

CALIFORNIA DIVISION OF REAL ESTATE

BULLETIN

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EARL WARREN, GOVERNOR OF CALIFORNIA

HUBERT B. SCUDDER, REAL ESTATE COMMISSIONER

SEASON'S GREETINGS

The Commissioner and his staff wish each broker and salesman a Happy and Prosperous New Year.

Let us go forward in courage with a devout hope and purpose for future peace, happiness and prosperity.

PROMISING POSSESSION OF PROPERTY

The matter of brokers and salesmen promising buyers of homes that they may definitely have possession by a certain date is still continuing to some degree although we stressed the danger of this practice in our last bulletin. Often such promises work tremendous hardships upon the buyers. After arranging to purchase a dwelling and being assured that they may take possession by a certain date, often the purchaser agrees to vacate his present living quarters and is placed in a rather desperate position.

As we have pointed out, the broker and salesman should seldom, if ever, give personal assurance of possession. Even when the broker is given definite assurance by the tenant, or seller, there are many times when conditions change and the seller, or tenant, can not deliver as he has agreed.

The Division recently had a case reported wherein a series of three home sales were made, all based upon the promise of possession by a certain date. A situation developed wherein the last seller could not give possession, and great confusion resulted. There was no evidence that the agent in any instance had misrepresented and no doubt assured possession in good faith. Nevertheless he was severely criticized by his clients and no doubt his standing in his immediate community has been injured. Therefore, we repeat—**BE CAREFUL ABOUT MAKING PROMISES OF IMMEDIATE POSSESSION.**

WHAT IS A SUBDIVISION?

Some confusion apparently still exists over what constitutes a subdivision. The Real Estate Law defines a subdivision as "Land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels."

Many subdividers, surveyors, and, we are sorry to say, real estate brokers confuse this definition of a subdivision with that contained in the California Map Filing Act. The definition contained in the latter act is somewhat similar but contains the qualifying words "within one year." There is no such qualification in the Real Estate Law. Consequently there are occasions when it is not necessary to file a regular subdivision map with the local authorities, but it still remains necessary to make a filing with the Real Estate Commissioner as provided by the Real Estate Law.

One important point in the definition in the Real Estate Law should be stressed. If it is proposed to sell five or more parcels, then sale of the first parcel constitutes a violation if the necessary filing has not been made. Where subdivision maps are prepared and recorded containing five or more lots it is indicated that five or more lots are proposed to be sold, then no lots should be sold without first filing with the Commissioner. The subdivider has already in effect declared his intention to sell five or more parcels, therefore the sale of the first one is in violation.

Several cases have been encountered where the subdivider, upon the advice of some real estate broker has felt safe in marketing four lots without making a filing with the Real Estate Commissioner. In so doing he may subject himself to prosecution and penalty. If a real estate broker or salesman is involved in the violation of the subdivision provisions of the Real Estate Law, he may suffer the additional penalty of having his license revoked or suspended if found guilty after a hearing.

The constitutionality of the subdivision control sections of the California Real Estate Law was upheld by the California Supreme Court in the case *In Re: Sidebotham* 12 Cal. (2nd) 434; 85 Pac. (2nd) 453. Other cases ruling on various phases of these subdivision sections are found in 37 C. A. (2nd) 255, (*Cowell vs. Clark*) and 37 C. A. (2nd) 261 (*People vs. Gallinger*).

LICENSES DENIED

Some idea of the volume of work undertaken by the various offices of the Division of Real Estate may be gained from the data compiled monthly by the Division. During November 3,973 persons were interviewed at the various offices throughout the State, 104 informal complaints were received, and 71 conferences were held to determine if the complaints should receive formal hearing.

The greater amount of interviews are with persons who have questions about obtaining a license, the conduct of their office, or problems which arise in their business. A large number also are interviewed by deputies concerning complaints against brokers and salesmen. Many of these complaints have no foundation, and the inquirer is advised accordingly. If it appears that the complaint may have some foundation, the complainant is requested to set forth the details of his complaint in letter form. After further study and investigation of the matter, it appears that the complaint has merit, a conference is held with complainant and licensee present to determine if it should receive formal hearing. A number of complaints are still being received over commission disputes, which in most instances the Commissioner can not undertake jurisdiction.

An analysis of the numerous complaints received by the Division shows that they were probably caused from lack of knowledge on the part of the broker or salesman of the fundamental principles of the business, or by downright carelessness in conducting business affairs. Many complaints would be eliminated if licensees would get their agreements in writing, or at least fully acquaint the people with whom they are dealing of the facts. More diligence in this respect by brokers would relieve the Division of a great burden and save hundreds of hours of investigation work.

