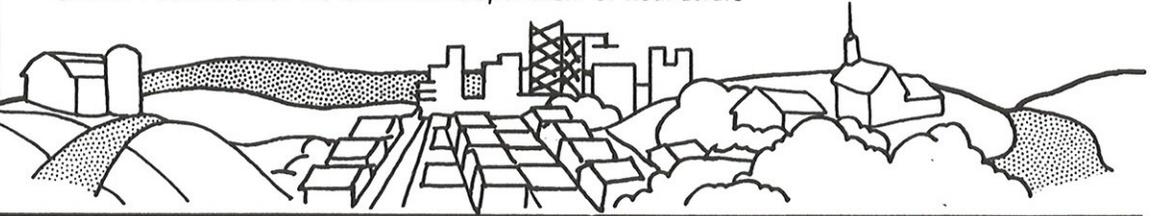




REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



GEORGE DEUKMEJIAN, Governor

Fall 1985

JAMES A. EDMONDS JR., Commissioner

DRE Gains from Advisory Committees' Input

As chief executive of the Department of Real Estate, it is the Commissioner's duty to determine administrative policy and enforce provisions of the Real Estate Law in a manner which achieves maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

In fulfilling his responsibilities, Commissioner James A. Edmonds, Jr. has appointed or reactivated several advisory committees to counsel him concerning functions and policies of the Department and how DRE may best advance the interests of consumers, industry members, and real estate licensees statewide.

One of these committees is the Real Estate Advisory Commission which consists of ten members, each appointed by the Commissioner. Six of the members are real estate brokers licensed in California and four are public representatives. The Commission serves as a resource to the Commissioner in developing policy for the Department of Real Estate. Members make recommendations on appropriate ways to enhance consumer protection and increase professionalism within the real estate industry. Commissioner Edmonds presides at meetings of the Real Estate Advisory Commission which must meet at least four times each year. These meetings are open to the public and provide a forum for their views and suggestions to be considered.

Other committees which advise the Commissioner in specialized areas include:

- Mortgage Lending Advisory Committee
- Commercial/Industrial Brokers Committee
- Ad Hoc Advisory Business Brokers Committee
- Education and Research Advisory Committee
 - Subcommittee on Research
 - Subcommittee on Code of Ethics
 - Subcommittee on Continuing Education
- Subdivision Advisory Committee
- California Building Industry Association/Department of Real Estate Committee
- Task Force on Certification of Real Property Appraisers

The Commissioner regards the advisory committees as a valuable asset, and appreciates the input provided by these volunteers. Through the efforts of the members of all the advisory committees, DRE is afforded the opportunity to enhance communication with the real estate industry and receive valuable information as to current needs and concerns as well. The membership of all advisory committees has been completed.



Buy-Back Program Runs Into Problems

by
Gil Hatfield
Deputy Commissioner III
Subdivisions Office—North

The Department of Real Estate (DRE) recently learned that a firm located in Texas has been offering a guaranteed buy-back program to timeshare developers and membership campground operators in California. The firm alleges to own or control an insurance company also based in Texas to facilitate this plan. A check with the Department of Insurance, however, indicated that this particular insurance company is not licensed to transact insurance business in California.

At least one timeshare developer in California purchased the plan. This developer discontinued use after being advised by DRE that he was in violation of the Real Estate Law and the Commissioner's Regulations for failure to report a material change in his program for marketing the timeshare project.

Ordinarily after being notified of material changes in an offering, the Department amends the Public Report to reflect the reported change. In this case, however, even if the insurance firm was properly registered in California, conditions for the buy-back are so restrictive in its present form

(Continued on Page 3)

Easton v. Strassburger

New Legislation Changes Broker's Duty

The recent California appellate court decision in *Easton v. Strassburger* imposed a duty on the listing real estate broker of residential real property to conduct a reasonably competent and diligent inspection of the property and to disclose to prospective purchasers all facts materially affecting the value or desirability of the property that such an investigation would reveal.

In July, Governor Deukmejian signed into law Senate Bill 453 which adds provisions to the Civil Code codifying the duty created by the *Easton* decision and modifying and clarifying other aspects of that decision. The legislation becomes effective January 1, 1986. Following is a brief summary of the impact of S.B. 453 on *Easton*:

1. It mandates only a reasonably competent *visual* inspection of the property. The decision in *Easton* does not clearly indicate the type of inspection required.

2. The duty to make the visual inspection is limited to residential real property of one to four units. The duty in *Easton* was limited to only residential property.

3. It defines the standard of care owed by a broker to a prospective purchaser as the degree of care a reasonably prudent real estate licensee would exercise and is measured by the degree of knowledge through education, experience, and examination required to obtain a real estate license under California law. *Easton* did not clearly define the measure of the standard of care owed by a broker to the buyer.

4. It would apply the duty only to a broker who has entered into a written contract with the seller to find or obtain a buyer and to a broker who acts in cooperation with such a (listing) broker to find and obtain a buyer. *Easton* did not limit its application to brokers with written contracts nor did it impose a duty on cooperating brokers.

(Continued on Page 8)

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STATE OF CALIFORNIA
GEORGE DEUKMEJIAN, Governor

JAMES A. EDMONDS JR.
Real Estate Commissioner

EXECUTIVE OFFICE

107 South Broadway, Room 8107, Los Angeles 90012
Consumer Information (213) 620-5903
Mortgage Loan Broker (213) 620-2139

PRINCIPAL OFFICE

2201 Broadway, P.O. Box 160009, Sacramento 95816
Consumer Information (916) 739-3684

Licensing:

Information/Renewals (916) 739-3758
Broker Qualifications (916) 739-3725
Examination Scheduling (916) 739-3726

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MARY LOUISE SCHMIDT, Publications Editor

NORTHERN REGULATORY AREA

BETTY R. LUDEMAN, Managing Deputy Commissioner IV

Regulatory District Offices

San Francisco, Room 5816, 185 Berry Street, 94107
Consumer Information (415) 557-2136
EDWARD V. CHILOLO, Managing Deputy Commissioner III
Sacramento, 2201 Broadway, P.O. Box 160009, 95816
Consumer Information (916) 739-3684
CHARLES W. KOENIG, Managing Deputy Commissioner III
Fresno, Room 3070, 2550 Mariposa Street, 93721
Consumer Information (209) 445-5009
ROBERT E. MCCABE, Managing Deputy Commissioner II

