

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate

EARL WARREN, Governor

Sacramento, September, 1951

D. D. WATSON, Commissioner

Subdivision Regulations Modified Provisions Made for "Preliminary Report"

A change in the Real Estate Commissioner's Rules and Regulations makes it possible for subdividers to take "reservations" under certain prescribed conditions for lots prior to the issuance of the Commissioner's Subdivision Public Report. This can be done following the issuance of a "preliminary public report" on a subdivision. The preliminary report will be issued only when a subdivision filing has been made and is complete except for some requirement which has not yet been fulfilled, but which may be reasonably expected. Later, when all technical or other requirements have been met, a final commissioner's subdivision public report will be issued as in the past.

Representative Committee Assists

In some instances, this new procedure will make it possible for a subdivider to take "reservations" prior to the issuance of the final public report and in many instances it will save subdividers substantial sums and several months' time in getting their programs under way.

This procedure was determined upon by the commissioner with the assistance of a committee, recruited from industry, and consisting of representative title insurance company executives, landowners, subdividers and real estate men.

Specific Conditions to Be Met

There are specific conditions which must be observed in the taking of reservations for parcels after the issuance of the "preliminary public report." They include:

1. Any reservations to purchase or lease lots taken must be subject to the prospective purchaser's approval of the Commissioner's Final Subdivision Public Report.
2. Any valuable consideration involved must be placed in a neutral escrow depository subject to withdrawal by the proposed purchaser at any time, without deductions until the final report has been approved by him.
3. A copy of the preliminary report which has been signed by the prospective purchaser must be placed in the escrow together with any valuable consideration involved.

SUGGESTIONS WANTED

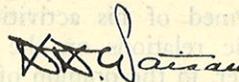
We have received many letters expressing approval of the expanded size of the *Real Estate Bulletin* and commenting favorably upon its contents.

It is our aim to confine the contents of the *Bulletin* strictly to items of an "educational" nature—relating to the Real Estate Law and division policy, and to present this material in plain, simple language.

However, in order to make the *Bulletin* of the utmost usefulness to the licensees and indirectly to the real estate buying and selling public, we need your help and advice.

If you have any suggested questions or articles which you believe would be of interest and benefit to licensees, we would appreciate your telling us about them. **Let us hear from you.**

Sincerely,



Real Estate Commissioner

SET UP A BULLETIN FILE

The inside edge of your *Real Estate Bulletin* now is "punched" to fit a standard ring binder and make easier the maintenance of a "Bulletin" file. Many licensees have advised they are keeping such a file and that they regard it as a worthwhile addition to their reference libraries. A "Subject Index" will be published annually for your convenience.

BROKER PARTICIPATION IN STATE PROPERTY SALES

The California Legislature passed, and Governor Warren signed Senate Bill 963 (introduced by Hugh M. Burns, Fresno) which will allow the State to pay commissions to licensed real estate brokers for negotiating the sale of state-owned property in certain circumstances.

The law now provides that when bids received after advertising do not equal the appraised value of real estate being sold by the State, the Department of Finance may authorize employment of a licensed real estate broker on a commission basis to effect the sale.

Salesman Experience Qualification For Real Estate Broker License

Under the Real Estate Law, a person who has held a real estate salesman license for at least two years and was *actively engaged* working as a real estate salesman during that time is usually eligible for real estate broker license. "Actively engaged" is interpreted to mean that the salesman has devoted substantially full time to his work as a real estate salesman.

Every claim of qualification based on two years of full-time work as a licensed salesman is checked against our records. However, a person cannot qualify by merely obtaining a license, hanging it in some broker's office, and then "sitting out" the two-year qualification time.

The employing broker must certify to the actual working time of the salesman. He must state the average number of hours per week the salesman devoted to real estate work, whether or not the salesman did other work, and if so, what proportion of a 40-hour week might have been considered as devoted to real estate.

A false certification would make the broker's license subject to suspension or revocation.

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Published Bimonthly by the

DIVISION OF REAL ESTATE

STATE OF CALIFORNIA

EARL WARREN, Governor

D. D. WATSON
Real Estate Commissioner

M. R. GRIFFIN, Administrative Assistant

STATE REAL ESTATE BOARD

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MAURICE G. READ Berkeley	CHESTER MACPHEE San Francisco
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VALID PARTNERSHIP AND CORPORATION LICENSES

A partnership licensee or a corporation licensee should not fail to notify the Division of Real Estate when any change occurs in the organization of the firm which might affect the validity of the license.

Especially at renewal time each year, many cases are uncovered where a corporation has been dissolved, or a member of a partnership has died or left the firm, and the Division of Real Estate has not been notified of the changed condition. Licensees can protect themselves in their right to commission only when they are properly licensed.

