

State of California

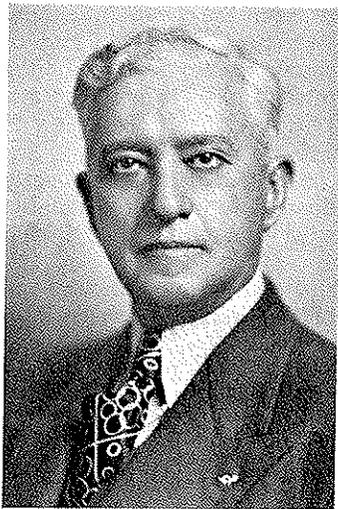
REAL ESTATE BROKER AND SALESMAN

BULLETIN

Vol. 1

OCTOBER, 1940

No. 1



CLARENCE URBAN
STATE REAL ESTATE COMMISSIONER

The California Real Estate Act provides that "The Real Estate Commissioner may periodically issue a bulletin containing matter relating to his division, and to the act, and the administration thereof, * * *"

Pursuant to this authority granted in the statute, it has been deemed advisable to issue a bulletin to the licensees at regular intervals. This publication, to my knowledge, is the first of its kind to be published under the Act, and it is my sincere desire to bring something of value to the licensed real estate brokers of this State.

The unprecedented demand for the Reference Book and Guide recently published by the

Division has convinced me that the licensees of this State are eager to obtain authentic information pertaining to their business practice.

The Division would appreciate your comments on the articles contained in these bulletins from time to time. If there are problems of a general nature pertaining to your business that you would like to have discussed in these issues, we hope you will transmit them to the Division in order that those engaged in the business may have the advantage of the discussion. Please do not send in strictly legal questions as matters of that kind are not within the province of the Division.

Please accept my very best wishes for your continued success in the real estate business.

Sincerely yours,

THE ANSWER

The enthusiasm and aggressiveness of this State's 35,000 real estate brokers and salesmen is probably as great a factor in California's population growth as climate, scenic beauty, and industry. Many reasons have been given for our remarkable growth during the past decade, but it is my opinion this large factor has been missed entirely.

(Continued on last page)

ANNUAL REAL ESTATE CONFERENCE

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Clarence Urban, Real Estate Commissioner, announces that the Division of Real Estate will again hold its annual conference on Wednesday afternoon, October 9, 1940, beginning at 2 p.m. The conference this year will be held at the Long Beach Civic Auditorium.

This date and place has been set to accommodate those licensees who plan to attend the annual convention of California Real Estate Association in Long Beach starting October 8th. The Commissioner invites all brokers and salesmen to attend the Division Conference and bring any friends who may be interested. There will, of course, be no charge.

These annual conferences are held for the purpose of acquainting licensees with the operations of the Division of Real Estate and matters concerning the conduct of a real estate business.

The program notes will consist of brief talks on various subjects of interest to real estate licensees by members of the personnel of the Division of Real Estate, to be followed by round table discussion on these subjects led by Commissioner Urban.

Following is the tentative program for the conference:

- Opening Remarks
CLARENCE URBAN,
Real Estate Commissioner
- Introduction of Members of State Real Estate Board (Advisory Board)
- The Broker's Part in our State Growth
THOMAS H. ARMSTRONG,
Assistant Real Estate Commissioner
- Cooperation Between the Licensees and the Division of Real Estate
E. L. EBERLING, Deputy-in-Charge
San Diego Office
- Jurisdiction and Hearings
B. H. MARTIN, Deputy-in-Charge
Los Angeles Office
- Subdivision Regulation
RAY D. WESTCOTT, Deputy
- Song Selection
RICHARD J. JOSE, Deputy
- Complaints and Investigations
GAYLORD K. NYE, Deputy-in-Charge
San Francisco Office
- License Records at Division Principal Office
W. DEL RICHARDS, Deputy-in-Charge
Sacramento Office

Commissioner Urban has devoted much study to the preparation of a program which he believes will be of decided value to real estate brokers and salesmen and hopes that a goodly number of the licensees will make the effort to attend.

State of California

REAL ESTATE BROKER AND SALESMAN

BULLETIN

STATE OF CALIFORNIA DIVISION OF REAL ESTATE

HONORABLE CULBERT L. OLSON.....GOVERNOR
CLARENCE URBANReal Estate Commissioner
THOMAS H. ARMSTRONGAssistant Real Estate Commissioner

MEMBERS OF REAL ESTATE BOARD

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G. K. NYESan Francisco
BRUCE H. MARTINLos Angeles

DIVISION OFFICES

MAIN OFFICE

584 Business and Professions BuildingSacramento

BRANCH OFFICES

417 Montgomery StreetSan Francisco
601 Union Bank BuildingLos Angeles
517-18 Bank of America BuildingSan Diego
505 California BuildingOakland
411 Mattei BuildingFresno

Licenses Issued by the Division of Real Estate for the Fiscal Year Ending June 30, 1940

	Real Estate	Business Opportunities	Cemetery
Broker	16,983	1,868	68
Officer and member	844	105	5
Regular salesman	14,789	602	405
Provisional or temporary salesman	1,174	none	176
Transfers, branches, etc.	10,182	569	24
Total	43,972	3,144	678

Examination Results for the Fiscal Year Ending June 30, 1940

	Real Estate Brokers	Business Opportunities Brokers	Cemetery Brokers
Passed	1,067	56	4
Failed	475	3	---
Total	1,542	59	4

	Regular Salesmen	Provisional Salesmen	Salesmen	Salesmen
Passed	2,521	1,172	159	88
Failed	1,052	57	9	3
Total	3,573	1,229	168	91

Subdivisions

A total of 667 subdivision projects were filed with this Division during the fiscal year ending June 30, 1940.