SOUTHERN REGULATORY AREA

ROBERT C. ARNOLD, Managing Deputy Commissioner IV

Regulatory District Offices

Los Angeles, Room 8107, 107 S. Broadway, 90012
Consumer Information (213) 620-5903
THOMAS MCCRADY, Managing Deputy Commissioner III
San Diego, Room 5008, 1350 Front Street, 92101-3687
Consumer Information (619) 237-7345
J. CHRIS GRAVES, Managing Deputy Commissioner II
Santa Ana, Room 324, 28 Civic Center Plaza, 92701
Consumer Information (714) 558-4491
RANDOLPH BRENDA, Managing Deputy Commissioner III

SUBDIVISIONS

Sacramento Headquarters: P.O. Box 168003, 95816
Consumer Information (916) 739-3628
WILLIAM O. KEWLEY, Managing Deputy Commissioner IV
South—Los Angeles, Room 7001, 107 S. Broadway, 90012
Consumer Information (213) 620-2700
ROBERT GILMORE, Managing Deputy Commissioner III
North—Sacramento, P.O. Box 168003, 95816
Consumer Information (916) 739-3631
MARGRET STROH, Managing Deputy Commissioner III

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The Real Estate Bulletin (USPS 456600) 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—MARCH-MAY 1985

REB—Real estate broker RES—Real estate salesperson PRLS—Prepaid rental listing service
RREB—Restricted real estate broker RRES—Restricted real estate salesperson RPRLS—Restricted prepaid rental listing service
REO—Real estate officer 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.
*Not previously published

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed after each licensee's name. The full context of the various sections is found in the Business and Professions Code and the Regulations of the Real Estate Commissioner, both of which are printed in the Real Estate Law book available for purchase from the Department of Real Estate for \$10.00 plus tax. Code sections summarized will vary from issue to issue as they will correspond with the particular disciplinary listings.

Business and Professions Code

490 relationship of conviction to licensed activity
10085 failure to submit advance fee materials acting without license
10130 unlawful payment of compensation
10137 trust fund handling
10146 failure to handle advance fees as trust funds or to furnish verified accounting to principal
10163 branch office license requirement covers various violations
10165
10167.9(a)(1) failure to include required terms in PRLS contract
10167.9(a)(3) failure to include required terms in PRLS contract
10167.10 failure of PRLS broker to refund advance fee paid
10167.10(a) PRLS licensee's failure to make refund
10167.10(a)(1) non-refund of PRLS fee
10167.10(b) failure to refund deposit or portion thereof

10167.11(a) referral of unavailable or non-existent rental property
10167.11(b) false, misleading or deceptive advertising or description of a rental property violation or crime by PRLS licensee making any substantial misrepresentation
10176(a) making false promise
10176(b) commingling trust funds
10176(c) secret profit or undisclosed compensation
10176(d) fraud or dishonest dealing in licensed capacity
10176(e) procuring a real estate license by misrepresentation or material false statement
10176(f) conviction of crime
10176(g) violation of real estate law or regulations
10176(h) conduct that would have warranted denial of a license
10176(i) negligence or incompetence as licensee failure to supervise salespersons

10177(j) fraud or dishonest dealing not in licensed capacity
10177.2(b) failure to deliver mobilehome ownership certificate
10177.5 civil fraud judgment based on licensed acts
10231 accepting loan funds for pooling retaining lender's funds for more than 60 days
10231.1

Regulations

2731 unauthorized use of fictitious business name
2830 failure to maintain trust fund account
2831 inadequate trust fund records
2831.1 inadequate trust fund records
2832 failure to comply with specific provisions for handling trust funds
2832.1 broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
2970 misleading advance fee advertising material