As an example, a certain corporation which was licensed as a real estate broker was dissolved, but one of the officers kept renewing the license designating himself as an officer of a corporation which had ceased to exist. He did not bother to have his license changed showing him as an individual broker. He became involved in a law suit for a commission and lost the suit when the court found that he was licensed as an officer of a corporation which had no legal existence. This particular case cost the individual \$5,000 in commissions besides attorneys' fees and court costs.

DISCIPLINARY ACTION—JULY AND AUGUST

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

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

LICENSES REVOKED DURING JULY AND AUGUST, 1951

Name	Address	Effective date	Violation
McGee, Marilyn Esther..... Real Estate Broker	9853½ Arkansas Ave., Bellflower..	7/6/51	Sec. 10177 (b) & (f)
Allen, Frances H..... (Dba Allen's Realty Co.) Real Estate Broker	5869 S. Broadway, Los Angeles ...	7/16/51	Sec. 10177 (b)
Barnett, Joseph Phillipson..... Real Estate Broker	222 S. Beverly Dr., Beverly Hills..	7/18/51	Secs. 10176 (e), (i) & 10177 (f)
Hillback, George Alexander..... Real Estate Broker	Reliez Valley Rd., Rt. 3, Box 1829, Lafayette	8/20/51	Secs. 10176 (e), (i); 10177 (f) & Sec. 2830 of Title 10 of Cal. Ad. Code
Karrell, Barbara W..... (Dba Builders Inv. Co.) Real Estate Broker	9363 Wilshire Blvd., Beverly Hills..	8/21/51	Sec. 10177 (f)

LICENSES SUSPENDED DURING JULY AND AUGUST, 1951

Name	Address	Effective date and term	Violation
Moore, Arthur Alexander..... Real Estate Broker	1920 Market St., Oakland.....	7/16/51 90 days	Secs. 10176 (a), (g), (i), & 10177 (f)
McGuire, James Harvey Jr..... Real Estate Broker	426 Court St., San Bernardino.....	7/26/51 6 months	Secs. 10176 (e), (i) & 10177 (f)

Misuse of Exclusive Listings on Property

It has long been recognized that the taking of an exclusive listing places a distinct responsibility upon the listing broker. From time to time complaints are received by the Division of Real Estate reciting that some broker has signed up a property owner on a long-term exclusive listing, and has failed to devote due diligence or, indeed, give any attention to the sale of the property. In some of these cases, it is entirely possible that the broker has devoted considerable effort to selling the property which did not come to the attention of the property owner. Not keeping his principal informed of his activities was poor public relations on the part of the broker, in the opinion of most of the profession.

Successful brokers have told us they never take an exclusive listing unless they feel the property has a reasonable chance of selling, and they do not take any more listings than they can handle without neglect. They also point out that the acceptance of an exclusive listing generally means assuming the obligation to spend a reasonable amount on advertising.

To take a large number of exclusive listings without careful consideration of their salability, and with the hope that some other broker might possibly

find a buyer, is extremely unfair to the property owner and may cause him to suffer unreasonable delay and loss.

The multiple listing services of California, which handle exclusive listings almost exclusively, have long recognized the importance of securing good salable listings and also the importance of showing the property owners a reasonable amount of activity. They have stressed these points to their members and, as a result, many listing systems have a high record of sales in ratio to properties listed. Without maintaining such a record, such systems could rapidly lose popularity and good will among property owners in any area.

To summarize, recognize the responsibility you assume when you take an exclusive listing.

Most Licenses Renewed; Fewer New Brokers

During the license year which ended June 30th, the Division of Real Estate issued a record total of 94,429 licenses of all types—an increase of 4.39 percent over the previous year. By the end of July, 1951, nearly 83,000 of these licenses had been renewed for the current year. It is probable that several thousand more licenses will be renewed before the end of the 1951-52 year by the payment of penalty fees.

About the same percentage of licensees renewed this year as did in the previous year. Of 55,490 real estate broker licenses issued last year, 51,853—or 93.4 percent—were renewed for 1951-52, while 78.5 percent of the 28,740 eligible real estate salesmen renewed their licenses.

Although a record-breaking number of licenses were issued last year, it was the first time since the early 'thirties that the total of real estate broker licenses declined from the previous year.

Undoubtedly, this drop (approximately 1,000) was due to the experience or educational qualification required of applicants for original broker license.

However, approximately 5,000 more salesmen were licensed, and this upsurge accounted for the over-all increase in licenses issued.

Brokers' Responsibility For Employed Salesmen

Some brokers seem to be relaxing their supervision over the actions and conduct of salesmen licensed under them. This tendency may be due partly to efforts to put the relationship between a broker and his salesmen on an independent contractor basis in order to exempt themselves from the operation of certain federal laws. This, however, does not, under the Real Estate Law, exempt the brokers from responsibility for the acts of their salesmen.

