



Real Estate Bulletin

Official Publication of the California Department of Real Estate

RONALD REAGAN, *Governor*

Winter 1970-71

BURTON E. SMITH, *Commissioner*

GOVERNOR SIGNS MORE BILLS AFFECTING REAL ESTATE BUSINESS

FIRST A FOUNDATION, THEN THE BUILDING!

EDITOR'S NOTE: The following is a summary of Commissioner Burt Smith's address, *Ethics—True Reflection of the Image* which he gave at the 1970 California Real Estate Association Convention.

The areas of weakness uncovered by research studies of the image of the real estate business were, in his opinion, timely warnings of needed improvement, and remain a challenge to responsible practitioners, individually and collectively, who are striving for professional recognition.

Although his remarks were delivered to members of organized real estate present at the convention, he is desirous that all licensees become cognizant of his firm convictions that the creation of a better collective image in the eyes of the public—who he believes will render the final decision on professionalization—hinges upon their performance as individual licensees.

* * * * *

Are the efforts towards academic professionalization—mandatory courses at the college level—a commitment within organized real estate to in-service training—the availability of courses and the acceptance by tens of thousands of licensees of courses given in nearly every institution of higher learning throughout the state—an answer to its need to create a better "collective image" in the eyes of the public? In reply to these questions which he posed, the Commissioner reminded his listeners that more avenues must be found or only a fragment of an answer will be obtained.

He stated that no matter how *competent* the licensee is, his image with the public is a by-product of the service he is committed to give. Every recognized professional in the world has one basic ingredient beyond his competency and his knowledge—that common denominator is a *commitment to serve* the public. This commitment is not founded only on successful transactions—be it one of employment or sale—but one that promises (when counsel is sought) the full measure of his knowledge and competency, and that this will be spontaneously directed for the benefit of the client. That underlying is the recognition that a real estate broker must assume full responsibility for his activities. Without this he will not be a true professional—and certainly his clients won't recognize him as a true professional.

The strict letter of the law does not spell out in precise terms the ethical standards which should be observed, nor does it cover all the relationships and responsibilities incident to doing business as real estate practitioners; therefore, to be truly successful in the professional sense, the Commissioner pointed out that men and women should realize that possession of a real estate license imposes upon the holder not only definite legal restrictions, but also implies ethical responsibilities and obligations. That in the Code of Ethics—and in the recognized canons of good business practice beyond the specifics spelled out in the Code—lies a formidable buttress against incipient dishonesty—beyond the line drawn by the law.

To date, most of the real estate laws have been developed to fill the void

(Continued, Col. 1, Page 931)

Franchise Investment Law Becomes Effective January 1, 1971

The Summer issue of the Bulletin carried an Interim Report of 1970 Legislation relating to real estate practice. The final summary in this issue contains a brief résumé of several bills signed by Governor Reagan which were not mentioned in the Summer issue.

● **SB 647 (Bradley)**—Adds the Franchise Investment Law to the Corporations Code to regulate sale of non-exempt franchise transactions. The new act makes it unlawful to offer or sell any non-exempt franchise in the state unless the offer of franchise has been registered and the prospective franchisee has been furnished with a copy of the prospectus together with a copy of all proposed agreements relating to the sale of the franchise at least 48 hours prior to the execution by the prospective franchisee of any binding franchise or other agreement or receipt of any consideration.

A new section (10177(n)) has been added to the Real Estate Law. It provides that the Real Estate Commis-

(Continued, Col. 1, Page 930)

PLAN OK'd

Master Plan for Professional Development approved by Department of Real Estate and California Real Estate Association. Story on Page 925.

REAL ESTATE BULLETIN

Official Publication of the
California Department of Real Estate
Member, National Association of Real Estate
License Law Officials

Vol. 31, No. 1 Winter 1970-71

STATE OF CALIFORNIA
RONALD REAGAN, Governor

BURTON E. SMITH
Real Estate Commissioner

JOHN E. HEMPEL
Chief Assistant Commissioner

STATE REAL ESTATE COMMISSION

WILLIAM P. BEACHEM FRANK MACBRIDE, JR.
Los Angeles Sacramento
JOHN COTTON GRANT B. POTTER
San Diego Dinuba
HARLAN GELDERMANN PHIL SAENZ
Danville San Diego
ART LEITCH L. H. "SPIKE" WILSON
San Diego Fresno

PRINCIPAL OFFICE

714 P St., Sacramento 95814

GERALD E. HARRINGTON, Assistant Commissioner,
RAYMOND M. DABLER, Assistant Commissioner
Education and Qualifications
PAUL R. POPE, Chief Deputy, Qualifications
and Publications
GEORGE E. DUNN, Chief Deputy, Licensing
RICHARD B. NICHOLS, Chief Deputy, Education
WALTER L. ALLEN, Senior Deputy, Editor