LICENSES REVOKED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Walling, Robert Daniel (RES)	P.O. Box 18948, South Lake Tahoe	1/9/85	10177(f)(j)
*Bere-Ola, John (RES)	50 Corning Ave., Milpitas	2/22/85	490, 10177(b)
Long, J. B. (REB)	2321 St. Joseph Ave., Long Beach	3/5/85	10176(i), 10177(j)
Walker, Hugh Kelso (REB) (REO)	28207 S. Ridgefern Ct., Rancho Palos Verdes	3/5/85	10177(j)
Uritson, Susanne Helen (RES)	4417 Lakeview Dr., Vacaville	3/7/85	10176(a)(i), 10177(j)
Gaunt, Cora Sue (REB)	34221 Golden Lantern, #C, Dana Point	3/12/85	490, 10177(b)
DBA—Bay Realty			
DBA—Pan Pacific Realty			
Oates, William Wallace (RES)	2719-10th Ave., Sacramento	3/25/85	10176(a)(b)(i), 10177(j), 10177.2(b)
Town & Country Rentals, Inc. (REC)	435 McHenry Ave., Modesto	3/26/85	10167.10, 10177(d)
Kanights, Daniel (REB)	765 Bryant St., San Francisco	3/28/85	2731, 2970, 10085, 10146, 10176(i), 10177(d)
United Mortgage Service, Inc. (REC)	1625 The Alameda, 6th Flr., San Jose	3/28/85	10176(i), 10177(d)
Vieux Desert, Ltd. (REC)	1400 Civic Dr., Walnut Creek	4/1/85	10177(f)(g)
DBA—Security Plan of California			
DBA—Stillwell Co.			
Stillwell, Albert Cecil (REB) (REO)	1400 Civic Dr., Walnut Creek	4/1/85	10177(f)(g)
DBA—Security Plan of California			
Harbison, James Mack (RES)	2401 Woolard St., Bakersfield	4/1/85	10176(a)(i), 10177(d)(j)
Johnson, Terri Dee (RES)	P.O. Box 1107, Tustin	4/2/85	10176(a)(i), 10177(j)
Tharp, Dennis Michael (RES)	722 San Marcos Blvd., San Marcos	4/2/85	10176(a)(i), 10177(j)
Webb, Donald Ellsworth (RES)	15236 La Plata Ct., Ramona	4/2/85	10176(a)(i), 10177(j)
3 T Funding Corporation (REC)	1930 S. Brea Canyon Rd., Ste. 240, Diamond Bar	4/30/85	2831.1, 2832.1, 10145, 10177(d), 10231, 10231.1
Tapia, Abe Jr. (RES)	1930 S. Brea Canyon Rd., Diamond Bar	4/30/85	2831.1, 2832.1, 10145, 10177(d), 10231, 10231.1
Bagwell, Charles Lee (REB)	275 Grand Ave., #A, Grover City	5/13/85	10177(b)
Nixon, Sammy Carol (REB)	270 Washington St., Santa Clara	5/14/85	490, 10177(b)(f)
Sanchez, Rogelio Silva (REO)	2454 Story Rd., Ste. A, San Jose	5/15/85	490, 10177(b)(f)
Off—Rzan Corporation			
Capineri, James Carl (REB)	1734A El Camino Real, Mountain View	5/15/85	10176(a)(b)(e)(i), 10177(d)(f)
Jones, David Alvin (PRLS)	7202 Fruitridge Rd., Sacramento	5/20/85	10167.10(a)(b), 10167.11(a)(b)
Brimson, Susie Jeanne (RES)	1873 Luxton St., Seaside	5/21/85	490, 10177(b)(f)
Del Fante, Lino C. (REB)	Forty Grand, San Mateo	5/21/85	490, 10177(b)(f)
Metcalf, Raymond Eldred (REB)	603-1st St., Oceanside	5/23/85	2830, 2832, 10145, 10176(i), 10177(d), 10177.5
Radon, Laura Lee (RES)	554 Arroyo Ave., Santa Barbara	5/23/85	490, 10177(b)
Dibley, Raymond Henry (RES)	151 W. Mariposa, #B, San Clemente	5/23/85	490, 10177(b)
Posten, Blair Jay (REB)	36 W. 33rd Ave., Spokane, WA	5/23/85	10176(a)(i), 10177(f)(h)(j)
Yew, Thomas Cheng-Lin (RES)	1909 Pelham Ave., Los Angeles	5/28/85	490, 10177(b)
Iacenda, Andrew A. (RES)	1067 Fairmount Rd., Burbank	5/28/85	10137, 10176(a)(g)(i), 10177(g)
Forsting, Robert Lee (RES)(PRLS)	100 E. Walnut, #102, Pasadena	5/29/85	10167.9(a)(1), (a)(3), 10167.10(a)(1), (b), 10167.12, 10177(d)
DBA—Compu-Homes			
DBA—Windsor			
DBA—Sunset Properties			
Wortman, Richard Joseph (RES)	605 Harwood Ln., Thousand Oaks	5/30/85	10137, 10176(g)

LICENSES SUSPENDED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Ollendorf, Ursula Marie (RRES)	38881 Judie Way, Fremont	4/18/85 (180 days)	10176(i), 10177(f)
Southerly, Nellie Jessie (REB)	14742-7th St., Victorville	5/30/85 (15 days)	10177(g)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective Date	Violation Business and Professions Code/ Commissioner's Regulations
Connor, Jack Birkley (RES) (Right to RRES license on terms and conditions)	3102 Coral, #C, Costa Mesa	3/12/85	10130, 10177(d)
Walker, Nathaniel Wilton (REB) DBA—Townhouse Realty Company (Right to RREB license on terms and conditions)	910 Florin Rd., Ste. 208, Sacramento	3/13/85	10177(d)(g)
Yoshimura, Steve Makoto (RES) (Right to RRES license on terms and conditions)	1937 Alcatraz, #1, Berkeley	3/14/85	490, 10177(b)(f)
Ritts, Steven Fredrick (RES) (Right to RRES license after 60 days on terms and conditions)	5777 Madison Ave., #480, Sacramento	3/18/85	10177(g)
Hershman, Sharon A. (RES) (Right to RRES license on terms and conditions)	5570 Stetson, Anaheim Hills	3/26/85	490, 10177(b)
Tien, Roger Wen-Peh (REB) (Right to RREB license on terms and conditions)	212 S. Garfield Ave., Monterey Park	3/26/85	490, 10177(b)
Kwasniewski, Stanislaw Joseph (REB)(REO) DBA—Rexford Investment & Mortgage Company (Right to RREB license after 90 days on terms and conditions)	18200 VonKarman Ave., Ste. 600, Irvine	3/26/85	2832.1, 10145, 10177(d)(g)
Tucker, Terrance George (REB) (Right to RREB license on terms and conditions)	2185 Ventura Blvd., Camarillo	3/27/85	10137, 10163, 10165
Marshall, Russell Heans (REB)(REO) (Right to RREB license on terms and conditions)	3315 Almaden Exp., Ste. 37, San Jose	3/28/85	10177(h)
King, Philip Co (RES) AKA—Ong, Felimon C. (Right to RRES license on terms and conditions)	1104 Sanchez Ave., Burlingame	4/15/85	490, 10177(b)
Fong, Ann L. (RES) (Right to RRES license on terms and conditions)	1599-34th Ave., San Francisco	4/15/85	490, 10177(b)(f)
Stephenson, Don King III (RES) (Right to RRES license on terms and conditions)	2128 Mendon Dr., San Pedro	4/16/85	10177(g)
Foster, Joseph William (REB) (Right to RREB license on terms and conditions)	3607 Clayton Rd., Concord	4/17/85	10177(f)(j)
Rasmussen, George Allsworth (RES) (Right to RRES license on terms and conditions)	2943 Half Moon Ct., Norco	4/17/85	490, 10177(b)
Nguyen, Thao Phuong (RES) (Right to RRES license after 60 days on terms and conditions)	11016 Cynthia Cir., Garden Grove	4/17/85	490, 10177(b)
Engelstad, Russell Wayne (REB) (Right to RREB license after 180 days on terms and conditions)	38665 Fremont Blvd., Fremont	4/18/85	10145, 10176(e)(i), 10177(d)(f)
Lusk, Hal Lyell (REB)(REO) (Right to RREB license on terms and conditions)	10889 Wilshire Blvd., #255, Los Angeles	4/18/85	10177(h)
A Sentry Mortgage Corporation (REC) Off—Lusk, Hal Lyell (Right to RREC license on terms and conditions)	10889 Wilshire Blvd., Ste. 255, Los Angeles	4/18/85	10177(g)
Saraglow, George Mariani (RES) (Right to RRES license on terms and conditions)	1418-36th St., Sacramento	4/23/85	490, 10177(b)
Amal, Mary Fahmy-Gad S. (RES) (Right to RRES license on terms and conditions)	465 Buena Vista, #305, Alameda	5/14/85	490, 10177(b)(f)
Boch, Kathleen M. (RES) (Right to RRES license on terms and conditions)	6501 Crown Blvd., San Jose	5/15/85	490, 10177(b)(f)
Melvaire, Jacquin (RES) (Right to RRES license on terms and conditions)	32 Moss Ave., Oakland	5/21/85	10176(a)
Essayan, Mary Joyce (RES) (Right to RRES license on terms and conditions)	12814 Vanowen St., #C, North Hollywood	5/23/85	490, 10177(b)
Kennedy, Wayne Tilton (REB)(REO) (Right to RREB license on terms and conditions) (Suspended 60 days, Stayed for 1 year on terms and conditions)	1199 S. Van Ness Ave., San Francisco	5/28/85	2830, 2832.1, 10130, 10145, 10176(e)(i), 10177(d)(h)
Allen, William Kenneth (RES) (Right to RRES license on terms and conditions)	4575 Star Rte., San Miguel	5/29/85	490, 10177(b)
Lopez, Alexander Portillo (REB) (Right to RREB license on terms and conditions)	5233 E. Beverly Blvd., Los Angeles	5/29/85	10176(e), 10177(d)
Victor Valley Realty, Inc. (REC) (Right to RREC license on terms and conditions)	14742-7th St., Victorville	5/30/85	10177(g)
Jones, James Robert (REB)(REO) Off—Victor Valley Realty, Inc. (Right to RREB license on terms and conditions)	21840 Highway 18, Apple Valley	5/30/85	10177(g)
Johnson, Jimmie Rogers (REB) (Right to RREB license on terms and conditions)	344 N. Towne Ave., Pomona	5/30/85	2830, 2831, 2832, 10145, 10177(d)(g)
Hinds, Dee (REB) (Right to RREB license on terms and conditions)	3932-35th Ave., Oakland	5/31/85	10176(e), 10177(d)