At least one broker went so far as to offer to "rent the use of his license" to salesmen. In effect, these salesmen would have been running the business with only token payments and accounting to the broker licensee. **The law does not intend that the authority and responsibility, which are personal to the broker and invested in him by his license, should be delegated by the broker to salesmen.**

DIRECTORY OF LICENSEES

Work on the 1951-52 Directory of Brokers and Salesmen licensed by the Division of Real Estate is going forward, and it is hoped the publication will be ready for distribution early in October.

Any licensed broker is entitled to a free copy of the directory. If you have not yet placed your order and need and want a copy, your reservation can be accepted if it is received within the next 10 days. To order, send postcard giving your name, address, license number and your reservation request to the Division of Real Estate, 1021 O Street, Sacramento.

PROFESSIONAL RELATIONS

"When a broker accepts a listing from another broker, the agency of the broker who offers the listing should be respected until it has expired and the property has come to the attention of the accepting broker from a different source, or until the owner without solicitation, offers to list with the accepting broker; furthermore such a listing should not be passed on to a third broker without the consent of the listing broker."

The foregoing is advanced as good and ethical practice by the National Association of Real Estate Boards in its code of ethics. It answers many inquiries received concerning the propriety of one broker "grabbing" the listing of a cooperating broker immediately upon its expiration.

The principle involved is one of ethics and, like many other business practices, is not expressly covered in the law or by the Real Estate Commissioner's Rules and Regulations.

Licensed Brokers Working as Salesmen

The clarified rules and regulations regarding the display of signs by brokers cover the situation where one broker employs another broker in the capacity of a salesman.

In some cases, such a broker-salesman may meet the sign display requirement, by merely displaying his license. **However, this is so only when (1) there is a written employment agreement, and (2) the broker being employed as a salesman does not engage in any real estate transactions "on his own" or independent of his employer.**

If the broker-salesman is not in a position to comply with the above standards, he must maintain a sign as required by law indicating that he is a licensed real estate broker.

Brokers Changing Location Without Notification

It is a serious matter for brokers to abandon their offices of record, or move to another location, without notifying the commissioner and securing a new license. Such action may result in the loss of license, as it did in the case of five brokers recently.

A license survey being made by the division revealed that these five brokers had abandoned their offices and investigation failed to reveal their whereabouts. Formal hearings were called in each case, and the brokers served by registered mail as provided by law. Furthermore, diligent effort was made to effect personal service without success. As a result, the license of each of the five brokers was revoked following the hearings.

Just prior to July 1st, two of these brokers sent in license renewal applications for the current year. The applications were denied because of the revocations. Furthermore, under the law, the commissioner cannot take steps to reinstate these licenses until a full year has elapsed, and he is not obliged to reinstate them at that time.

Before changing your office location, notify the Division of Real Estate and send a \$1 fee for a license showing your new address.

Extension Division Real Estate Certificate Program

To date over 2,000 students have been enrolled in Real Estate Certificate Program courses offered by the University of California Extension Division. The program is designed to provide professional education for real estate brokers and salesmen and includes work in real estate principles, practice, law, management, finance, appraisal and valuation, and in the related field of general insurance.

Active summer sessions are being conducted in both the northern and southern sections of California, and a bulletin for the fall, 1951, session has been published for the southern section. One for the northern section will be available from the extension division shortly.

Many Cities Scheduled

In the northern part of the State, a full program of classes will be given in Berkeley, Oakland, and San Francisco, and certain selected courses are scheduled for Sacramento, Fresno, San Mateo, and Monterey. Tentative plans are being made to develop classes in the following additional areas this fall: Stockton, Santa Cruz, San Jose, Marin County, Napa-Vallejo area, and Contra Costa County.

The entire list of certificate courses will also be offered under the fall real estate program of the University Extension in Los Angeles, the Westwood-Santa Monica area, and San Diego. A number of courses under the program will also be given in Long Beach, Pomona, the San Fernando Valley, Santa Ana, Oceanside, and Santa Barbara.

Leading realtors, other business and professional specialists, and members of the university faculties are serving as instructors for the program. University Extension is also cooperating with the California Real Estate Association in developing a program of visual aids.

Bay Area Mortgage Market Study Completed at U. C.

On the University of California campus in Berkeley, a final report has just been completed for the Housing and Home Finance Agency under the direction of Professor Paul F. Wendt on the structure and functioning of the residential mortgage market in the San Francisco Bay area.