The Commissioner issued 13 orders as a result of formal hearings held by the Division during the month of November. Nine of the hearings were held in the southern part of the State, and four in the northern part. A brief statement as to the nature of the charges and the action taken by the Commissioner is as follows:

(1) Broker applicant had indicated on his application that he had not been in any difficulties with the law prior to making application. Investigation revealed that he had been convicted on various misdemeanor counts including a morals case. Evidence of this past record was introduced at the hearing with the result that he was denied a license.

(2) This broker applicant had previously held a real estate broker license which was revoked after a hearing of charges that he had participated with a sales organization in making widespread misrepresentations regarding a promotional subdivision. The previous revocation record was the principal reason for the Commissioner to deny this applicant a license.

(3) Applicant for real estate salesman license had previously been convicted of a felony and had served time in State Prison of another State. License was denied by the Commissioner based upon this past record.

(4) This applicant for real estate broker license had previously held real estate broker license for several years, but the license had been revoked after a hearing in which it developed that a client had lost several thousands of dollars in dealing through his office through failure of the broker to make proper accounting. Applicant had been out of the business approximately a year, but the Commissioner did not feel justified in granting further license at this time.

(5) Broker's license was suspended for a period of six months after hearing, as the evidence showed that he had misrepresented in connection with the sale of a house. Misrepresentation had to do with the matter of termite damage.

(6 and 7) Licenses of a real estate broker and his salesman were suspended for a period of six months after hearing, as the evidence showed that a secret profit was made in the sale of two different properties. Regular agency authorization was used and sellers in both instances paid commission. Unknown to the sellers a profit of about \$1,600 was made.

(10) License of a real estate broker applicant was denied because of previous record for dishonest practices.

In addition to the foregoing three cases were dismissed, as the hearings failed to produce evidence to show dishonesty beyond a reasonable doubt.



G. I. APPRAISAL WORK

In considering the applications of veterans for guaranteed loans as provided by the G. I. Bill of Rights, the Veterans Administration will employ appraisers to determine the loan value of property. In order to qualify as an appraiser under the G. I. Bill, those interested must apply to the Veterans Administration on Form 1803-C, and accompany the form by three letters from institutions or individuals who are in a position to state the applicant's qualifications. The completed application must be forwarded to the Loan Guarantee Division, Veterans Administration, Washington 25, D. C.



REFERENCE BOOK

The State Printer has furnished the Division with a small supply of the Reference Book and Guide with cloth bound board covers which will be sold at a price of \$2 each plus sales tax. The regular paper bound book sells for \$1.50 plus sales tax. Brokers who wish a well bound copy for their office should send their check as soon as possible to this Division as the supply is limited.

STATE REAL ESTATE BOARD NOTES

The Real Estate Board created through act of the Legislature is required by law to meet at least quarterly and may be called together oftener at the discretion of the Commissioner. Because of the numerous matters to be considered of late, the board has agreed to meet each 60 days. The last meeting was held in San Francisco on December 8th and 9th.

The terms of two board members, Harold L. Kane, of Watsonville, and Carl R. Brown, of Beaumont, expire January 15, 1945, or as soon thereafter as their successors are appointed. The law provides that three members must be appointed from the northern part of the State and three from the south, excluding the Commissioner. Holdover members are Fred S. Morey, of Los Angeles, Leland P. Reeder, Beverly Hills, Fred Braun, San Francisco, and Paul S. Bomberger, Modesto.

A matter which is receiving the serious attention of the board is the method of investigating the past record and background of license applicants. The board feels that this is a matter of great importance, and the fact that over 500 such investigations per month must be undertaken, makes it a sizeable task.

Among the plans being considered to improve this investigation is one which would require the Division to secure the credit rating of each applicant. Certain instances have been cited where real estate licensees have been found to have a very poor credit rating in their community, some of them having judgments against them. The board feels that a person's credit standing is definitely a part of his local reputation and attention should be given to this matter in investigating his fitness to obtain a license.

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At the San Francisco meeting of the board, various representative real estate brokers were invited to attend an afternoon session in order that their opinions on the matter of proposed legislation be obtained. The discussion proved to be very interesting, and the board believes the plan was highly successful. Another such session with representative brokers from Southern California was held in Los Angeles December 16th. It was felt that a good cross-section of opinion throughout the State was obtained in this manner.

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Provision for adequate educational courses in real estate matters in our public school system is another subject which is receiving serious study by the Real Estate Board. Officials of the State university and our secondary school system have been interviewed with the object of arousing their interest in adding these subjects to their curricula. Board members have expressed their opinion that courses in the State university and State colleges to prepare

students for real estate as a career would go far in eventually raising the standards of the business. Good courses in real estate subjects, if available in our high schools and adult classes, would increase interest in real estate as an investment and overcome fear of entering into real estate transactions. School authorities have received these suggestions with interest, and it is believed that the Real Estate Board will meet with a good measure of success in its efforts.

