



RONALD REAGAN, *Governor*

Fall 1973

ROBERT W. KARPE, *Commissioner*

Brokers May Negotiate Airspace Leases

Two departmental bills signed into law by Governor . . . (AB 452, Lancaster) . . . removes \$4 change of address fee for real estate salesman caused by employing broker changing license address. (AB 1186 Russell) . . . clarifies wording in Subdivided Lands Act relating to desist and refrain orders. Provides service of D&R Order may be made in same manner as service of summons. Reduces time to complete hearing and issue final decision from 60 to 45 days. Bills become effective 1-1-74.

DRE makes initial move to achieve some measure of cooperation with other states on licensing examination level. Two states have agreed to administer the multi-state segment of their license examinations to all applicants for real estate salesman and broker license. State examination format revised to conform with this concept (Page 4).

Maximum interest rate on VA real estate loans increased to 8½ percent. VA urges lenders to consider in FULL both income and expenses of veteran loan applicant and spouse in determining liability to repay loan obligations.

A free pamphlet, Guidelines for Subdivision Advertising, available to anyone interested (Page 5).

Advance fee loans bear looking into (Page 5).

Copy of release issued jointly by Real Estate and Corporations Commissioner spelling out jurisdiction of respective commissioners over real estate syndicate securities now obtainable (Page 3).

The Recovery Fund underwrites payment of otherwise uncollectable court judgments against licensees (Page 7).

DRE administered 49,483 real estate salesman license examinations in fiscal 1972-73 . . . approximate 10.9 percent and 38.3 percent increases over the 44,589 and 35,749 license examinations given in fiscal 1971-72 and 1970-71, respectively.

Commissioner appoints two new CREERAC members (Page 5).

Be aware of your trust fund obligations under the law (Page 8).

Obtain release from liability if G.I. loan is assumed (Page 7).

Better check expiration date on your license! Too many licensees paying penalty fees for reinstatement or losing renewal right completely for failure to renew within two years of license expiration. Licenses running out practically "around the clock"—you should know when yours is due to expire—be prepared to renew it by filing proper form and paying correct fee. As service and convenience, DRE sends out reminders before license expires, but notice may get lost. Final responsibility for keeping your license right rests with you.

Division of Highways Authorized To Pay Real Estate Commissions

The California Highway Commission authorized the Division of Highways to pay real estate commissions for airspace leases in California. Since the Airspace Development Program is relatively new, some background information follows:

- First, airspace multiple-use parcels are in the state's right of way and can be over, under or adjacent to a state highway.
- Second, the state has entered into an active program to lease many such sites for long-term development proposals for such uses as warehouses, office buildings, stores, etc.
- Third, rather than being a drain on tax monies for maintenance and upkeep, the properties should return money to the taxpayer in the form of local real estate, sales, and business taxes. In most instances, this will ease the burden of local taxes, as well as bringing a return to the state.

The procedure is as follows for licensed real estate brokers: (1) each State Highway District Office has an inventory of available airspace sites for the broker to review; (2) after the broker secures a specific potential tenant for a specific airspace site, he will sign a *Broker's Commission Agreement* which obligates the state to pay a commission, under specified conditions, based upon a schedule made a part of the agreement; and (3) the commission will be paid when the lease is consummated and the state begins receiving payment.

(continued on page 8)

REAL ESTATE BULLETIN

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

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Disciplinary Action—April—June 1973

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

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

Licenses Revoked

Name	Address	Effective date	Violation R.E. Law/Regulations
*Pfeffer, William John (RES)	1095 Green, Pasadena	10/19/72	10130, 10137, 10177(d)
Crawford, Benjamin Ashbel (REB)	529 Amherst Dr., Goleta	4/ 4/73	10177(b)
Bernard, Roy Alan (RES)	15442 Ventura Blvd., Sherman Oaks	4/ 9/73	10177(b)
Janetzky, Roger Herman (REB)	19981 Fernglan Dr., Yorba Linda	4/10/73	10177(b) (f)
Turner, Darryl Lee (RES)	2636 Kansas Ave., Santa Monica	4/17/73	10177(b)
Harper, Larry C. (RES)	1503 Terilyn Ave., San Jose	4/24/73	10177(b) (f)
Smithem, Duane Bond (REB)	689 Foxtail Dr., Sunnyvale	4/24/73	10145, 10176(e), 10177(d)
Morck, Harold John (REB)	8848 Wakefield Ave., Panorama City	5/ 8/73	10177(d), 11012; 2800
McFadden, Barbara Joan (RES)	3062 Montellano Ave., Hacienda Heights	6/26/73	10177(b)
Combes, Gregory Fox (REB)	1797 Geneva Ave., San Francisco	6/26/73	10177.5
Dbu The Fleur de Lys Real Estate Co.			
Gordon, Clarence Hessel (REO)	15740 Maubert Ave., San Leandro	6/26/73	10177.5
Pres., Pacific Empire Mortgage Co., Inc.			
Baird, Jennie Elizabeth (RES)	9102 Stoakes Ave., Downey	6/28/73	10177(b) (f)
Daly, Marion Woodford (RES)	17800 Magnolia, Encino	6/28/73	10177(b) (f)
Martin, John Taylor (RES)	2421 Sunflower, Santa Ana	6/28/73	10177(b)