LICENSES SUSPENDED WITH STAYS

Name	Address	Effective Date	Violation Business and Professions Code/ Commissioner's Regulations
De Tar, Robert Eldon (REB) (Stayed for 1 year on terms and conditions)	1057 College Ave., #106, Santa Rosa	3/26/85 (120 days)	10167.10, 10177(d)
Dowd, Helen Beverley (REO) Off—Helen B. Dowd Realtor, Inc. (All but 30 days stayed for 3 years on condition)	2145 Vista Entrada, Newport Beach	4/2/85 (120 days)	10177(a)
Helen B. Dowd Realtor, Inc. (REC) Off—Dowd, Helen Beverley (All but 30 days stayed for 3 years on condition)	2145 Vista Entrada, Newport Beach	4/2/85 (120 days)	10177(a)
Baldwin, Kimberly Ann (RRES) (All but 90 days stayed for 1 year on condition)	1644 Klamath River Dr., Rancho Cordova	4/15/85 (180 days)	10176(a)(b)(i), 10177(g), 10177.2(b)
Satterfield, Benjamin Robert (REB) (All but 30 days stayed for 2 years on conditions)	32 W. Calle Laureles, Santa Barbara	4/16/85 (60 days)	2832.1, 10145, 10177(d)

(Continued on Page 7)



Pest Control Documentation

by
Betty R. Ludeman
Managing Deputy Commissioner IV
Northern Regulatory Area

Commissioner's Regulation 2905 requires: "In a real estate transaction subject to the provisions of Section 1099 of the Civil Code, the real estate broker acting as agent in the transaction shall effect delivery of the inspection report, certification and the notice of work completed, if any, to the transferee in accordance with said section.

"If more than one real estate broker licensee is acting as an agent in the transaction, the broker who has obtained the offer made by the transferee shall effect delivery of the required documents to the transferee unless the transferor has given written directions to another real estate broker licensee acting as agent in the transaction to effect delivery.

"If the responsible broker cannot obtain the required documents to deliver to the transferee and does not have written assurance from the transferee that all of said documents have been received, the responsible broker shall advise the transferee in writing of the transferee's rights under Section 1099.

"A real estate licensee should make sure that the structural pest control inspection report, certification and the notice of work completed, if any, are delivered to the transferee prior to transfer of title."

"The real estate broker licensee responsible hereunder shall maintain a record of the action taken to effect compliance with this regulation in accordance with Section 10148 of the Business and Professions Code."

Section 1099 of the Civil Code states, in part, that as soon as practical before transfer of title, the transferor, the owner, or his agent, shall deliver to the transferee a copy of a structural pest control inspection report provided that certification or preparation of a report is a condition of the contract effecting that transfer, or is a requirement imposed as a condition of financing such transfer.

If a notice of work completed, indicating action by a structural pest control licensee in response to an inspection report, has been received by a transferor or his agent before transfer of title, it shall be furnished to the transferee as soon as practical before transfer of title.

"Delivery to a transferee as used in this section means delivery in person or by mail to the transferee himself or any person authorized to act for him in the transaction or to such additional transferees who have requested such delivery from the transferor or his agent in writing."

(Continued on Page 5)

Buy-Back Program (Continued from Page 1)

that the plan would likely be found unreasonable and the application for an amended Public Report denied.

Although the unauthorized offering was primarily made to timeshare developers and operators of campground projects, every subdivider should be aware of the problems associated with such a plan. Subdividers are further cautioned that, in addition to any regulatory action taken by DRE for implementation of the program without adherence to applicable laws and regulations, the California Attorney General is empowered to bring injunctive actions against "unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising" under Business and Professions Code Section 17200.



It's Not That Easy!

Property Management

by
J. Chris Graves
Managing Deputy Commissioner II
San Diego District Office

A frequent inquiry received by DRE staff starts off with a variation of the statement: "Business is slow so I want to expand my brokerage business to include something 'easy' like property management. Do I need to do anything special?" Perhaps this is similar to the weekend barbecuer asking Betty Crocker what one needs to know to make crepe suzettes, escargo or lasagna on the grill. It's just not that easy.