Results of the survey have indicated that bank leadership is of central importance in the real estate lending done in this area, banks accounting for at least 40 percent of the total number of conventional mortgage loans and almost 85 percent of the total number of insured and guaranteed loans made in the market. It was also found that approximately 75 percent of the total number of construction loans are made by banks.

The increasingly important role played by insurance companies is another striking feature of the Bay area mortgage market structure.

UNIVERSITY EXTENSION REAL ESTATE CERTIFICATE COURSE SCHEDULE—SOUTHERN CALIFORNIA

Real Estate Principles XL 180

LOS ANGELES

Sec. I: (Hathcock) Tues. 7-9.30 p.m.; Sept. 18; 18 meetings; 3 units; \$27; Hillstreet Bldg.

WESTWOOD-SANTA MONICA AREA

Sec. II: (Chase) Mon. 7-9.30 p.m.; Sept. 24; 18 meetings; 3 units; \$27; U. C. L. A.

POMONA

Sec. III: (Finamore) Mon., Sept. 17; 12 meetings; 2 units; \$18; Pomona High School.

SAN FERNANDO VALLEY

Sec. IV: (Chase) Wed. 7-9.30 p.m.; Oct. 3; 12 meetings; 2 units; \$18; North Hollywood High School.

SANTA ANA

Sec. V: Details to be arranged. 12 meetings; 2 units; \$18; Santa Ana Junior College.

SAN DIEGO

(To be announced) Wed. 7-9.30 p.m.; Sept. 12; 12 meetings; 2 units; \$18; San Diego High School.

SANTA BARBARA

Details to be arranged. 12 meetings; 2 units; \$18; Santa Barbara High School.

Real Estate Practice 804AB

LOS ANGELES

Sec. I: (Arnold) Thurs. 7-9.30 p.m.; Oct. 4; Hillstreet Bldg.

WESTWOOD-SANTA MONICA AREA

Sec. II: (Arnold) Tues. 7-9.30 p.m.; Sept. 25; U. C. L. A.

POMONA

Sec. III: Details to be arranged. Pomona High School.

SANTA ANA

Sec. IV: Details to be arranged. Santa Ana Junior College.

SANTA BARBARA

Details to be arranged; Santa Barbara High School.

SAN DIEGO

(To be announced) Mon. 7-9.30 p.m.; Sept. 10; San Diego High School.

Real Estate Law 824AB

12 meetings; \$18.

LOS ANGELES

Sec. I: (Brooks) Wed. 7-9.30 p.m.; Oct. 3; Hillstreet Bldg.

WESTWOOD-SANTA MONICA AREA

Sec. II: (Brooks) Thurs. 7-9.30 p.m.; Sept. 27; U. C. L. A.

LONG BEACH

Sec. III: (Brooks) Mon. 7-9.30 p.m.; Sept. 10; Polytechnic Adult Center.

SAN DIEGO

(Hellen) Tues. 7-9.30 p.m.; Sept. 11; San Diego High School.

Valuation of Real Property XB 181

12 meetings; 2 units; \$18.

LOS ANGELES

Sec. I: (Abelmann) Mon. 7-9.30 p.m.; Oct. 1; Hillstreet Bldg.

WESTWOOD-SANTA MONICA AREA

Sec. II: (To be announced) Wed. 7-9.30 p.m.; Sept. 26; U. C. L. A.

SAN FERNANDO VALLEY

Sec. III: (To be announced) Mon. 7-9.30 p.m.; Oct. 1; North Hollywood High School.

SAN DIEGO

(To be announced) Mon. 7-9.30 p.m.; Sept. 10; San Diego High School.

Real Estate Appraisal and Valuation 860AB

12 meetings; \$18.

LOS ANGELES

(Abelmann) Wed. 7-9.30 p.m.; Oct. 3; Hillstreet Bldg.

Real Estate Management 842AB

12 meetings; \$18

LOS ANGELES

(Beaumont & Beach) Tues. 7-9.30 p.m.; Oct. 2; Hillstreet Bldg.

Real Estate Finance 841AB

12 meetings; \$18.

LOS ANGELES

Sec. I: (Tucker) Tues. 7-9.30 p.m.; Oct. 2; Hillstreet Bldg.

WESTWOOD-SANTA MONICA AREA

Sec. II: (To be announced) Wed. 7-9.30 p.m.; Sept. 26; U. C. L. A.

LONG BEACH

Sec. III: Details to be arranged; Polytechnic Adult Center.

SAN DIEGO

(Eckhart) Thurs. 7-9.30 p.m.; Sept. 13; San Diego High School

Anonymous Letters

The Division of Real Estate receives many anonymous letters insisting that action be taken against licensees or nonlicensees for alleged misrepresentation, fraud or dishonesty in real estate transactions. Many of these complaints appear to warrant investigation, as a violation of the Real Estate Law is indicated, but those advising of violations should not hesitate to sign their names and furnish their addresses so that they can be contacted for further information.