* Not previously reported.

Licenses Revoked with Right to Restricted License

Name	Address	Effective date	Violation R.E. Law/Regulations
Siegl, Ray A. (RES)	6753 Fair Oaks Blvd., Carmichael	4/15/73	10177(a) (b) (f)
(Right to RRES license on terms and conditions)			
Ceccone, Gary Lewis (RES)	914 30th Ave., Santa Cruz	4/17/73	10177(a) (f)
(Right to RRES license on terms and conditions)			
Moser, Joseph Edward (REB)	2019 Mission St., San Francisco	4/17/73	10176(a) (i), 10177(f) (i)
(Right to RREB license on terms and conditions)			
Lopez de Arenosa, Rene Jr. (RES)	3128 Levelglen Dr., W. Covina	4/18/73	10177(b)
(Right to RRES license within 30 days on terms and conditions)			
Erdy, Emery Irving (RES)	7850 Edgewater Dr., Oakland	4/24/73	10177(b) (f)
(Right to RRES license on terms and conditions)			
Roddy, Thomas Frederick (RES)	1135 Santa Cruz Ave., Menlo Park	4/24/73	10177(b)
(Right to RRES license on terms and conditions)			
Campbell, Hugh Donald (RES)	200 Yds S. of Hwy. 4 at Dorrington, Camp Connell	4/25/73	10177(b)
(Right to RRES license within 30 days on terms and conditions)			
Hilton, Phyllis June (RES)	4782 Sly Park Rd., Pollock Pines	4/25/73	10177(b)
(Right to RRES license within 30 days on terms and conditions)			
Ducker, Polly T. (RES)	1939 Harrison St., Oakland	5/15/73	10177(a) (b) (f)
(Right to RRES license on terms and conditions)			
Mazenkas, Francis Walter (RES)	3531 Clayton Rd., Concord	5/15/73	10145, 10176(e) (i), 10177(d) (f)
(Right to RRES license on terms and conditions)			
Peyton, Byron Scott (RES)	2416 Clement St., San Francisco	5/15/73	10177(a) (b) (f)
(Right to RRES license on terms and conditions)			
Armato, Nancy Ann (RES)	3515 Highland Ave., Manhattan Beach	6/ 5/73	10176(i), 10177(g)
(Right to RRES license on terms and conditions)			
Issel, Hans Werner (RES)	275 Poplar Ave., Redwood City	6/12/73	10152, 10177(b) (f)
(Right to RRES license on terms and conditions)			
Russell, Donald Max (REB)	2630 B St., San Diego	6/19/73	10176(a) (i), 10177(d) (f)
D. Russell & Associates, Inc. (REC)			
Donald Max Russell, Pres.-Fres. (REO)			
D. Russell & Associates, Inc., of San Diego (REC)			
Donald Max Russell, Pres.-Fres. (REO)			
(Right to RREB licenses within 30 days on terms and conditions)			
C. Gordon, Inc. (REC)	15731 Liberty St., San Leandro	6/26/73	10177.5
Clarence Hessel Gordon, Pres. (REO)			
(Right to RREB license after not less than 60 days on terms and conditions)			
Moffatt, Joyce Frances (RES)	4710 Regina Way, Campbell	6/26/73	10177(b)
(Right to RRES license within 90 days on terms and conditions)			

Licenses Revoked with Stays

Name	Address	Effective date	Violation R.E. Law/Regulations
Harding, Edward Joseph III (RRES)	17091 Oak Lane, Huntington Beach	5/30/73	10177(b) (k)
(Stayed for 1 year on terms and conditions; shall not act as licensee for 90 days)			

MEDIAN PRICE INCREASE

The National Association of Realtors reported \$28,120 was the median price for an existing single family home during the first quarter of 1973.