Licenses Suspended, Denied, and Revoked for the Fiscal Year Ending June 30, 1940

Suspended, 9; Denied, 34; Revoked, 25

Licenses Denied by Reason of Applicants' Failure to Pass Examination

Broker, 45; Salesman, 258

SUBDIVISION REGULATION

Since subdivision control was granted to the Division of Real Estate, there has been a marked increase in the type of subdivision submitted and the condition of title to the subdivided property.

Many of the old abuses incident to subdivisions have passed out of existence and no longer appear in any form.

It is generally known among real estate brokers throughout the State that prior to offering subdivided lands for sale to the public, the owner, agent or subdivider must first submit the project to the Division of Real Estate.

It is necessary that a prepared questionnaire be answered and filed with the Division accompanied by a filing fee of \$50.00, also a map or plat of the tract, an up-to-date report of title, copies of type of contract or deed to be used, statement from water company furnishing water to the property, explaining conditions under which water service will be extended to the property and any other pertinent information concerning the subdivision deemed necessary by the Division of Real Estate.

Upon receiving an answered questionnaire and fee an inspection of the property is made by a representative of the Division preparatory to the issuance of a public report by the Real Estate Commissioner.

It is necessary under order of the Commissioner that a copy of the public report be delivered to the prospective purchaser *prior* to accepting a deposit on a particular lot or parcel.

It will be required, (1) that upon the payment of a specified sum individual lots can be released from any encumbrance of title or that title may be obtained from the owner where only a land contract or option exists, (2) that final payment on any contract for the sale of a lot in the subdivision shall become due and payable before any existing encumbrance shall become due and payable or before the expiration of the seller's land contract or option, unless it be shown that the first

Have you obtained your copy of the Reference Book and Guide recently published by the Division of Real Estate?

Price	\$1.50
Sales Tax05
Total	\$1.55

Get your copy now at any of the offices of this Division or from the Bureau of Documents, State Capitol, Sacramento.

payments made by the purchaser shall be immediately used for the purpose of releasing the lot sold from any encumbrance or used for the purpose of obtaining title and (3) that at the time of sale the purchaser shall be fully and completely advised of the seller's interest in the land and of the existence of any encumbrance on the property in question.

Many inquiries are received by the Division concerning land sold by an owner by metes and bounds description to ascertain if such selling of land constitutes a subdivision. It is necessary to advise that the selling of any land constituting five or more parcels is a subdivision within the meaning of the statute. Further inquiry is received to ascertain if land, sold by metes and bounds description amounting to only five parcels in one year comes within the statute. This question is the result of confusion with the Map Filing Act over which this Division has no control.

The regulation under the real estate act pertains particularly to *sale* of subdivided land to the public and not necessarily to the physical dividing of it by an owner.

Real estate brokers are urged to report all subdivisions in their respective communities to the Real Estate Division. We solicit the cooperation of all the real estate brokers in the enforcement of these regulations of subdivided lands. Owing to the vast extent of the State it is next to impossible to inspect every community and therefore we appreciate any information called to our attention in order that an examination of the various projects may be made by representatives of the Division.

It should be noted that the statute provides a heavy penalty for any person who violates its provisions — namely, \$2,000.00 fine and two years in jail.

A SERIOUS OFFENSE

Do you occasionally assist a client to secure F.H.A. financing for a home? If so, here is a positive DON'T. Do not misrepresent the sale value of the property. The Division has been advised by the F.H.A. that occasionally some broker connives with his client to "boost" the sales price of a property in order to get a larger loan. One broker recently represented that a property sold for \$1,000 more than it actually did, stating that this amount was paid outside of escrow and therefore did not appear in the escrow. When the buyer was cross-examined, he broke down and admitted that the broker had advised him to make the statement in order to get the large loan he wanted.

This is a Federal offense, and persons resorting to this practice are subject to severe fine and imprisonment. Also, brokers found to be making false statements to secure F.H.A. loans may have their licenses permanently revoked.

The Annual Real Estate Directory will be ready for distribution soon after October 1, 1940.

The Directory is free to licensed brokers upon request. Send in your request now for your copy.

HAVE YOUR LISTING SIGNED

The California Law (Statute of Frauds) does not permit a broker to recover commissions on the sale of real property unless he has a listing contract in writing, signed by the seller or buyer, as the case may be, stating the conditions and terms under which a sale should be negotiated. To avoid misunderstandings a listing should always be obtained in writing, and the broker should be certain that his client has read the listing *before* signing it and that a copy of the listing agreement is given to the client.