The Department's 1984-1985 *Reference Book* Glossary defines property management as: "A branch of the real estate business involving the marketing, operation, maintenance and day-to-day financing of rental properties." That is a mighty compact definition for such a complex and worthwhile trade.

Property managers run the gamut of those who manage one or two single-family homes to apartment units or larger projects such as office and industrial complexes. Therefore, a reasonable knowledge and understanding of the general principles and responsibilities related to this field is a requirement for all brokers. Virtually any type of property in which people live, work, play or obtain service requires management skills, regardless of whether it is a factory, church, shopping center, gas station, mobilehome park, or whatever.

Ideally, the property manager's efforts result in a savings to the property owner instead of an expense by balancing the goals of the owner to obtain a satisfactory return on total investment and the tenant's wishes to rent or lease space within his or her income or at a rate that will allow the utilization of the space at a profit.

A property manager has been described as follows (author unknown): "The past is his experience, and with its valuable ramifications, he is helped immeasurably to mold the plans for his future. During his years of experience, he has built and sold houses, appraised property, dealt in long-term commercial and industrial leases, made many complicated and intricate transactions, bought and sold hotels—in short, has had a long experience with the public, including businessmen, husbands and wives, doctors and lawyers, engineers and financiers, yes, with gamblers, beggars and thieves, mothers-in-law, fanatics, the feeble-minded, strong and weak characters of every type and description, politicians too, and with this experience has automatically been turned out a well-rounded, socially conscious, alert and aggressive person—in short, a skillful businessman, and when he has reached this point, he has automatically qualified for the job of property management."

The description fits today's women and men who undertake the task of property manager. Among the specific duties which she or he must perform:

1. Establish a rental schedule that will bring the highest yield consistent with good economics.
2. Merchandise the space and collect the economic rents.
3. Create and supervise maintenance schedules and repairs.
4. Set up payroll systems for all employees.
5. Develop a tenant/resident relations policy.
6. Develop employee policies and supervise their operations.
7. Maintain proper records and make regular reports to the owner.
8. Qualify and investigate prospective tenant's credit.
9. Prepare and execute leases.
10. Prepare decorating specifications and secure estimates.
11. Hire, instruct, and maintain satisfactory personnel to staff the building(s).
12. Audit and pay bills.
13. Advertise and publicize vacancies through selected media and broker lists.
14. Recommend alterations and modernization as the market dictates.
15. Inspect vacant space frequently.
16. Keep abreast of the times and posted on competitive market conditions.
17. Pay insurance premiums and taxes and recommend tax appeals when warranted.

In the property management business as in all business operations, it is essential that a written contract be made that clearly sets forth the full responsibilities of the broker and the owner. As an agent, the property manager is subject to all of the legal restrictions generally imposed upon an agent. Obligations include acting in good faith, using due diligence, full disclosure of all pertinent facts, avoidance of commingling of trust funds, and refraining from personal profits without the principal's full knowledge and consent.

From an accounting standpoint, the property manager needs the sophistication and knowledge of accounting procedures to maintain an adequate trust fund accounting system to meet the fiduciary nature of the real estate industry in compliance with Sections 10145 and 10148 of the California Business and Professions Code and Commissioner's Regulations 2830 through 2834.

Property management is an expanding service offered by more brokers, not only those who wish to specialize, but also those who want to offer "full service" operations. It is a necessary, and can be a profitable, profession . . . but, it is not that easy. **DRE**

What Is The Subdivision Map Act?

by
Robert Gilmore
Managing Deputy Commissioner III
Subdivisions Office—South

The laws governing the subdivision of real estate are contained in the Business and Professions Code known as the Subdivided Lands Law and the Government Code known as the Subdivision Map Act. The Real Estate Commissioner is charged with the administration of the Subdivided Lands Law. The Subdivision Map Act is administered by the city or county governmental unit.

The purpose of the Subdivision Map Act is to control the design and improvement of the land being subdivided and coordinate its development with the overall plan laid out for the community by the local governing body.

The Subdivision Map Act requires each local agency to pass ordinances to regulate and control subdivisions which under the Act require a final map or a parcel map. The local agencies are specifically required to provide for proper grading and erosion control, including the prevention of sedimentation or damage to offsite property.

"Failure to comply with the Map Act is a criminal offense and also carries civil liabilities."

The Map Act enables local governing bodies to control street patterns, rights of way for drainage and sewers, access to public natural resources, density of the project and lot design. Local government can also prevent improvements or subdivision design which may cause hazards or public health problems or an undue burden on existing community facilities. The Map Act allows for the dedication of easements or lands in the public interest such as for parks, streets or schools. Under this Act, local authorities have the means to insure that dedicated public streets and other public areas will be properly improved by the subdivider to prevent an undue burden upon taxpayers in the future.

The Map Act also attempts to bring some uniformity to the filing of subdivision maps on a statewide basis. With certain exceptions, a tentative and final map is required for all subdivisions creating five or more parcels or five or more condominiums, community apartment projects containing five or more parcels, or five or more memberships in a stock cooperative if the dwelling units are a conversion of existing units. In most cases, a parcel map is required for a division of land into four or less parcels. Usually the requirements for a subdivision map are more stringent than for a parcel map.

(Continued on Page 5)

Pest Control

(Continued from Page 3)

Based upon a complaint, the Department of Real Estate recently investigated a transaction wherein the transferee did not receive, prior to transfer of title, a copy of the structural pest control notice of work completed.

Buyer and seller entered into a Purchase and Sale Agreement which required that a structural pest control inspection be made and any corrective work recommended on the report be completed prior to close of escrow. Under the terms of this contract, the seller was to pay for the corrective work as recommended in the structural pest control inspection. The buyer closed escrow unaware that the corrective work had not been completed.

Following the close of escrow, the buyer repeatedly contacted her agent and requested a copy of the notice of work completed. The agent failed to respond to the buyer's request. The buyer, after learning that the work had not been completed, was required to pay in excess of \$1,000 to have the recommended corrective work completed.