For comparison a similar home in 1968 cost \$19,700—an approximate increase of 43 percent.

Licenses Suspended

Name	Address	Effective date	Violation R.E. Law/Regulations
Izzo, Frank Jr. (REB) Dba Golden West Properties & Associates Dba Home Rentals Dba Golden West Property Management	606 Euclid Ave., Anaheim 6025 Sepulveda Blvd., Van Nuys	4/ 4/73 10 days	10100, 10177(g)
Smith, Dennis Ray (RES)	1922 The Alameda, San Jose	4/24/73 60 days	10176(a) (b) (i), 10177(f)
Mack, James Edward (REB)(RES)	9049-C Woodman Ave., Arleta	5/ 1/73 30 days	10145, 10177(d)

Licenses Suspended with Stays

Name	Address	Effective date	Violation R.E. Law/Regulations
Norman, Henry James (REB) (30 days stayed for 1 year on condition)	9823 Normandie Ave., Los Angeles	4/ 4/73 60 days	10145, 10176(a) (b) (c) (i), 10177(d) (f) (g) (j); 2830, 2832, 2832.1
Cook, Robert Adams (REB) (Stayed for 1 year on conditions)	455 Watt Ave., Sacramento	4/15/73 5 days	10177(g)
Patterson, Clarence Jeff (REB) Dba C. J. Patterson Co. Dba National Mortgage & Development Co. (30 days stayed for 2 years on condition)	14 Eastmont Mall, Oakland	4/24/73 60 days	10145, 10176(c) (i), 10177(d) (f) (j); 2832
Ram Incorporated, Realtors (REC) Clare Patrick Rooney, Pres. (REO) (Stayed 1 year on conditions)	409 Alberto Way, Los Gatos	4/24/73 30 days	10145, 10176(c), 10177(d) (f)
Rooney, Clare Patrick (REO) Pres., Royal American Mortgage, Inc. (RIGHT TO REINS REO) Officer, Monterey Mortgage Co. (REO)	6030 Fernglen Dr., San Jose 137 Hamilton Ave., Campbell	4/24/73 30 days	10145, 10176(c), 10177(d) (f)
Campbell, Claude Lloyd (REB) (Stayed for 1 year on condition)	897 High St., Auburn	4/30/73 15 days	10177(d), 10240, 10242(b) (f)
McLin, Peggy Lou (RES) (Stayed permanently)	12585 Hwy. 9, Boulder Creek	5/ 3/73 10 days	10177(b)
Jones, Dan Tillman (REB) Dba Waterford Realty (All but 45 days stayed for 3 years on condition)	12307 Riverside Dr., Waterford	6/30/73 1 year	10177(j)

Real Estate and Corporations Commissioners Jointly Issue Guidelines

Questions as to the meaning of certain words and phrases which seek to define the jurisdiction of the Real Estate Commissioner under the Real Estate Syndicate Act have prompted the Real Estate Commissioner and the Commissioner of Corporations to formulate and jointly issue jurisdictional guidelines entitled *Jurisdiction of Real Estate Syndication Qualification*. Since the inception of the Real Estate Syndicate Act on January 2, 1970, prospective syndicators and their legal counsel have frequently indicated uncertainty concerning which of the two state regulatory agencies has jurisdictional responsibility in the qualifications of securities offerings in which ownership and use of real

property is a significant factor.

The guidelines issued by the two Commissioners delineate jurisdiction over various non-corporate real estate securities offerings to be owned beneficially by 100 persons or less.

For example, an offering by an organization in which the utilization of land, with or without improvements, is incidental to the conduct of a commercial, industrial, agricultural or other business or professional enterprise is within the jurisdiction of the Corporations Commissioner. Ownership and operation by a syndicate of a skating rink illustrates this rule.

A copy of the release dated June 27, 1973 may be obtained at any office of either regulatory agency.

AVERAGE SALES PRICE OF NEW SINGLE FAMILY HOMES, 1966-73 (IN THOUSANDS OF DOLLARS)

	June 1966	1970	1972	Jan/Feb 1973	Percent Change 1966-73	Annual Percent Change
L.A./Long Beach	\$30.9	\$40.1	\$37.7	\$38.0	23.0%	3.3%
San Francisco	35.9	39.7	38.3	36.9	2.8%	9.4%
Seattle	30.5	32.5	31.5	35.7	17.0%	2.4%
U.S. Average	26.9	35.5	37.3	38.4	42.8%	6.1%

Source: Federal Home Loan Bank Board.

Reflections...

