

CALIFORNIA DIVISION OF REAL ESTATE

BULLETIN

D E C E M B E R 1 9 4 5

EARL WARREN, GOVERNOR OF CALIFORNIA

HUBERT B. SCUDDER, REAL ESTATE COMMISSIONER

Season's Greetings

It is a pleasant undertaking to extend to each and every one of our licensees the Seasons Greetings at a time like this. Most of us have many things for which to be thankful. The strife in which our Country has triumphed is over, and our families are becoming reunited. Our Country, despite the disruption and great financial strain caused by war, has come through it all in a sound condition which is a tribute to our ability and resourcefulness.

You who are engaged in the real estate business are in an enviable position. The records conclusively prove that we are in an unusually active market, and most of you are prospering materially. Even more gratifying is the strong indication that the present activity is not temporary, but will continue over a substantial period.

Therefore as you enter into a Happy Holiday Season, your Real Estate Commissioner wishes to express his appreciation of the loyal cooperation which has been generally shown to him by the real estate fraternity of California. True, we have not always seen eye to eye in some matters, particularly in matters of legislation, but our differences have become reconciled and I feel we have progressed along the road toward attainment of higher ideals and better practice in the real estate business.

I wish to particularly convey my appreciation to those who assisted us with new legislation affecting the California Real Estate Law at the last legislative session, not only those who agreed with the program from the outset, but those who through their constructive criticism helped to shape the legislation so that it might be of real benefit and entirely practical in its application.

It is with great appreciation that I have watched the application of our new legislation and its effect during the two or three months it has been in effect. There has been practically no violation of the new provisions and nearly all licensees have shown a desire to adjust their procedures in accordance with the new law. It has been pleasant to receive reports from many that the changes they have made have been beneficial to their business.

I look forward to the work of the New Year with great anticipation for I feel that the real estate business will not only remain a most profitable one, but will become more and more substantial and respected as we continue to apply the principles of the Golden Rule to our business.

I wish each and every one of you all the joys of the coming season.

HUBERT B. SCUDDER, *Commissioner*

VICTORY LOAN DRIVE

Reports are received by the commissioner daily showing that the real estate group is again entering into the job of completing its \$30,000,000 Victory Bond quota with great energy. Total sales mount so fast day by day, that it is difficult to prepare a last minute total for this bulletin, but it appears that California Real Estate people will go well over the quota by the end of the drive December 8th.

There was fear on the part of some that the real estate group might lag in this last and final drive, thus spoiling their splendid achievement in surpassing quotas in the previous drives. These fears appear to be unfounded and there is every indication that the group will complete the present drive with even greater credit to themselves.

EXAMINATION NOTES

The new ruling requiring a 60-day waiting period for real estate broker applicants developed some interesting results. For a period of approximately two months less broker examinations were given, but the number of salesman examinations mounted to a record high. The answer was found in the fact that real estate broker applicants, upon being advised that there would be a 60-day delay, filed salesman applications simultaneously with their broker applications. This naturally means additional work for your department, but I feel the experience gained while employed as a salesman will prove beneficial to the licensee when he qualifies as a broker.

Since the initial 60-day period has expired, the number of new applicants for examination each month has mounted. Los Angeles examinations are running about 250 persons per week with other offices correspondingly high. Such outpost examinations as those held in San Diego and Long Beach are attracting about 50 examinees each session.

CREDIT REPORTS

By the time this bulletin is in the mails, it is expected that new applicants for license will be required to file a credit information sheet as a part of their applications. Arrangements have now been fully completed to secure investigation records from credit bureaus on each applicant. These reports will not only reflect the financial and credit standing of the applicant, but will indicate much other information gathered by the credit bureau.

VETERANS — APPLICANTS

Many men and women in uniform, on wearing discharge buttons, call at the division offices daily seeking information regarding the obtaining of a real estate license. They frequently ask if they are allowed a percentage on the examination because of their being veterans.

The law does not provide for any percentage allowance to veterans on the examination for the reason that it is not competitive and is merely designed to determine if the applicant has minimum qualifications. While it is true that veterans are given points in civil service and other examinations, the situation is not parallel. They are not competing with non-veterans for the privilege of entering the business. They are merely being qualified.

Deputies of the division have been instructed to give every consideration to returning veterans and assist them in the filing of their applications, reinstating old licenses, etc. This work is given certain priority and every attempt is made to handle these matters without delay.

MORE ABOUT REAL ESTATE SCHOOLS

"Become an important person in your vicinity—a man people come to for advice concerning investments and civic problems—all with very little effort. Qualify to be a real estate broker in six easy lessons. Merely fill out the attached application blank and mail with check for \$25. We guarantee that you will pass."

Advertisements and literature of certain persons and schools offering courses designed to prepare the students to pass examinations given by the Division of Real Estate have been noted to contain statements similar to the above. As one old time successful realtor recently stated to us, "Why should any one struggle for years to learn the business when it is so dog-gone simple and cheap!"