Apparently, the writers of anonymous letters are afraid they will become involved and, therefore, want to conceal their identities. However, investigations are not public in nature until they reach the hearing stage and the confidences imposed in this agency are respected.

Licensees should be interested in protecting the public and raising the standards of the real estate profession. People "in the field" often have a better opportunity to know what is going on than does an administrative agency which does not have the manpower to detect and effectively combat all violations.

Anyone who has definite information in respect to violations should not fear the consequences of assisting the division. All cooperation is welcome, but more good can be accomplished if those persons making claims or charges would make themselves known.

EXAMINATION PASS NOTICE IS NOT LICENSE

An applicant for salesman license who receives notice he has passed the examination is not entitled to engage in the real estate business until the license has been received by his employing broker.

Of necessity, there is usually a lapse of time between notice of the examination result and the issuance of the license because the applicant's fingerprints must be checked and cleared.

It is the real estate broker's responsibility to keep his prospective salesman from engaging in real estate work until the license is actually in the possession of the broker. Any broker permitting a salesman to start work before the license is received may subject his own license to suspension or revocation.

"LACHES" PLEADED

Laches is a legal term meaning neglect or unreasonable delay in seeking relief through court action. If one feels he is injured and desires to seek relief through the courts, he must be reasonably diligent and not delay the action too long, or the courts may refuse to hear the matter.

A recent appellate court case, *Williams v. Marshall*, 37 A. C. 447, involved a real estate transaction wherein the purchaser had secured a judgment against the seller for misrepresenting the amount of acreage planted to citrus trees in the ranch purchased.

After hearing the case and the contention that the action had been too long delayed, the court stated "there is no artificial rule as to the length of time resulting in laches. Each case must be determined on its own facts. In the absence of a palpable abuse of discretion, the finding will not be disturbed. A vendee who has been defrauded by his vendor is entitled to a reasonable time to investigate the falsity of the representations; the time so consumed will not be charged as unreasonable delay." In this case the buyer had taken some time in having certain surveys and maps prepared.

In this same case the court made an interesting statement, to wit: "A defrauded vendee may, in the same action, seek rescission or damages. He is not compelled to make an election."

DON'T REMIT CASH

In almost every mail the Division of Real Estate receives cash remittances from licensees or applicants for license.

Besides being a very unbusiness-like practice (the sender has no way of proving that he sent the money should it go astray), cash remittances must be handled apart from the regular routines.

This often results in delay in furnishing the service which the cash remittance is expected to cover for the licensee or for the applicant.

UNIVERSITY EXTENSION REAL ESTATE CERTIFICATE COURSE SCHEDULE—NORTHERN CALIFORNIA

BERKELEY CAMPUS—Wheeler Hall Real Estate Principles XL 180 Tues., Sept. 11; 7-9 p.m.; Room 221; 15 meetings; \$18.	Mr. Younger	MONTEREY—Monterey Peninsula College Real Estate Law 824AB (Instructor to be announced) Mon., Oct. 8; 7-9.30 p.m.; Room B3; 12 meetings; \$18.	Valuation of Real Property XB 181 Mon., Oct. 15; 7-9 p.m.; room to be announced (Powell); 15 meetings; \$18.	Mr. Hulting
Real Estate Practice 804AB Thurs., Sept. 20; 7-9 p.m.; Room 205; 15 meetings; \$18.	Mr. Smith	OAKLAND—1730 Franklin Street Real Estate Appraisal and Valuation 860AB Mr. Hollebaugh Mon., Sept. 10; 7-9 p.m.; Room 204; 15 meetings; \$18.	Real Estate Practice 804AB Tues., Sept. 11; 7-9 p.m.; Room 105 (Powell); 15 meetings; \$18.	Mr. Richards
Real Estate Law 824AB Wed., Sept. 12; 7-9 p.m.; Room 206; 15 meetings; \$18.	Mr. Brailsford	SACRAMENTO—1020 "N" Street Real Estate Law 824AB Mon., Sept. 10; 7-9 p.m.; Room 102; 15 meetings; \$18.	Real Estate Finance 806AB Thurs., Sept. 13; 7-9 p.m.; Room 205 (Powell) 15 meetings; \$18.	Mr. Rathbun
FRESNO—District Court of Appeals, 74 Security- First National Bank Building, Mariposa and Ful- ton Streets		Real Estate Finance 806AB Wed., Sept. 12; 7-9 p.m.; Room 102; 15 meetings; \$18.	Real Estate Law 824AB Wed., Sept. 12; 7-9.30 p.m.; Room 406 (Powell); 12 meetings; \$18.	Mr. Dill
Real Estate Law 824AB Mon., Wed., Sept. 17; 7-9 p.m.; 12 meetings; \$18.	Mr. Lones	SAN FRANCISCO—140 Montgomery St.-540 Powell St.	Real Estate Management 842AB Mon., Sept. 10; 7-9 p.m.; Room 207 (Powell); 15 meetings; \$18.	Mr. Hanford
Real Estate Finance 806AB Mon., Wed., Nov. 5; 7-9.30 p.m.; 12 meetings; \$18.	Mr. Von Elm	Real Estate Principles XL 180 Wed., Oct. 10; 7-9 p.m.; room to be announced (Mtg.); 15 meetings; \$18.	SAN MATEO—San Mateo Junior College, 124 Bald- win Avenue Rooms to be announced.	Mr. Thiel
			Real Estate Law 824AB Mon., Oct. 1; 7-9 p.m.; 15 meetings; \$18.	Mr. Abercrombie
			Real Estate Appraisal 860AB Wed., Oct. 3; 7-9 p.m.; 15 meetings; \$18.	