Several summers ago while fishing on a beautiful day in the Owens River Valley, I was not having much luck. I came upon a fellow lying on his back in the grass enjoying the scenery, line in the water, pole over a forked stick.

He said: "How are you doing?"

I said: "Lousy. I just got two little ones."

He said: "That's pretty good. I've been coming here for five years and haven't caught anything yet."

He was completely happy. I learned something that day, for shortly thereafter, I was lying on my back enjoying the running stream, the blue sky, the white clouds, and the sun-capped Sierra.

Summer is already on the wane as I make this observation, and I haven't yet done much fishing. I intend to correct this in the future because, as Herbert Hoover said in his book, *Fishing for Fun and to Wash Your Soul*, "God does not subtract from man's allotted time on earth the time spent fishing."

Fishing is a chance to wash one's soul with pure air, with the rush of the brook, or with the shimmer of the sun on blue water. It brings inspiration from the scenery of Nature, charity toward tackle-makers, patience toward fish, mockery of profits and egos, a quieting of hate, a rejoicing that you do not have to decide a darned thing until next week.

... and it is discipline in the equality of man, for all men are equal before fish.

Robert W. Karpe

Robert W. Karpe
Real Estate Commissioner

TEN LARGEST HOME BUILDING AREAS, 1973 (BY UNITS)

Metro Area	1973 Starts		
	Single	Multi	Total
Los Angeles, Ca.	12,600	43,800	55,600
New York, N.Y.	17,000	36,000	53,000
Chicago, Ill.	24,000	26,000	50,000
Washington, D.C.	24,000	17,000	41,000
Ft. Lauderdale-Hollywood, Fl.	10,000	29,300	39,300
Anaheim-Orange, Ca.	19,000	18,500	37,500
Denver, Co.	17,000	18,500	35,000
Tampa-St. Petersburg, Fl.	10,900	24,000	34,900
Phoenix, Az.	21,000	12,000	33,000
San Diego, Ca.	15,000	17,000	32,000

Source: NAHB Metropolitan Forecast. NAHB Economics Department.

REAL ESTATE LICENSE EXAMINATION FORMAT REVISED

Real estate salesman and broker examinations in California have been revised to separate questions which are universal in their application from those which deal with subject matter peculiar to real estate law and practice in California.

Although this has resulted in substantial changes in the mechanics of preparing and administering the examinations, the applicant would note little difference in the overall line of questioning contained in the examination. We have found that two-thirds of the material contained in the salesman examinations (100 questions from the total of 150 constituting the current examination) would be as applicable anywhere in the United States as it is in California. The first 100 questions in each of the new salesman examinations are multi-state in character. In examining for real estate broker license, 50 percent of the questions (the morning session of 100 questions) is multi-state in character.

The same approximate ratio of law, appraisal, finance, public control and special fields will apply to the multi-state segment as that which will apply to the balance (local supplement).

This change is the natural development from the efforts to raise the standards of the real estate industry and is a by-product of the broadened real estate educational opportunities available throughout the nation. The increased mobility of our population and moves toward professionalization of the real estate industry from many quarters brought the Real Estate Commissioner to the decision to bring about this change in California's testing procedures.

Limited Reciprocity

All other states have been solicited to administer the same multi-state segment to all of their applicants for real estate salesman and broker license. Having done so, the stage is set for those states which do choose to participate with California to institute a limited element of reciprocity with respect to licensees from one state who might wish to qualify for licensing in one of the other states participating in the program.

Other States Participating

As this article is written, the States of Washington and Colorado have entered into such an agreement with California. In substance, it works like this: Each participating state will maintain the raw score on the multi-state segment of the examination of all of their applicants who qualify for license. If a licensee has already taken the multi-state segment, and passed it with a grade at least as high as that required in the participating state, it will not be necessary for that



applicant to retake the multi-state segment of the other state's real estate license examination. Variances exist in the residency, educational, apprenticeship, character and other requirements of the different states, and an applicant must meet *all* of any state's requirements before he can be licensed there.

Several other entities are engaged in administering uniform examinations, and the overall movement is gaining momentum throughout the country. In connection with this, the National Association of Real Estate License Law Officials (NARELLO) reviewed the various current proposals. California's and several others were looked upon favorably.

Any state desiring to participate with California will, of course, administer and score its own test program. California will make the applicable multi-state examination material available to participating states for a price sufficient to cover all of the costs incurred.

California enters this program with considerable enthusiasm in that our deeply rooted real estate educational program is now able to have this spin-

off benefit to applicants and the general public through the competency testing uniformity which is encouraged by such a program.