When contacted by the Department, the buyer's agent stated that she thought it was the title company's responsibility to make sure that the work was done and the proper reports given to the buyer. The facts of this transaction were presented at an administrative hearing, and the Department of Real Estate revoked the real estate license of this agent.

A real estate licensee should make sure that the structural pest control inspection report, certification and the notice of work completed, if any, are delivered to the transferee prior to transfer of title. In addition, the real estate broker licensee responsible to effect delivery must maintain a record of effecting delivery to satisfy compliance with Commissioner's Regulation 2905. 

Subdivision Map Act

(Continued from Page 4)

The Map Act contains several exceptions such as leases for agricultural purposes and financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks or trailer parks.

Local government approval of developments subject to the Map Act must be obtained before subdivided lots or units may be sold, leased, or financed or construction is begun on them except for model homes.

Failure to comply with the Map Act is a criminal offense and also carries civil liabilities. The lot purchaser may rescind the transaction along with bringing an action for damages provided the sale was made in violation of the Act. The period within which these actions can be commenced is limited to one year after the date of discovery of the violation.

Nothing in the Map Act modifies or affects the provisions or the administration of the Subdivided Lands Law. The Real Estate Commissioner will, however, require that the subdivider provide evidence of compliance with the Map Act before a subdivision final report can be issued. 

NEW REAL ESTATE SALESPERSON AND BROKER LICENSE EXAMINATION REQUIREMENTS

On March 29, 1984, Governor Deukmejian signed into law Senate Bill 1042—Lockyer (Chapter 66) which, on January 1, 1986, brings about major revisions in educational requirements for individuals wishing to qualify for either the real estate salesperson or broker license examination. The new law also makes changes in continuing education requirements for the *first renewal* of the license of a salesperson who has been required to complete qualifying courses for the salesperson license.

If a completed application for license examination and fee are **received** by the Department of Real Estate prior to January 1, 1986, the applicant will be scheduled in accordance with the 1985 requirements for the first available examination in 1986. If the applicant is scheduled for an examination under the 1985 requirements, but fails the examination or does not take the examination, and the reexamination or rescheduling application is received after January 1, 1986, the **new** requirements will apply.

SB 1042 amends Sections 10170.5, 10209, 10209.2, and 10215, adds Section 10153.3, and repeals and adds Sections 10153.2, 10153.4, 10153.5, and 10154 to the Business and Professions Code relating to real estate licensees. Major points in the new law are:

APPLICANTS FOR THE REAL ESTATE SALESPERSON EXAMINATION

- To qualify to take an examination for a real estate SALESPERSON license on and after January 1, 1986, an applicant must have completed the college-level course **Real Estate Principles**.
- Those who must satisfy this new requirement must also, *either* prior to issuance of the original license *or* within eighteen months after issuance, complete two additional basic real estate courses selected from among the following:
 - Real Estate Practice
 - Real Estate Appraisal
 - Accounting
 - Business Law
 - Property Management
 - Legal Aspects of Real Estate
 - Real Estate Financing
 - Real Estate Economics
 - Escrows
 - Real Estate Office Administration
- On the *first renewal* of a SALESPERSON license, those licensees who have met the above requirements will not be required to complete continuing education requirements *except* for a minimum three clock hour course in "Ethics, Professional Conduct and Legal Aspects of Real Estate".
- SALESPERSONS who qualify to take the examination by completing only the **Real Estate Principles** course shall have their licenses automatically suspended, effective eighteen months after issuance of the conditional license, *unless* the two additional courses have been completed within that time. The suspension will not be lifted until the licensee has submitted the required evidence of remaining course completion and the Commissioner has given written notice to the licensee of the lifting of the suspension.
- The fee for a real estate SALESPERSON license is \$120.00 for those applicants who *have* satisfied all of the educational requirements (three courses) prior to issuance of the license. The fee for those who *have not* satisfied all of the educational requirements prior to issuance of the license is \$145.00.

APPLICANTS FOR THE REAL ESTATE BROKER EXAMINATION

- An applicant for BROKER licensure applying for the examination on and after January 1, 1986, must have completed eight courses in addition to the experience/educational requirements. These eight courses must include the following *five*:
 - Real Estate Practice
 - Real Estate Appraisal
 - Real Estate Economics *or* Accounting
 - Legal Aspects of Real Estate
 - Real Estate Financing
- The remaining *three* courses are to be selected from the following:
 - Real Estate Office Administration
 - Advanced Legal Aspects of Real Estate
 - Advanced Real Estate Appraisal
 - Advanced Real Estate Finance
 - Real Estate Principles
 - Business Law
 - Property Management
 - Escrows

Courses referred to in this article must be a three semester unit course or the quarter equivalent completed at an accredited institution of higher learning *or* an equivalent course of study offered by a private vocational school approved by the Commissioner.

To obtain a copy of Senate Bill 1042 (Chapter 66), write to: Legislative Bill Room; State Capitol, Room B-32; Sacramento, CA 95814. The first copy of each bill requested is free, and there is a small charge for additional copies. Prices may be obtained by calling (916) 445-2323.

Legal

Broker License Suspended for Mishandling Deposit Check

One of the most frequent types of complaints investigated by DRE involves the mishandling of purchase money deposits. A good example is a recent case involving the sale of a business opportunity. Cooperating Broker prepared an offer which referred to the deposit as a check in the amount of \$1,000. The offer did not otherwise contain any instruction for disposition of the check, either prior to or subsequent to acceptance of the offer. At presentation of the offer, Cooperating Broker did not inform Sellers that he was holding the deposit. The Sellers made a counter offer which was accepted by Buyer. Some time thereafter Buyer withdrew from the transaction, and Sellers requested the deposit. Sellers then learned that Cooperating Broker did not maintain a trust account, had held the original \$1,000 deposit check uncashed, and had returned it to Buyer when he withdrew from the transaction. Cooperating Broker did not seek or obtain permission from Sellers to return the deposit to Buyer.

DRE filed an Accusation for disciplinary action against Cooperating Broker for mishandling the deposit check. As a result, Cooperating Broker's license was suspended for 60 days, with 30 days stayed for two years

on various conditions, for violating Section 10145 of the Business and Professions Code and Section 2832 of Title 10 of the California Administrative Code (Regulations).