Plans are under way to start programs this fall in Stockton, Santa Cruz and Marin County

Watch Your Advertising Carefully For Accuracy

By and large, real estate brokers appear to be using care in writing advertising copy to see that no false or misleading statements are made concerning properties offered for sale. Occasionally, however, complaints are received concerning statements made in advertisements. Usually these statements are made inadvertently, or discrepancies are of a minor nature.

As an example, a lot will be advertised as 60 x 130 ft., when actually it is only 59.25 x 130 ft. Another common error is to advertise "a full acre" when the square footage shows somewhat less than an acre.

The term "commercial acre" should be used with care, as it describes a plot approaching an acre in size. Our attention has been called to lots about one-half acre in size being advertised as commercial acres. Every caution should be taken to make sure statements are accurate.

There are at least three sections of the *Business and Professions Code* which make it unlawful to falsely advertise real estate. *Section 10177(c)* makes it cause for revoking or suspending a license. *Section 11020* does the same thing, and further makes the offender subject to a county jail term for not to exceed two years, or to a fine not exceeding \$2,000.

There is a further prohibition in

Section 17530 of the Business and Professions Code which is included in Part 3 entitled "Representations to the Public." The section is titled "False Statements Concerning Real Estate" and reads as follows:

"It is unlawful for any person, firm, corporation or association, or any employee or agent therefor, to make or disseminate any statement or assertion of fact in a newspaper, circular, or form letter, or other publication published or circulated in any language in this State, concerning the extent, location, ownership, title or other characteristic, quality or attribute of any real estate located in this State or elsewhere, which is known to him to be untrue and which is made or disseminated with the intention of misleading."

The use of high-sounding adjectives to describe property is often termed "puffing," and used within reason might not be considered false advertising. However, misstatement of any definite facts, is another matter, and care should be taken to avoid misrepresenting.

The Owner "Promises" to Pay a Commission

Unlikely as it may seem, many inquiries are received on the possibility of enforcing payment of a commission on verbal listings. Any agent who works on a verbal listing is more or less at the mercy of the principal when it comes to collecting the commission. It is true that many experienced brokers work on verbal listings, but the California Statute of Frauds specifically requires that the authorization employing a broker must be written and signed by the party or parties to be charged. Without such a written authorization, a suit cannot be successfully maintained in the California courts to recover a commission.

The listing need not be in any particular form, but it must be written, it must grant the authority to perform services as an agent, and bear the signature of the person authorizing the agency. Valid written "open" or "ex-

clusive" listings are often in letter form.

The license law also requires that every agent, preparing a listing for the signature of a principal, must deliver a copy to the party or parties signing it. Failure to do so may invalidate the right to collect a commission (*Case No. 546, 242, Los Angeles County Superior Court—Mary H. Lederer v. Zazu Pitts Woodall*) and, in addition, is a cause for revocation or suspension of the broker's or salesman's license.

HOME OWNERSHIP GAINS

Figures made public by the National Industrial Conference Board indicate that a total of 23,400,000 homes were owner-occupied in 1950. That figure represents approximately 55 percent of the 42,500,000 homes in this Country—rural and urban.

Revocation Upheld

Recently a real estate broker license was revoked on the grounds that the broker had been convicted on a felony morals charge. The broker later instituted an action in the superior court to have his probation terminated under *Section 1203.3 of the Penal Code* and to have the cause dismissed under *Section 1203.4* of said code. In bringing a writ action against the Real Estate Commissioner, the one-time broker pleaded that, in effect, this court action expunged the conviction, and the commissioner had no right to revoke his license on that basis.