There are many excellent real estate coaching courses given by public schools and individuals. They make no extravagant promises or lead the prospective student to believe that when he has completed the course he will know all there is to know about the business. As a matter of fact we have heard many instructors advise students that when they completed the course they would be merely on the doorstep to the fund of knowledge which can be gained through study and experience. There are others, we are sorry to say, who through their advertising indicate that their course of a few easy lessons is the sure road to wealth, happiness and prominence in the great real estate business. A successful real estate operator must have many qualities which can not be tested by examination. The examination serves a very definite purpose, but in no way guarantees the success of the person passing it.

In a recent letter to the division a complainant remarked: "The broker spent nearly a half hour telling me how difficult it was to get into the real estate business and boasted that he had recently passed the State examination. He assured me this was proof that I could safely leave all details of the

transaction to him as he was fully qualified to handle such matters."

The California Real Estate Law sets up certain minimum educational qualifications for persons entering the business. These merely require the ability to read, write and use elementary arithmetic, and a fair understanding of the rudimentary principles of real estate conveyancing, etc. It will be noted that the educational requirements to engage in the real estate business are very modest, considering the fact that many phases of the real estate business are highly complicated and require specialized knowledge and experience. Many highly successful operators who have built large and successful organizations constantly tell us that they are gaining additional information regarding the business almost daily. Despite their extensive knowledge and experience in the business, they often associate with specialists in certain transactions.

The Real Estate Commissioner has no jurisdiction over schools and can not control their courses of study or the advertising through which they secure students. The matter has, however, been rather widely discussed among real estate brokers and some have recommended legislation to control such schools. Such a proposal was discussed prior to the last session of the State Legislature, but a bill imposing such controls did not materialize.

GI INVESTMENTS

To date the fears that returning GI's might be high-pressured and unfairly dealt with in their real estate transactions appear to be unfounded. The number of GI's to date who have entered complaints with the offices of the division has been almost negligible.

DEPOSITS

Brokers are urged to be prompt in reporting to a seller of property the receipt of any deposit on an offer to purchase. This promptness is required in all cases of the receipt of a deposit whether the deposit be made on an offer to purchase at the named price or at a figure and terms different therefrom.

Not only are both the purchaser and seller entitled to this promptness, but the broker is very much a party at interest. When a broker receives a deposit on an offer to purchase, he is holding that deposit in trust for the purchaser until he has established a binding contract between purchaser and seller, by securing the acceptance of the offer by the latter. Until the broker has secured the acceptance of any such offer by the seller, the purchaser may make upon him an enforceable demand for the return of the monies deposited. Without the acceptance of the owner or seller in a real estate transaction, the broker would be in duty bound to honor the purchaser's demand by returning the deposit.

Brokers are often inclined to believe that they have made a "deal" when they have secured a sizeable deposit. Actually, until they have secured the seller's acceptance of the offer to purchase, they have no deal at all.

REAL ESTATE LAW APPLICATION

The Real Estate Law, Section 10133, exempts from its application, any receiver, trustee in bankruptcy, or any person acting under order of any court. However, the Real Estate Law is a regulatory law imposed under the police power of the State for the benefit and protection of not only those engaged in the real estate business particularly, but also for the general public, and has for one of its objectives the securing of the health and happiness of all citizens of the State.

This is particularly true of the subdivision provisions of the Real Estate Law. It is, therefore, of interest to know that in the particular case of a trustee appointed by the United States District Court of the Northern Division of California who proposed to sell and subdivide certain property of a bankrupt in Siskiyou County, the court being duly advised, required that all parties to the sale of this property including the trustee should comply with the regulatory provisions of our Real Estate Law. (U. S. District Court, Northern District of California, Northern Division, "In the matter of the Montague Water Conservation District, Bankrupt, No. 10503").

The Attorney General made appearance before the court at the request of the Real Estate Commissioner to point out to the court, these beneficial provisions of our law. In making its order confirming a certain agreement before the court covering the sale of the property involved, the court made this statement,

"That further it is to the best interests of the bond holders and the public and insofar as the agreement concerns this sale to the general public of certain lands formerly belonging to the bankrupt, that the agreement be confirmed on condition that the parties thereto comply with all appropriate laws of the State of California regarding the sales of lands to the public."

The court's order was accordingly so made.

OPTIONS

There is nothing in the present California Real Estate Law which prohibits a broker from taking a bona fide option on real estate. We make this statement for the reason that the question has been asked of us frequently and there seems to be widespread misunderstanding on this point.

We urge that brokers who become optionees make it clear to the optionor that they are in no way acting as agent in connection with the property.

PROVISIONAL SALESMAN LICENSE

Under a recent interpretation of the law by the office of the Attorney General, applicants for provisional salesman license must henceforth pay a \$2 license fee and \$3 examination fee without any credit towards a regular license when they later apply. When the provisional salesman applies for his regular real estate salesman license, he has the same status as any other applicant for that license. The fee charged him will be \$2 for license and \$5 for

examination. In other words, the fees payable for each license are separate and distinct and no credit is given to the regular salesman applicant for any fees paid in connection with his provisional license.

The commissioner is now endeavoring to make arrangements whereby applicants for provisional license may be set for examination without undue delay. To date the time required to secure the provisional license was approximately the same as for the regular license and there was no particular advantage to securing the provisional license except that the examination was limited and it provided more adequate time to prepare for the regular salesman examination.