It should be pointed out that (as with any new program) it must be thought of as "pilot" in nature, that any licensees applying for waiver of the multi-state segment in California or in any of the participating states could expect to have the request granted only if the current agreement is still in effect.

New Study Manual

To support further the advancement of the concept, the Department of Real Estate has published a study manual, which is an outline of the general scope of the material contained in the multi-state segment of the real estate examinations. Copies are available from any office of the department for \$2.00, plus sales tax. The manual was developed through cooperation with California State University at Fullerton, by building from the existing coded subject matter outline of examinations—adding materials to conform to the concept of uniformly applicable real estate practice, and subtracting from the outline those matters which are peculiar to California law, practice or custom.

In beginning the new examination program, Commissioner Karpe has stated that, although modernization of our question library is a continuing function of the department, the new format will expose applicants to, generally, the same subject matter as that which has been contained in prior examinations; several test sessions have already shown little or no change in the pass/fail rate.

Karpe welcomes the States of Washington and Colorado and thanks them for their cooperation by helping to get this unique concept into operation. Karpe said, "In this manner we can help each other to determine whether or not the program's merit will justify long term continuance and further expansion of the effort to raise qualification standards and to develop real estate licensing programs in many states in an atmosphere of uniformity."

ADVANCE FEE LOANS**Broker Violates Law Unknowingly**

The real estate law requires advance fee agreements to be approved by the Real Estate Commissioner. Also, any advance fees paid must be placed directly in a trust account and may be withdrawn only for the benefit of the principal and under strict accounting to the principal. Real estate licensees are warned not to become involved in advance fee operations without complying with the advance fee statutes.

Case on Point

In a pending Sacramento investigation, a real estate broker unknowingly entered into agreement to act as "front man" for an out-of-state operator, purportedly president of a giant corporation with money available. The broker described the characteristics of this conglomerate as a company that was "good and sharp and real aggressive in securing loans".

The naive agent, at his expense, placed ads in local newspapers offering commercial loans on income property, business, new construction and refinancing through his firm.

Responding to the ad, borrowers met with the broker. After gathering the usual and appropriate property data, the broker, following instructions of his "lender", would advise his prospective client that appraisals and credit checks were necessary and that an appraisal fee, usually \$300 to \$500, would be charged. In event the loan was not made, the fee would be retained. The appraisals were made by non-professional employees of the broker.

Within 10 to 15 days the broker delivered the appraisal report, and explained to his client that the loan procedures would be handled by a specialist representing the corporation which would issue the loan commitment letter providing the loan application was acceptable.

Later, at a meeting arranged by the broker, his "specialist and business associate" would explain to the borrower that his application for a loan was acceptable upon payment of an advance fee. In turn, the borrower receives a commitment letter that could be taken to any lender of the client's

choice. The company, itself, did not lend the money, but would "underwrite" the loan that would be made by the client's chosen lender and refund the advance fee if no loan was consummated.

A BANNER YEAR

A remarkable year for land subdivisions—close of fiscal year 1972-73 revealed:

- Highest number of subdivision filings ever made in a single year—3,340.
- Third highest number of lots-units offered for sale—155,735.
- Lowest number of acres cut up in last five years—112,262.

In due course, the borrowers, after presenting the loan request to their banks, or lending companies, learned that the letters were worthless. In the meantime, the broker's business associate left the community. Approximately \$20,000 had been collected in advance fees by this particular corporation. The broker explained that the money was paid directly to the corporation. Letters to the company's address were returned to the victims with "address unknown".

Broker Protests Innocence

The real estate agent, during investigation, claimed he did not receive any advance fees and that he was as much a victim as his client. The broker attempted to pay back most of his client's advance loan fees, almost bankrupting him.

The commissioner has charged that his statements and assurances to his clients were made without knowledge upon which to base them, and they were in fact, false — constituting grounds for disciplinary action.

Familiarity with the advance fee statutes and regulations is part of the real estate broker's responsibility. Section 10085 and 10146 of the Business and Professions Code and Section 2970 through Section 2974 of the Commissioner's Regulations are equally important. An agent, a fiduciary, cannot claim lack of knowledge when he holds himself out as an expert.

Commissioner Appoints New CREERAC Members

Commissioner Karpe recently appointed Jeff Lloyd Sanders and Robert B. Spivey, Jr. to his Real Estate Education and Research Advisory Committee.