WHAT OTHERS ARE DOING

In Michigan real estate brokers are required to keep a complete statement of their transactions on file. Brokers are also required to give copy of listing to the owner. Another rule makes it mandatory for the broker to get a signed acceptance of an offer without delay after the buyer signs the purchase agreement.

Michigan, Ohio and Florida secure credit reports to help determine the fitness of an applicant for license.

In Oregon a broker is prohibited from working as a salesman for another broker.

Broker license fee in the State of West Virginia is \$50 a year; in Texas it is \$2.

Several States prohibit a salesman from consummating a transaction. This part of the deal must be handled by the broker.

Missouri has a continuing license which is good until revoked, or cancelled for failure to pay an annual fee.

Michigan prohibits net listings as a means of collecting real estate commissions.

Several States require licensees to furnish bonds. This provision, formerly in effect in California, was terminated.

Several eastern and midwestern States provide for reciprocal licenses to brokers. In other words, a broker from one State may obtain a license in another State by merely paying the fee and proving that he has passed the requirements in his home State. Some States allow brokers from other States to negotiate real estate transactions within their borders.

YOUR COMMENTS APPRECIATED

We have received some comment regarding the material published in previous bulletins and we wish to thank those licensees responsible for them. It is our hope that these bulletins may contain material of benefit to the readers. We expect to comment on various matters which are the subject of numerous questions received by letter and telephone at our various offices daily. If you have any suggestions for material to be covered by this bulletin, you may be assured that we will appreciate a letter from you.

VETERANS LOANS

No doubt a considerable volume of real estate business for some years in the future will involve the sale of property to veterans who avail themselves of the provisions of the G. I. Bill of Rights. For this reason brokers and salesmen will do well to acquaint themselves with some of the principal provisions of this Federal Law.

The act was passed in June, 1944, for the purpose of providing aid for veterans of the present war on their return to civilian life.

The Veterans Administration does not itself advance funds to veterans, but assumes certain responsibility in connection with loans made to veterans provided they are made in accordance with provisions of the law. As in the case of the Federal Housing Administration, the loans are actually made by financial institutions. The Veterans Administration, under Title III of the act, guarantees \$2,000 or 50 per cent of the loan, whichever is less, and pays interest on the guaranteed portion of the loan for the first year. Interest rate on such loans shall not exceed 4 per cent.

Veterans to take advantage of this privilege, must have been honorably discharged from the armed services and must have served at least 90 days between September 16, 1940 and the end of the war. The 90-day service is necessary unless they have been discharged for injury or disability incurred in the service. In applying for a home loan, the veteran must furnish his serial, service or file number, and his discharge papers. Applications must be filed within two years after discharge or the end of the war, whichever is later. In any event, applications must be filed within five years from the termination of the war.

Provision is made for loans to cover repairs, alterations or improvements, or for paying delinquent indebtedness, taxes, or special assessments on residential property owned by the veteran and used by him as his home. The loans are also available for purchase of farms, farm equipment, or businesses.

Naturally certain safeguards are imposed by the Veterans Administration in guaranteeing vet-

erans' loans. The price of the property purchased must be reasonable and must hold up under appraisal. Right is reserved to determine whether the loan is for a practical purpose, and whether or not the veteran is in a position to handle payments on the loan. As long as 20 years for repayment may be allowed. Veterans are allowed only one guaranteed loan, so if they elect to use it in the purchase of a home, they can not again secure a loan for the purchase of a business, etc.

The Division of Real Estate is not an authority in connection with veterans' loan matters, and licensees who are interested in obtaining further information should direct their questions to the proper agency.

SIXTH WAR LOAN

Following the success of the real estate group in the last war bond drive, the War Finance Division of the Treasury Department doubled the real estate quota for the Sixth War Loan Drive, making it \$20,000,000. At this writing the sales reported show that the real estate group has already sold 94 per cent of this quota and no doubt before this bulletin goes to press the quota will be exceeded by a substantial margin.

Again your Commissioner compliments you upon the energy and ability you have shown in backing up this vital work. Money invested in war bonds is not spent for unnecessary commodities, which causes inflation. No one knows better than the real estate broker the disastrous effects of inflation upon his business. You may therefore feel that the time you have spent in supporting the war bond drive is also spent for the good of your business.

Our military leaders tell us that we must not become complacent as the war ahead will be long and tough. No doubt further war bond campaigns will be launched, the importance of which will be even more vital than this one, and perhaps the real estate quota will be even higher. We have enough confidence in you, however, to feel that you will meet whatever task is set for you.

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