Section 10145 required Cooperating Broker, upon receipt, to "immediately" do one of the following with the deposit: (1) deposit it into a neutral escrow, or (2) give it to the broker's "principal", or (3) place it into a trust account maintained in the name of the broker.

Section 2832 explains that "immediately" means not later than the next business day. It further provides that until acceptance, a deposit check may be held uncashed; however, the check should not be negotiable by the broker or, if it is, the buyer must give the broker *written* instructions not to deposit or cash the check until acceptance of the offer. In addition, if a broker is to hold a deposit check uncashed, the seller must be informed of this fact at the time of presentation of the offer. As noted above, Cooperating Broker failed to comply with these requirements.

Once Buyer accepted Sellers' counter offer, Section 2832 required Cooperating Broker to either: (1) give the deposit to the seller, or (2) deposit it into a neutral escrow, or (3) deposit

it into a trust account maintained in his name. Because Cooperating Broker in this case did not have a trust account, he was required to select one of the first two options. If Cooperating Broker had chosen the option of giving the deposit check directly to Sellers, Section 2832 required him to have written instructions from Buyer and Sellers to that effect.

Finally, although not charged, Cooperating Broker failed to comply with the provisions of Section 2785(a)(10) of the Regulations and obtain the express permission of Sellers prior to returning the deposit check to Buyer.

DRE recommends that all licensees not only familiarize themselves with Section 10145 and Regulation 2832, but all the regulations governing trust fund handling. Additionally, DRE recommends that in the course of preparing an offer to purchase or lease an interest in real property, licensees discuss with the buyer and seller details about how each would like the good faith purchase money deposit handled, so that it can be addressed in the negotiations and spelled out in the final contract. This can alleviate a common source of dispute which often occurs when a transaction falls through. 

Licensing

Now that DRE is settled into a new office in Sacramento, you may wish to update your Licensing telephone numbers list. New phone numbers are shown in an article reprinted from the Spring 1984 *Bulletin* which also offers suggestions to help obtain the information you need. The Licensing information lines listed below are operated Monday through Friday from 8:00 a.m. to 4:30 p.m.

■ Call the unit that can help you. With a basic understanding of the functions performed by different units within Licensing, you can directly dial the section that can provide necessary assistance.

Prepaid Rental Listing

Service (916) 739-3730
Applications and license records.

Broker Qualifications (916) 739-3725
Educational and experience requirements to qualify for the broker examination.

Original Licensing (916) 739-3730
New salesperson and broker license issuance (after an application, fee, and fingerprints are submitted).

Examinations (916) 739-3726

Scheduling information.

Corporation Licensing . . . (916) 739-3733
New corporate or officer applications.

Licensing Information . . . (916) 739-3758
Licensing procedures and regulations, change and renewal applications, license status and records, continuing education, and miscellaneous inquiries and assistance.

■ **Arrange your schedule to call us during slower phone periods.** Our phone lines are extremely busy between the hours of 10 a.m. and 12 noon, and again between 2 and 4 p.m. Mondays are always heavy phone days, but the calls taper off as the week progresses. If you do get a busy signal, please be patient and try again.

■ **Have all pertinent information readily available BEFORE calling.** Usually we will need at least the following information:

- full name *exactly* as it appears on your license certificate;
- license type—broker, officer, or salesperson;
- license identification number; and
- license expiration date.

In addition, please be prepared to describe your particular situation; i.e.,

- what was submitted to the Department and when it was sent. Keep a chronological record of documents and fees submitted.
- if a fee was remitted, the amount paid and the date the check was *cash*ed by the Department.
- copies and dates of correspondence received from the Department.

■ **Place your own phone call whenever possible.** Many licensees will have another individual call us with a question concerning an application or a procedure. Too often the caller will have insufficient data or not possess an accurate understanding of the situation. This usually results in lengthy long-distance phone calls with much confusion and little in the way of results. Also, if a situation is not correctly explained, the proper licensing procedures will not be relayed to the licensee.

We hope these "telephone tips" will help you. We know how irritating a busy signal can be! By keeping these suggestions in mind, you will not only save yourself time and money but will help us provide better service for *you*, the licensee. 

Education

by
Thomas L. Mabry
 Managing Deputy Commissioner II
 Education Section

Q. A continuing education offering I recently attended was somewhat technical for me. I would like to take this same offering again in order to clarify some of the points made by the instructor. Will I be able to earn additional credit by attending the same offering more than once?

A. Upon DRE approval, continuing education offerings are given a coded 13-digit number which remains effective for two years from the date assigned. The offering may be attended only once for credit during this two-year period. If the sponsor reapplies for approval of the program at the end of the two-year period and meets all DRE requirements, a new 13-digit number is assigned to the offering. The offering may then be retaken for additional credit.