Jeff Sanders, president of Berkeley Board of Realtors, has operated his own real estate office in Berkeley, California since 1966. He is on the Oakland City Housing, Advisory and Appeals Board; vice-chairman, public relations committee of Oakland Chamber of Commerce; member of Board of Directors of Men of Tomorrow, Six Bay Counties Development Corporation and Independent Farm and Business Club. Additionally he has been active in United Crusade, Oakland Real Estate Board and the California Real Estate Association.

Robert B. Spivey Jr.

Robert Spivey has operated his own real estate brokerage business in Los Angeles since 1954. He is chairman of the board and past president of California Association of Real Estate Brokers, Inc., third vice-president of National Association of Real Estate Brokers, Inc., past president of Consolidated Realty Board of Southern California, Inc. Additionally, his associations include Men of Tomorrow, Urban League of Los Angeles, NAACP and CREAA.

GUIDELINES FOR SUBDIVISION ADVERTISING AVAILABLE

A DRE 12 page pamphlet called *Guidelines for Subdivision Advertising* is available to anyone interested in media advertising of subdivided lands. Copies may be ordered from any DRE district office.

The text discusses application of real estate laws and regulations, general standards for advertising, subdivision advertising criteria, filing of advertising with the department and DRE advertising review.

Among specific subjects covered are difference in meaning between "fully improved lots" and "improved lots", land project subdivision advertising criteria, price leaders, travel offers, telephone solicitors, identifying the agent, gifts and drawings.

SUBDIVISIONS

What Constitutes A Material Change?

Each public report in its masthead contains an expiration date or the public report expires upon a material change, if such occurs sooner.

Making a material change in a subdivision and continuing to sell without the public report reflecting the true pertinent facts of the offer can be a misdemeanor or a felony and give the purchaser grounds for later rescission of the transaction, should he be dissatisfied.

Because of the laws affecting subdivided land, we are asked almost daily whether or not a certain happening is or is not a material change.

Any change which would result in the public report or the questionnaire not reflecting the true facts of the subdivision offering is considered a material change.

The following listing reflect many changes which are material and, while not all inclusive, may be used as a guide:

Changes in Vesting of Title.

- Acquisition of five or more subdivision lots, or two or more condominium, stock cooperative or community apartment units by a purchaser or subdivider.
- Change in the firm name or business organization of the original subdivider; such as, incorporation, change in corporate name or state of incorporation, and the like.
- Foreclosure by lender.
- Transfer of title in trust.

Money Handling Provisions.

- Change in name of escrow depository or name or location of trust account.
- Changes resulting from the imposition of a blanket encumbrance on property which was not so encumbered at the time of issuance of the original report.
- Changes to add authorization to use bond alternative under the provisions of Sections 11013.2(c) or 11013.4(b).
- Changes in connection with the use of real property sales contracts from impound provisions of Sections 11013.2 through 11013.4(f).

Changes in Method of Sale or Conditions of The Offering.

- Changes in method of conveying such as use of real property sales contracts, lease-option agreements or other intended method of disposing of the land.
- Any restrictions not recorded at time of issuance of the original report.
- Changes or additions relating to Declaration of Restrictions, Bylaws, and Management Agreements.

Miscellaneous Changes.

- Sewage disposal, such as from septic tanks to sewers.
- Water supply, such as from wells or mutual water company to public utility or water supply by a public entity.
- Lot splits or realignment of lot lines.
- Amendment to report on hazards not apparent at the time of issuance of the original report, such as adverse geologic conditions which were latent or not discovered prior to issuance of the public report.
- Deletion of adverse statements, upon submission of satisfactory evidence, such as submission of a more favorable flood hazard report based on improvement of flood control measures.
- Adding recreation or other common facilities and common areas.
- Fire protection where previously none.
- Newly created districts having the power to tax or levy assessments.
- Annexations into districts having the power to tax or levy assessments.
- Private roads which become public roads.
- Incorporation of area previously in the county.
- Changes in taxes and assessments.
- Relocation of easements.

Changes in Use.

Any changes in use such as from single family residential to: residential-income; commercial; recreational; industrial; agricultural; or, investment.

Violation of Real Property Securities Dealers Law Results In Maximum Fine and Jail Sentence

In August 1972 the Real Estate Commissioner issued a Desist and Refrain Order to Joseph J. Franklin and his wife Leatrice for issuing and selling real property securities in violation of Section 10237.1 of the Real Estate Law.

Since they were unlicensed, the commissioner turned the DRE's investigatory file over to the **Riverside County District Attorney who, in due course, successfully prosecuted the couple on 76 felony charges.** Several of the commissioner's deputies worked with the DA's office in its preparation of the case.