The court did not hold with this viewpoint, and agreed that the commissioner had acted properly; that there was no abuse of discretion in the conduct of the hearing; that the order of the commissioner was supported by the findings.

The court further held that the broker had been convicted of a crime involving moral turpitude and therefore was subject to revocation of his license under *Section 10177(b)* of the *Real Estate Law*. The court further held that the former broker had acted in a manner which would have warranted the denial of his application for a real estate license and so was subject to disciplinary action under *Section 10177(f)* of the *Real Estate Law*.

So far as this particular judgment is concerned, the court would appear to feel that action under Sections 1203.3 and 1203.4 of the Penal Code does not bar the commissioner from revoking or suspending a license for a crime involving moral turpitude.

1,123 EXAMINATIONS PER MONTH

During the 1950-51 year, the Division of Real Estate gave a total of 13,474 examinations. Of these, only 1,285 were for real estate broker licenses. The failure rate in real estate broker examinations was about 42 percent, and applicants for original real estate broker license averaged fewer than 90 per month for the entire year.

Examinations for real estate salesman license numbered 10,522, and the failure rate for that examination was about 24 percent.

Employing Salesmen

From time to time, the danger of employing salesmen carelessly has been discussed in these pages, but the matter is of sufficient importance to bear repetition. The broker signing the salesman application certifies that he has investigated the salesman applicant, and found him honest, truthful and of good reputation. He further certifies: "If a license is issued, I will exercise a careful supervision over his real estate activities while so employed."

Nevertheless, there is plentiful evidence that many brokers sign the application as a matter of form and give little thought to their responsibility. These brokers often are rudely awakened when the division's investigation reveals that the salesman has a serious criminal record of which the broker was not aware. **Keeping in mind that the broker has a certain civil liability in event his agents misuse the funds of people with whom they are dealing, these brokers are taking an unnecessary chance which might cause them serious financial loss.**

As to exercising control over these salesmen, there have been cases where the broker has immediately put a new salesman in charge of a branch office which is far removed from the main office, and paid little or no attention to him. He has permitted the salesman to operate in effect as a broker, although the salesman may have had little or no experience. Such practice is dangerous and has led to serious complaints against the broker employer.

COMPLAINTS AGAINST LICENSEES

In the license year which ended June 30, 1951, 2,615 complaints were preferred against licensees. This represents a slight drop from the previous year, but under present policy each complaint is investigated more thoroughly than has been the case in the past.

As a result of these complaints, about 5,800 investigations were conducted; 540 informal and 253 formal hearings were held, resulting in 176 denials, revocations or suspensions of license. Only 66 cases were dismissed as compared to 115 in the previous year.

Stories Behind Disciplinary Actions

A list of disciplinary actions taken by the Real Estate Commissioner is published in each issue of the *Real Estate Bulletin*, but these lists do not describe the violations except by reference to sections of the law.

To illustrate types of violations resulting in disciplinary action against licensees, the following recent cases from the division's files are summarized.

Additional typical cases will appear in the *Bulletin* from time to time.

Conditional Agreement Falls Through

Licensed real estate broker accepted a deposit of \$1,000 on a 45-day conditional purchase agreement. When the deal fell through and the deposit became refundable to the prospective purchasers, the broker was unable or unwilling to make the refund, but did assign to clients a \$500 commission he had coming and gave them a \$500 promissory note. At the time of hearing, the note was unpaid and broker's license was revoked.

Failed to File Subdivision

Over a period of 2½ years, a real estate broker sold off at least seven segments of a single land-holding owned by the broker, but failed to make a subdivision filing with the Real Estate Commissioner. In mitigation, broker had relied upon erroneous advice that a subdivision filing was not necessary if no more than three sales were made in any one year. Broker's license suspended.

Morals Offender

Licensed as a real estate salesman for several years and an applicant for real estate broker license, an individual was convicted of a violation of Section 286 of the Penal Code of California and sentenced to San Quentin. That sentence was suspended, he was committed to six months in the county jail and put on probation for five years. Broker license denied and salesman license was revoked.

"Trustee Account" Nonexistent

Real estate broker received an offer accompanied by a down payment of \$500 for a property which he had listed. Broker failed to place this sum in a trustee account or in escrow, or other neutral depository and, when the deal failed of completion, he was unable to produce the money for several days. Commingling—real estate broker license revoked.

Fails to Distribute Subdivision Reports

Real estate broker, selling the parcels from his own subdivision, failed to provide copies of the Commissioner's Subdivision Public Report to the prospective purchasers. Real estate broker license suspended.

Deposits Unaccounted For

Business opportunity broker accepted two deposits with offers for a business, and was unable to make an accounting for these funds. License revoked.