NORTHERN REGULATORY AREA

714 P St., Sacramento 95814
HAROLD H. WELLS, Assistant Commissioner

District Offices

San Francisco, Rm. 2033, 350 McAllister St.
94102
JOHN A. DEBETTA, Chief Deputy
Sacramento, Rm. 1400, 714 P St. 95814
JAMES M. RODGERS, Supervising Deputy
Fresno, Rm. 3084, 2550 Mariposa St. 93721
RICHARD H. MCANDOO, Supervising Deputy

SOUTHERN REGULATORY AREA

HENRY H. BLOCK, Assistant Commissioner
Rm. 8003, 107 S. Broadway,
Los Angeles 90012

District Offices

Los Angeles (Main Office, Southern Area)
Rm. 8003, 107 S.
Broadway 90012
FRANK J. RYAN, Chief Deputy
San Diego, Rm. 2022, 1350 Front St. 92101
RICHARD E. RANGER, Supervising Deputy

SUBDIVISIONS

714 P St., Sacramento 95814
THOMAS J. NOLAN, Assistant Commissioner

Sacramento Headquarters
Rm. 1550, 714 P St.
RICHARD D. CARLSON, Chief Deputy
San Francisco,
Rm. 2033, 350 McAllister St. 94102
JOHN LAZUR, Chief Deputy
Los Angeles, Rm. 8003,
107 S. Broadway 90012
WILLIAM H. WALL, Chief Deputy
Sacramento, Rm. 1400, 714 P St. 95814
LEE V. SIDA, Chief Deputy

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

From the license renewal fee, \$1 is allocated to cover subscription to the Bulletin. Second Class Postage Paid at Sacramento, California.

Disciplinary Action—September 1970–November 1970

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

Licenses Revoked From September 1970 Through November 1970

Name	Address	Effective date	Violation R.E. Law/Regulations
*Runner, Raymond Isaac (REO) Vice Pres., H. H. Armistead and Co. (Right to RREO license after 2 months on terms and conditions)	327 E. Green St., Pasadena	3/25/70	10145, 10176(i), 10177(d) (f) (j)
Morris, Joseph B. (REB) Dba Joseph B. Morris Realty Co.	442 N. La Cienega, Los Angeles	9/ 4/70	10177(b) (f)
Ray, Bruce Warren (REB) (RES) Dba County Brokers Realty	5661 Lincoln Ave., Cypress	9/ 8/70	10177(b) (f)
Alex, James John (REB) Dba Alex Realty Co. (Right to RREB license after 30 days on terms and conditions)	5840 Crescent Ave., Buena Park	9/10/70	10145, 10176(a) (b) (g) (i), 10177(d) (f)
Bourell, Brian James (RES)	1303 Park Pleasant Cir., San Jose	9/11/70	10177(b)
Bauer, Richard Joseph (RES)	1903 Shoreline Dr., Alameda	9/19/70	10177(b)
Hall, C. W. "Pete" (REB) Dba Oakdale Ranch Realty (Right to RREB license after 180 days on terms and conditions)	152 N. Yosemite Ave., Oakdale	9/24/70	10176(g)
Kaufman, Donald Eugene (RES) (Right to RRES license after 60 days on terms and conditions)	4991 Branciforte Dr., Santa Cruz	9/29/70	10177(b)
Keener, James Howard (RES) Romano, Joseph Anthony (RES)	Cor. Tulare & Van Ness, Rowell Bldg., Rm. 207, Fresno	9/30/70	10177.5
(Right to RRES license on terms and conditions)			
Russel, George Edward (REB)	319 MacArthur Blvd., San Leandro	9/30/70	10145, 10176(e) (i), 10177(d) (f); 2832
Strachan, James Kuehn (REB) Dba Cedar Ridge Ranch Real Estate Co. (Right to RREB license on terms and conditions)	660 W. Shaw, Fresno	9/30/70	10177.5
Singleton, David Walter (RES)	3004 Dell Ave., Bakersfield	10/20/70	10176(i)
Gilbertson, Clarence John (RES) (Right to RRES license on terms and conditions)	10040 Viewpoint Ln., San Jose	10/27/70	10177(b)
Payese, Francis Jerome (REB)	7036 Victoria, Highland	10/27/70	10176(d), 10177(d) (f) (i)
Acheson, Alfred Johnson (RES)	556 3rd St., Manhattan Beach	11/ 4/70	10177(b) (f)
Franklin, John Peter (RES)	8936 Cedros, Panorama City	11/ 4/70	10177(a) (b) (f)
Trainor, Walter Elliott, Jr. (RREB)	301 Oakdale St., Folsom	11/11/70	10177(i)
Nickel, John Lawrence, Jr. (RES) (Right to RRES license on terms and conditions)	1001 S. El Camino Real, San Mateo	11/17/70	10177(b) (f)
Weaver, John Adams, Jr. (RES)	525 W. Ave. J, Lancaster	11/19/70	10177(b) (f)
Randolph, Courtland Fitz	P.O. Box 2125, Pebble Beach	11/24/70	10130, 10177(d); 2770
Adams, Leon Laverne (REB) (Right to RRES license on terms and conditions)	2611 Foothill Blvd., Oroville	11/30/70	10176(a) (i), 10177(i)

* Not previously reported.