The Franklins were charged with **buying lots in an older, unrecorded subdivision near Riverside at one price, then falsely issuing notes secured by the lots at a face value several times higher than the initial cost of the lots—then offering the "inflated notes" to unsuspecting buyers at a discount.**

By use of concurrent escrows they made a single operation out of each transaction. The proceeds from the sale of the discounted note was used, in part, to pay for purchase of the lot. The balance was their gross profit.

Because the notes were secured by improved lots in a subdivision, they fell within the statutory definition of a real property security which requires a permit from the commissioner prior to sale.

Penalty

Franklin was placed on probation for three years; sentenced to 180 days in jail; and, fined \$5,000.

Although he was not licensed with the DRE at the time of his recent arrest, 10 years ago he held a broker license under the name of Joseph H. Mancha that was revoked in 1953 after a criminal conviction of conspiracy to commit grand theft.

Licenses who market subdivisions should be acquainted with sections of the Business and Professions Code which relate to subdivisions and they should take it upon themselves, and not leave it to others, to keep the DRE informed of any changes in an offering.

Real Estate Licensee Fund, The California Experience

The above is the title to a recent article which appeared in the *JOURNAL of the BEVERLY HILLS BAR*, Vol. 7, No. 3, MAY-JUNE 1973. It was written by one of the Department's counsel, and generally sets forth the highlights of the Real Estate Commissioner's experience in administering the Recovery Fund since July 1, 1964.

The article can be obtained from most law libraries; and although written in standard "legalese", concludes that the Fund is economically sound.

Protection Provided by Fund Costs Less Than Fidelity Insurance

In fact, the protection provided, according to the article, costs less (being approximately ninety-four cents per year per broker, sixty-three cents per year per salesman) than that which could be purchased by individuals through private sources for comparable fidelity coverage of \$10,000/\$20,000 limits.

The article also contains some interesting figures in regard to percentage of claims paid, number denied, abandoned, etc.

The author states the average claim paid, at last check, was \$2,915.23.

The article also concludes that the commissioner has been substantially successful in preventing the payment of inflated claims, and in confining payment to the direct losses of claimants.

At the end of the fiscal year (June 30, 1973), total amount of claims made against the Fund was \$2,457,405.65; total amount of claims paid were \$896,530.05; total amount of claims abandoned, denied, dismissed by courts, etc., was \$940,331.15. Claims pending and undecided total \$620,544.45.

The article ends with the statement, "To date, the Recovery Fund Program has received much favorable comment from the public, the real estate industry and other jurisdictions, and within the past few years, the legislature of several other states, including Hawaii, Nevada, Idaho, Colorado, and Kentucky have enacted similar programs."

Research Report

The research study, *Urban Land Use Classification in Theory and Practice: The Fresno-Clovis Metropolitan Area Case*, by Nalina Jeyapalan and Robert A. Carr, California State University, Fresno, is now available from the DRE, 714 P Street, Sacramento 95814, at \$1.59 per copy (includes sales tax).

Dr. M. E. Minich, Director, Bureau of Business Research and Service, at the university stated: "The development of a sound policy regarding land use is basic to the urban planning process whether the concern is for the economic well-being of the community, the conservation of its resources, or the preservation of its physical environment. This study is a four-part report on land use in the fast developing Fresno-Clovis Metropolitan Area and contains observations and guidelines for a rational land use policy."

GI's Who Sell Homes Should Get Release from Liability

The Veterans Administration cautions veterans, with thought of selling homes purchased with GI home loans, to get a *release from liability* from the VA if the loan is assumed by the buyer.

Unless a veteran asks for and receives a *release from liability* from the VA office which guaranteed his home loan, he will be liable for payment in the event of default by the purchaser.

Prerequisites

Getting a *release from liability* is simple, provided certain conditions are met:

- the veteran's loan must be current.
- the purchaser must agree to assume the veteran's liabilities.
- the prospective purchaser must be a good credit risk.
- income must be sufficient to cover payments on GI loans.

A *release from liability* does not automatically restore GI loan entitlement the veteran used to purchase the home he sold.

Entitlement may be restored only under certain conditions — mostly those which the VA considers compelling reasons for disposing of the property.

At any rate, brokers and salesmen should advise veterans who plan to sell GI homes to apply for a *release* from the VA which guaranteed their loans before finalizing sales.

Commissioner Announces Organizational Changes and Promotions

Burton D. Porter was recently promoted to Chief Deputy in charge of the advertising screening unit in Sacramento.

