displayed in the front of the office the same as required for the employing broker?

A. Yes, unless the broker-salesman has a written agreement with the employing broker that he will not act as a broker on his own behalf. In that case, he may merely post his license, which will be considered an adequate sign.

25. Q. Are there any legislative bills now being considered to make college training necessary for real estate salesman and broker licenses?

A. Not to our knowledge. There has been talk of requiring certain educational background for license. In New Jersey, for instance, a high school diploma is a requisite for a broker license, with certain exceptions.

26. Q. If I successfully pass my first salesman examination and get an original license, and then decide not to continue in the business, may I take the final exam, obtain a permanent license, and then keep it inactivated?

A. Yes. There is nothing in the law that states you cannot do this. However, unless you get some practical experience in the business, it may be difficult to pass the final examination.

27. Q. You urge that a broker investigate a salesman before he employs him. How should he go about this?

A. How does any employer satisfy himself that a new employee is of good character? He requires references and recommendations, and follows through with them. He also checks with the person's previous employers, police department of his home town, etc. A reasonable investigation is highly desirable.

## Out-of-Staters Can Expect Delay in License Issuance

Recently the division has been receiving an unusual number of letters and phone calls in this vein, "I took and passed the examination on the same date as Mr. X. He received his license ten days ago and I have yet to get mine."

Here is the answer in many instances. Applicants for original licenses who have resided in California for less than five years should anticipate a greater than normal time interval between passing the examination and issuance of license. It is important for brokers to remember this when interviewing prospective salesmen.

### Explanation

Now the explanation. For years the division has fingerprinted all applicants for license and the fingerprints have been checked through the California Bureau of Criminal Identification and Investigation and other agencies as appropriate. If the applicant is a lifelong resident of California, the CII can quickly produce a complete record of any difficulties he may have had with the law. On the other hand, the information in connection with the comparative newcomer to the state is rarely so complete.

In a way this might be considered as discriminatory against the long-time resident of California, as his past record is perhaps open to a much more thorough and searching scrutiny than if he had resided in the State only a few months. Quite possibly his license is held up while he is called to explain an infraction appearing in the record. The newcomer may have the

(Cont. on Page 240, Col. 2)

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1021 O Street, Sacramento, California

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## GI LOAN RIGHTS

### Avoid Involvement in "Trading" for Veterans' Rights

Real estate brokers have been cautioned to steer clear of the veteran with an unused GI loan entitlement who wants a bonus to use his loan guaranty to buy a home, not for himself, but for someone else. Such propositions may turn up more frequently from now on with the expiration date—July 25, 1957—for use of World War II veterans' home rights getting closer. Although the practice of "selling" loan entitlements hasn't been too widespread, the Veterans Administration reports knowing of many such cases.

Getting involved in a shady deal involving GI loans can mean severe penalties under federal law. And the Veterans Administration may strip the veteran of the right to other benefits which would have accrued to him.

Also the broker risks his license when he participates in a transaction where a veteran is tempted to buy a home using his GI loan entitlement with the idea of selling at a quick profit. The veteran should be advised that the law on the use of his GI loan rights is clear. He has only been given the rights because he needed the backing of the government to buy a home in which he intends to live. He is required to certify that this is his intention when he applies for a guaranteed loan.

Aside from the possible effect on the veteran if this effort to misuse his rights is discovered, the government could penalize or prosecute, or both, the builder, lender, or broker who was a party to that effort. This, of course, would only be true if the second party had prior knowledge of the veteran's illegal intentions and still let the deal go through.

#### Notice to 1954-55 Licensees Who Did Not Renew

Several thousand persons who held 1954-55 licenses did not renew them for the 1955-56 year.

Their license rights end completely on June 30, 1956, unless on or before that date the licenses are renewed either on an active or inactive basis. Renewal can be made on application and payment of double the regular renewal fee.

### Out-of-Staters Can Expect Delay in License Issuance

(Cont. from Page 239, Col. 3)

same or even more serious record in another state, but knowledge of it may not have come to the commissioner's attention.

#### Check With Law Officers

To remedy this seemingly unfair situation and to obtain a more complete check on the applicant new to the State, the commissioner, with the advice and approval of the State Real Estate Commission, recently adopted the following policy. If the applicant for original license has resided in California for less than five years, letters are sent to law enforcement officers in the out-of-state localities in which

## 1956 Reference Book Is Now Available

The 1956 edition of the Reference Book published by the Division of Real Estate and containing laws and information relating to real estate and real estate licensing is now available. The book has been revised extensively to reflect changes in licensing, subdivision and loan brokerage law and procedures, as well as changes in federal and state regulations relating to real estate.

Because the commissioner had received many requests for a more substantial cover, the book is published this year in two styles—one with a paper cover, selling at \$2.08, including sales tax; the other with stiffened composition cover, selling at \$2.60, including sales tax. The increased price was necessitated by improved binding and generally increased costs.

The Reference Book may be ordered directly from Sacramento and is sent postpaid. Please use order blank on page 239 of this *Bulletin*. The book is also on sale at any office of the division.

he has previously resided. The letters ask for information regarding any law violations of which the applicant may have been guilty.

In some cases the division gets quick responses and there is no appreciable delay in issuing the licenses. However, some law enforcement agencies are slow to answer and, as a result, there can be considerable delay in issuing the license, since it will not go out until the applicant has been given a clean slate.

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