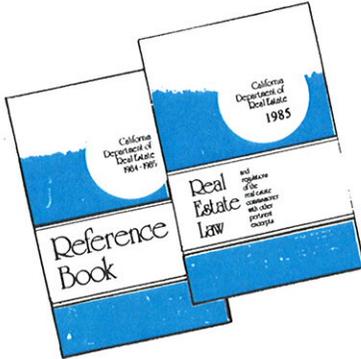
INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS		
Name	Address	Date
Carazoler, Albert Tommie (REB)	745 Kingswood St., San Diego	3/6/85
Miller, Charles Norman (RES)	9116 Dongston Way, #1, Sacramento	3/27/85
Ruiz, Selo Hernandez (REB)	354 N. Capitol Ave., San Jose	3/27/85
Conway, Joanne Irene (REO)	15917 Arena Dr., Ramona	4/2/85
Medina, Joann C. (RES)	1912 Lincoln Ave., San Jose	4/2/85
McNally, Paul Morris (REB)	1726 Tennessee St., Vallejo	4/3/85
The Downey Group (REC)	1990 N. California Blvd., Walnut Creek	4/3/85
Downey, Dennis David (RES)	4660 Deercreek Ln., Concord	4/3/85
Judd, Frank Case Jr. (RES)	P.O. Box 420232, Sacramento	4/8/85
Lee, Pan Newton (RES)	1236-19th St., San Francisco	4/22/85
William Timmer Realty, Inc. (REC)	515 Northgate Dr., San Rafael	4/22/85
Khatib, Arif (RES)	1531-48th Ave., Oakland	4/30/85
Harvey, Andrew (REB)	6027 Shattuck Ave., Oakland	4/30/85
Huie, Thomas Burton (RES)	777 E. Barstow, Fresno	5/7/85
Homeowners Showroom, Inc. (REC)	950 Oakdale Rd., Modesto	5/7/85
Holton, Wesley James (RES)	3828 Sunnyvale Ave., Sacramento	5/7/85
Interstate 5 Real Estate, Inc. (REC)	P.O. Box 1288, Redding	5/8/85
Posten, Blair Jay (REB)	36 West 33rd Ave., Spokane, WA	5/28/85
Hathorn, Willie Marvis (REB)	938 The Alameda, Ste. 100, San Jose	5/28/85
Mapes, Charles W. (REO)	1519 Beach St., San Francisco	5/28/85
Charles W. Mapes & Co. (REC)	1519 Beach St., San Francisco	5/28/85
Byrd, Floyd Guy (RREB)	1425 Townview Ave., Santa Rosa	5/28/85
Villarino, Marcial B. Jr. (RES)	75 South Gate Ave., Ste. 20, Daly City	5/28/85
Tarzana Equities, Inc. (REC)	20969 Ventura Blvd., Ste. 12, Woodland Hills	5/29/85
Raphael, Ardythe Laverne (RES)	21777 Ventura Blvd., Woodland Hills	5/29/85
Mazur, Bertram L. (REB)	7017 Hayvenhurst, Van Nuys	5/29/85
Moss & Moss (REC)	343 G St., Lincoln	5/29/85
Lund, Donna Marie (RES)	5382-2nd St., Rocklin	5/29/85

If you are interested in repeating an offering, it is suggested that you check with the course sponsor to determine if a new 13-digit approval number has been issued for the offering.

Q. How may I find out who the continuing education sponsors are who have offerings which are currently approved for continuing education credit?

A. A list of sponsors and their offerings is available for viewing at all DRE District Offices. The list may not be purchased at the District Offices; however, if you wish to obtain a copy, submit a check or money order for \$4.50 to the California Department of Real Estate; Accounting Section; P.O. Box 160009; Sacramento, CA 95816.

1985 edition of
REAL ESTATE LAW book
 is now available. . . .



Professional stature means experience and education. Real estate licensees today must have both a broad-based understanding of the many facets of real estate and a finely-tuned knowledge of their own specialty fields.

The **Real Estate Law** book is a working tool every licensee should own. It contains that portion of the Business and Professions Code known as the Real Estate Law, regulations of the Real Estate Commissioner, Subdivision Map Act, Administrative Procedure Act, and pertinent excerpts from other California Codes.

The 1984-85 **Reference Book** is composed of 30 chapters devoted to such specific topics as agency, escrow, subdivisions, etc., and discusses subjects pertaining to judicial and trustee foreclosures, landlord obligations to tenants, effects of a cancelled escrow on a purchase contract, and truth in lending, among many others. Also included are pages with construction illustrations and terminology. A current edition of the **Reference Book** is a useful guide for both the novice and experienced professional.

Each book sells for \$10, plus tax; the price includes postage and handling charges. A special 20% discount may be applied to the purchase of 25 or more copies of one title.

When ordering publications, please use the order form shown below. Personal check or money order payable to the Department of Real Estate is acceptable, but please do not send cash.

Make check or money order payable to:
 DEPARTMENT OF REAL ESTATE

MAIL TO:
 Department of Real Estate
 Accounting Section
 P.O. Box 160009
 Sacramento, CA 95816

DO NOT SEND CASH.

Allow 4-6 weeks for delivery.

California residents add 6% tax.

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Title	Quantity	Cost	Your Cost
1985 Real Estate Law Book		\$10.00 ea.	
1984-85 Reference Book		\$10.00 ea.	
SUB TOTAL			
- Discount			
+Sales Tax			
TOTAL ENCLOSED			\$



DRE Operations Merged at New Location in Sacramento



DRE Commissioner James A. Edmonds, Jr., right, and Chief Deputy John R. Liberatore stand alongside their new Sacramento headquarters building.

The Department of Real Estate has moved its Principal Office to 2201 Broadway, Sacramento. The new facility consolidates the services of DRE in Sacramento, providing more than 43,000 square feet of office space. That is approximately 7,000 more square feet than the Department previously occupied in its two locations at 1719 - 24th Street and 4433 Florin Road. The Subdivisions Office—North (formerly Sacramento Subdivisions District Office) joined the Principal Office in the relocation. For your convenience, a list of frequently-referenced telephone numbers for Licensing operations appears on Page 6. 

Easton v. Strassburger

(Continued from Page 1)

5. It provides that the duty of inspection does not include or involve areas that are reasonably and normally inaccessible to such inspection nor to inspection of common areas in common interest subdivisions if the seller or broker supplies the prospective buyer with the documents and information specified in Civil Code Section 1360. *Easton* did not address the issue of the scope of the inspection.

6. It established a two-year statute of limitations which runs from the date of recordation, close of escrow, or occupancy, whichever occurs first.

7. It provides that the buyer or prospective buyer has a duty to exercise reasonable care to protect himself or herself, including knowledge of adverse facts which are known to or within the diligent attention and observation of the buyer or prospective buyer. *Easton* stated that a buyer has a duty to make a reasonable inspection, but did not limit its application to cases where the facts were not known but determinable by a diligent inspection or observation of the buyer.

8. Although not directly related to the duties imposed under *Easton*, the bill provides that no professional liability insurer may exclude under their policy coverage for liability arising as a result of a breach of the duty established by this bill and the *Easton* decision. 

Please, no cash!

For the security and protection of the public and DRE employees, the Department will no longer accept cash for the purchase of books, payment of license renewals, etc. at its district offices.

Personal checks, money orders, and cashier checks are acceptable forms of payment. The Department regrets any inconvenience this may cause.

Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE

P.O. Box 160009

Sacramento, California 95816

IN THIS ISSUE:

Easton v. Strassburger	1
Property Management	4
New License Examination Requirements	5
Mishandling Deposit Check	6