Porter began his career with the state in 1956 as a deputy commissioner in the Los Angeles district office. He was transferred to Sacramento in 1961. As a senior deputy, he acted as liaison for the state colleges and research programs. He supervised the Sacramento subdivision section and has been connected with administration of advertising review for the past several years.

He attended Washington and Lee University, and during World War II served in the Army Air Corps as a weather observer stationed in India.

Prior to entering state service, he spent 10 years in real estate.

W. Blair Stewart

On August 1, W. Blair Stewart was appointed to a Senior Deputy assignment in the Los Angeles district office. He will head up a special task force to investigate illegal subdivision activities.

Blair joined the department in 1962 as a deputy commissioner. He has been engaged in all phases of regulatory work in the Sacramento district office.

He was previously active in the real estate business, title work and home construction field. During World War II, he served in the Army Air Corps.

Larry W. Smith

Larry Smith's promotion to Senior Deputy became effective August 1. He will be assigned to the examination unit in Sacramento where he will be primarily engaged in item writing and test standards.

Smith was first employed by the department in 1966 in the Los Angeles district office. In 1970, he was transferred to Sacramento in licensing operations.

A native of Michigan, Smith graduated from Michigan State University following two years service in the Marine Corps. Prior to entering state service, he was employed as a security officer in a large department store.

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Structural Pest Control Inspection Report

The expression "termite inspection" or "termite clearance", so commonly used in many real estate transactions, is possibly misleading to the parties concerned as well as to the agent. The State Structural Pest Control Board has advised the DRE that these two expressions are misnomered and possibly should be dropped from the vocabulary of the real estate operator.

Set Form

All structural pest control operators use a form prescribed by the State Structural Pest Control Board. It is entitled *Standard Structural Pest Control Inspection Report* with subheading entitled *Wood Destroying Pests or Organisms*. In other words, it is not a termite inspection or a termite clearance. The report deals with all forms of pests and infestations. A structural pest control inspector may not limit his inspection to one type of

infestation or infection. The report, however, may be made on part of a building providing the report is designated as a *limited report*. The inspector reports any and all evidence of infestation, infections and adverse conditions found in a part or all of the building he inspects.

Ask For Correct Report

When a real estate licensee requests an inspection from a pest control firm he should ask for a structural pest control inspection report. The question of whether all or some of the recommendations made in the report are to be completed or not is a matter decided by someone other than the pest control operator.

When all parties are aware of the pest control operator's responsibility, and the nature of his inspection, misinterpretations are more likely to be ironed out before they reach a critical stage.

HANDLING OF TRUST FUNDS

How does a broker account for trust funds when the seller's acceptance of the offer is delayed? When a delay in acceptance by seller occurs, deposit funds must be placed in the broker's trust account. There are two exceptions:

1. If the check, by its term, is not negotiable, the broker may hold it until acceptance of the offer.
2. If the check is negotiable by the broker, he must have written instructions from the maker-buyer in order to hold it.

In either case the offeree-seller must be informed that the check is being held before or at the time the offer is

presented.

Normally, acceptance of an offer takes place shortly after an offer is submitted to the seller. Deposit monies are routinely placed in broker's trust account; in escrow; or given to the seller. Change in the regulation mentioned in the Spring *Bulletin* (Section 2832) concerns the situation where acceptance takes place some time later after the offer is drawn and the deposit received by the broker.

After acceptance, the deposit must be placed in one of the three standard depositories unless the broker has specific written authorization from the seller to continue to hold it.

Broker May Negotiate Airspace Leases

(continued from page 1)

Any broker interested in entering this program should contact the Division of Highways, Right of Way Department, Airspace Development at the appropriate district office listed below:

District 01—

1656 Union St., Eureka 95501
 707-442-2011

District 02—

1657 Riverside Dr., Redding 96002
 916-241-2001

District 03—

703 B St., Marysville 95902
 916-743-2312

District 04—

150 Oak St., San Francisco 94119
 415-557-3592

District 05—

50 Higuera St., San Luis Obispo
 93402
 805-549-3307

District 06—

1352 W. Olive Ave., Fresno 93715
 409-488-4142

District 07—

120 S. Spring St., Los Angeles 90054
 213-620-3906

District 08—

247 Third St., San Bernardino 92403
 714-383-4561

District 09—

500 South Main St., Bishop 93514
 714-873-5851

District 10—

1976 E. Charter Way, Stockton
 95201

209-466-1214

District 11—

4075 Taylor St., San Diego 92112
 714-297-5262