FORMAL HEARINGS

As a result of formal hearings duly set or held, the following action was taken by this division during the months of August, September, October, and November, 1945:

1. Los Angeles County. Real state salesman application denied because of criminal record and falsification on application.
2. Los Angeles County. Application for real estate broker license denied because of criminal record.
3. Los Angeles County. Application for real estate broker license denied because of unsatisfactory record as to honesty, truthfulness, and good reputation.
4. Los Angeles County. Application for real estate salesman's license denied because of previous revocation, criminal record and falsification on application.
5. Los Angeles County. Applications for real estate broker and business opportunity broker license denied. Unsatisfactory record as to honesty, truthfulness, and good reputation.
6. Los Angeles County. Application for real estate broker license denied. Unsatisfactory record as to honesty, truthfulness, and good reputation.
7. Los Angeles County. Application for real estate broker license denied, because of unsatisfactory record as to honesty, truthfulness, and good reputation.
8. Los Angeles County. Real estate broker license suspended, because of evasion of OPA Law and Regulations on rental ceilings.
9. Orange County. Real estate broker license suspended. Buying client's property for himself under "dummy" name, charging commission. No disclosure that broker was acting as principal.
10. Los Angeles County. Application for real estate broker license withdrawn previous to hearing on charge for obtaining a secret profit in real estate transaction.
11. Los Angeles County. Application for real estate broker license withdrawn, previous to hearing on charge of obtaining secret profit in real estate transaction.
12. Los Angeles County. Real estate broker license revoked because broker had obtained license by fraud and failure to disclose criminal record.
13. Butte County. Sale of subdivision prohibited. Property unsuited for commercial agricultural use because soil was not of sufficient quality for production of commercial agricultural crops.

ABOUT INDEFINITE LISTINGS

Cases are still called to the division's attention wherein certain brokers have attempted to force payment of commission on the sale of property on which they at one time had an exclusive listing with no definite termination date. Despite the new addition to the Real Estate Law, Section 10176(f) they have claimed commissions on such listings on the theory that the original listings were taken prior to the effective date of the new law.

The penalty set forth in the law does not cover the listing, but the practice of claiming, demanding, or receiving a fee on such listings. If the claim is made after September 15, 1945, the commissioner will consider such acts a violation until the courts hold otherwise.

SALESMEN'S TRANSFERS

It is now again necessary for a real estate salesman who desires to transfer his employment to another broker, to secure the signature of the broker whose employ he is leaving to the transfer form, as well as the signature of the new broker.

This provision was formerly in effect, but was discontinued for a number of years. The rule has again been put in force after careful consideration by the advisory board and recommendation to the commissioner.

The requirement is again imposed for the reason that many complaints were received by the commissioner to the effect that salesmen left the employ of brokers and transferred to new brokers without any notification to their former employers. One broker reported that a salesman who he thought to be in his employ was actually in the employ of a broker down the street for several weeks before he discovered the salesman's status. The provision is principally for the purpose of assuring the broker of notice when the salesman leaves his employ.

The old employer should not refuse to sign the transfer form because of some petty grievance or personal dislike. If the salesman has conducted himself in such a manner that the broker does not feel he should hold further license, the fact should be reported to the commissioner promptly. The law provides for this.

In event transfer applications are received from salesmen who report that their former employing

broker refuses to sign them, the broker will be notified and given a short period in which to report his grievance. If he refuses to do this, the commissioner will consider that he has no sound complaint against the salesman and will proceed to issue the new license.

GIVING ADVICE

Much of the working day of the average deputy in the division is consumed in answering telephone calls and receiving visitors who seek legal and business advice. Many of these persons are referred to the Real Estate Commissioner's office by brokers and salesmen who wish to be helpful, or perhaps merely wish to "Brush them off" as the slang goes.

The division is not an information bureau on legal and business problems, neither is it a collection agency. It is ready, willing and able to listen to the grievances of any person who feels that he has been wrongfully dealt with by one of its licensees. The law provides that it is the duty of the commissioner to consider complaints and hold hearings if the complaints appear to be well founded. It is his duty as the administrative officer to weed out those from the Real Estate Ranks who show by their actions that they are dishonest and violate the provisions of the law.

Many persons who inquire become extremely indignant when they are advised that the division is not a source of legal and general information. We will appreciate our licensees advising their friends and acquaintances to consult their attorneys regarding purely legal problems.

The division is also deluged with letters of inquiry in which the inquirer seeks information as to how to proceed with some real estate transactions, or what commission a broker is entitled to, or whether or not we believe it a good time in which to invest in business property. In many of these letters it is stated that they were advised to write the commissioner by some real estate broker or salesman.

We believe most of our licensees know the function of this division and in a general way are acquainted with its jurisdiction. To advise persons to contact the division on matters with which we can be of no assistance, is likely to waste both our time and that of the inquirer and certainly builds no good will for the licensee who gives them that advice.



Sec. 562, P. L. & R.
U. S. POSTAGE
PAID
Sacramento, California
Permit No. 20