Illegal Practice of Law

Real estate and business opportunity broker licensee was found guilty of "willfully and unlawfully practicing law without being a member of the State Bar of California" and of advertising himself as entitled to practice law when he was not a member of the State Bar. Licensee allegedly advertised that he was prepared to draw wills and declarations of homesteads and it was further alleged that he had drawn such instruments for clients and had been paid fees for so doing. His record with the Division of Real Estate had been good, but real estate and business opportunity broker licenses were suspended.

Salesman Operates "Independently"

Real estate salesman licensee, upon the death of employing broker, continued to conduct and transact business. Business was confined to the leasing and rental of houses, rooms, hotel and auto court accommodations for compensation received from their operators. Salesman later applied for and was granted transfer of employment to another real estate broker. When the facts of interim unauthorized operation became apparent, salesman license was suspended.

Deposit Receipt But No "Deposit"

Real estate broker displayed to the owner of a property a written agreement entitled "Deposit Receipt," which purported to show broker had received an offer from a prospective purchaser for the property and that \$500 had been deposited with the offer. Relying upon these representations, the owner signed a contract in which he agreed to sell upon the terms set forth in the so-called "Deposit Receipt." According to the terms of the "Deposit Receipt," the owner and broker were to share the \$500 down payment in case the purchaser failed to go through with the transaction. Subsequently, the purchaser withdrew and it developed that there had been no \$500 down payment at the time the "Deposit Receipt" was drawn up. Real estate broker license suspended.

"What's in a Name"

Applicant for real estate salesman license stated he had never been known by any other name. License was granted, but later it was discovered that licensee, under another name, had been recently convicted of grand theft and served a term in the county jail, but had made restitution of the sum stolen. Salesman license revoked.

No Extra Credit Given Veterans in Examinations

The Division of Real Estate does not allow any extra credit in its examinations to veterans or to disabled veterans. The misconception that extra credit is allowed to veterans in examinations is probably due to the practice of allowing such credit in competitive examinations for civil service positions in municipal, state and federal government.

The Division of Real Estate does not give veterans credit in examinations because its examinations are *qualifying and not competitive*. In other words, the division's examinations are designed to test whether the applicant has at least the minimum professional knowledge required by law which will allow him to engage in the business without jeopardizing the interests of the public.

ASSOCIATION CONVENTION

The California Real Estate Association will hold its Forty-seventh Annual Convention October 15th-18th in Los Angeles. Headquarters will be the Biltmore Hotel and the Los Angeles Realty Board will act as host.

Problems affecting ownership and development of real estate will be outlined and discussed by prominent figures in the real estate world. Among the subjects slated for consideration is the future of real estate in its commercial, industrial, farming, residential, building, property management and appraising aspects.

MANY LICENSES CANCELED

During the 1950-51 license year, more than 14,000 licenses were canceled ("inactivated"), due in a large measure to an aggressive program of office inspections by the Division's deputies and *Real Estate Bulletin* publicity emphasizing that the law requires a broker to maintain an office, display his license and show a sign indicating that he is a licensed real estate broker.

Of those who have renewed licenses for the present year, 10,884—or over 13%—requested immediate cancellation. This is the highest percentage of cancellations ever recorded by the Division of Real Estate in the first month of a new license year.

Anyone who "renews and cancels" his license ("inactivates" it) may reinstate it at any time during the license year upon request and payment of a \$1.00 fee.

ALTERING LISTING FORMS

Brokers and salesmen should not have to be cautioned against altering signed contracts. However, from time to time cases are encountered where this has been done.

Recently a complaint was received accusing the broker of altering an offer to purchase agreement (deposit receipt) over the signature of the proposed purchaser, in order to meet certain objections the seller had to the terms of the offer. The transaction was placed in escrow on the basis of the altered agreement.

If such an alteration is made and the fact is established at a formal hearing, the broker's license is subject to revocation or suspension. There have been a number of cases where such action has been taken. Any counter-proposals should be covered in a new contract, and understood and signed by all parties. Whenever any unusual contractual circumstances arise, the broker should consult his attorney.

Insurance and Real Estate Funds Must Be Separate

The Division of Real Estate has been advised that Section 1730.5 has been added to the Insurance Code which, in effect, requires that fiduciary insurance funds must be held in a bank account or depository separate from any other account or depository.

In accordance with this legislation, the Insurance Commissioner has issued Bulletin No. 117 on the subject to all insurance licensees. **This definitely precludes the deposit of insurance funds and real estate funds in the same "trust account."**

It has been the policy of the Insurance Commissioner to require that the "Trust Account" for the deposit of insurance funds be kept separate from other funds, but it is now a definite requirement of the law. This should answer many questions received by the Real Estate Commissioner as to whether or not a real estate broker operating on a small scale can deposit both his real estate and insurance collections in the same "trust account."

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