When a real estate broker or salesman accepts a listing of real property he imposes upon himself to render intelligent and conscientious service. If the agent feels that he is unable to render the highest type of service he should not accept the listing.

An owner should not be encouraged to list property under an exclusive agency contract at a price or upon terms which are obviously impossible to obtain. An agent should not, by the same token, offer property for sale or lease at a higher price than that which the owner has openly agreed to take. The Division of Real Estate looks with disfavor upon advance listing of service fees, and will deal accordingly with offenders when this practice is called to its attention. It is the duty of the real estate agent to advise his client honestly and intelligently regarding the fair market value of the property offered to be listed for sale.

Each real estate agent should realize that it is his duty to protect the public against fraud, misrepresentation, and practices not becoming the dignity of the real estate business on its present high ethical standard.

There is an incumbent duty on every real estate agent to ascertain all pertinent facts concerning the property for which he accepts the agency, so that in offering the property for sale he may avoid error, exaggeration, and misrepresentation.

When acting as an agent a broker should make it clear for which party he is acting, and he should not accept compensation from more than one party to a transaction, except with the *full* knowledge and consent of all parties concerned. No compensation should ever be contracted for or received by the broker other than that which is fully disclosed by the broker to his principal.

When an agreement is reached as to the terms of a transaction, the agent should fully inform each party regarding commissions and expenses for which each is liable.

If brokers would universally refuse to handle property as agents unless a listing is signed by the principal it would not be long before a general understanding would exist whereby the public would know beforehand that when selling or buying real property they are obliged to authorize the agent in writing.

There is a great laxity on the part of real estate agents in the use of listing agreements. In the handling of real estate transactions this is un-

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doubtedly the most important instrument. This instrument should contain all the terms and conditions included in the transaction. It should contain how the taxes, insurance and any other items should be paid and which party is to be responsible for their payment.

Where there is an exchange of property the exchange agreement takes the place of the purchase and sale, or ordinary listing agreement. The facts considered in such an exchange agreement should likewise cover all the terms involved in the transaction.

These suggestions are made for the purpose of calling to your attention the requirements of the statute, and to assist you in overcoming the dangers that beset real estate brokers and salesmen in the conduct of their business with the public.

PRACTICE OF RECORDING LISTINGS TO FORCE PAYMENT OF COM- MISSION FROWNED UPON

Several complaints have recently come to the attention of the Division of Real Estate regarding the practice of recording listings and filing claims in escrow for the purpose of collecting commissions. Occasionally it becomes necessary for brokers to resort to this practice to protect a justly earned fee, but unfortunately the practice is resorted to by some in the hope that they can "shake down" the principals for removal of the nuisance. Business opportunity brokers are among these offenders. The practice is to secure "air tight" listings on properties or businesses which are terminated only by a written notice by the signer. The provision is often buried in voluminous fine print and overlooked by the owner when signing the authorization. The broker sits by watching for the property to be sold and then pounces upon the escrow demanding his remuneration.

Other operators have been found to make a practice of taking exclusive listings with written cancellation provisions and placing them of record. If the owner overlooks sending in a written cancellation, the broker demands his full commission when a sale is made by the owner or any other agent. If the listing is properly cancelled, he will quitclaim the property for a consideration.

The Division is determined to stop this practice where it is pursued as a racket, on the grounds

that it is dishonest practice. Where it is evident that a broker is making a practice of using this unfair means of extorting money from property owners, steps will be taken to revoke the license of the offender.

Perhaps the greatest damage done by these unfair operators is the development of resentment and ill feeling by the public against all brokers and salesmen. It works a distinct hardship on the conscientious operator who endeavors to give his clients honest service.

THE ANSWER (Continued from first page)

Thousands of visitors from other sections of the country are "sold" on the idea of living in this State by our boosting real estate fraternity each year. These visitors might otherwise have returned to their former homes with merely a pleasant memory of California. If the real estate broker can persuade the visitor to buy an interest in a piece of our real estate, the chances are good that he will stay among us or at least plan to return at some future time.

Furthermore, real estate brokers are responsible for securing new residents with capital to invest in real estate. Very seldom do people who are attracted here through real estate investments become a burden to the State. Many are financially able to start new enterprises and give employment. Many a California industry has had its beginning in the pleasure tour of some wealthy easterner who met an aggressive real estate agent.

The general qualifications of California realty brokers have increased greatly during the past few years. It is now necessary for a person to have a good education with a fair understanding of California real estate law and practice before securing a broker's license. Those who are successful in passing the rigid examination of the State Division of Real Estate to secure a license, are pretty sure to have a good groundwork of the business including good practice and ethics.

The Division of Real Estate is proud of the record of its real estate licensees. Although some undesirables get into the business, they are soon weeded out by the State department. The standard has been raised greatly and the Division now receives complaints against less than 2 per cent of the people in the business.