Note: Due to typographical error in the Summer 1970 issue of the Bulletin, the DBA's Town and Country Realty, Twain Harte Realty-Joquin Gully and Fuller, Hoyt Shopping Center, Twain Harte and the DBA Mi-Wuk Village Realty—Corner Pela Road and Chief Fuller, Mi-Wuk Village, were listed under the name of William Lee Cox. The said DBA's were fictitious name licenses of Peter Anthony Bifarella. The revocation of the said licenses of Peter Bifarella had no effect on any licenses registered or owned by any other persons.

Ryan and Sida Appointed to New Posts

Frank J. Ryan is the newly appointed Chief Deputy in charge of the Los Angeles District Office of the Department of Real Estate. Ryan succeeds Lee Sida, who has headed the Los Angeles Office for the past four years. Sida has accepted a transfer to assume leadership of the Sacramento Subdivision unit.

The Department of Real Estate licenses and regulates over 150,000 broker and salesman licensees, the majority of these are under the jurisdiction of the Los Angeles office staff, which will be headed by Ryan.

Both Sida and Ryan are veteran deputies. Ryan, who is promoted to the Chief Deputy position, comes to Los Angeles from the San Francisco Office and has had over 23 years of state service. He joined the Department of Real Estate in 1957 and has had a variety of assignments in the

Report Available

A real estate research report on *The Effect of Racial Integration on Property Values and Real Estate Practices*, under a research grant to the University of Southern California, is available from the DRE's principal office, 714 P St., Sacramento, 95814 at \$1.50 per copy plus sales tax.

The study assembled research data regarding the effects of integration on the supply and demand of residences and small businesses and on the practices of licensees. The data were gathered in an area of METROPOLITAN LOS ANGELES.

Bay Area, including assignment as Supervisor of the Oakland office.

Sida, well known in the Southern California real estate community, has over 15 years with the department, including four years as head of the Los Angeles Subdivision unit.

Ryan's promotion and Sida's transfer took place the first part of October.

Licenses Suspended From September 1970 Through November 1970

Name	Address	Effective date	Violation R.E. Law/Regulations
*Izzo, Frank, Jr. (RES) Dbra Golden Wester Props. and Assocs. (REB)	13948 Vanowen, Van Nuys 6025 Sepulveda Blvd., Van Nuys	4/26/70 10 days	10177(d) (f); 2852 (7)
Dbra Golden West Prop Mgmt. Dbra Home Rentals Co. (Stayed for 2 years on terms and conditions)			
Lingsch, Edwin Frederick (REB) (45 days stayed for 2 years on terms and conditions)	3232 Mission St., San Francisco	9/3/70 60 days	10176(i), 10177(f)
Cicerone, Raymond Silvio (REB) (15 days stayed permanently)	1542 20th St., San Francisco	9/11/70 30 days	10176(a) (i), 10177(f)
Thiel, William Calvin (RES)	454 W. Train, Fresno	9/14/70 15 days	10177(b)
Kirkham, Rock Murdock (RES) (and indefinitely after one year until passing RES exam)	310 Vista Del Mar, Pismo Beach	9/23/70 1 year	10177(g)
Kjaerbye, Harold Franklin (REB)	1133 Grand Ave., Arroyo Grande	9/23/70 30 days	10177(g) (h)
Akiba, Rooven (RES)	345 S. Doheny Dr., Beverly Hills	9/29/70 60 days	10130, 10131, 10137, 10177(d) (f); 2731
(REB)	11226 1/2 S. Western Ave., Los Angeles		
Pres., Integrity Mtge. Corp. (REO) (Stayed for 2 years on terms and conditions)			
Farley, Frederick Lockwood, Jr. (REB) Dbra National Mtge. Co.	8518 Seneca St., Oakland	9/29/70 10 days	10145, 10176(e), 10177(d) (g); 2832
Diaso, Joseph Martel (REB)	Cor. Tulare & Van Ness, Rowell Bldg., Rm. 207, Fresno	9/30/70 60 days	10177.5
Dbra Security Home and Land Co. (Stayed for 3 years on condition)			
Harding, Edward Joseph III (RRS)	17091 Oak Ln., Huntington Beach	10/13/70 30 days	10177(f) (k)
Cooper, Joseph William (REB)	2235 Old Middlefield Way, Mountain View	10/20/70 30 days	10145, 10177(d)
(All but first 15 days permanently stayed)			
Cooper, William Joseph (REB)	2235 Old Middlefield Way, Mountain View	10/20/70 30 days	10145, 10176(e), 10177(d)
(All but first 15 days permanently stayed)			
Ragle, Robert Wesley (RES)	2016 4th St., Santa Rosa	10/22/70 60 days	10177(f) (j)
Altenbernd, Donald Frederick (REB) Pres., D/A Development Co., Inc. (REO) Pres., D/A Land Development, Inc. (REO)	14724 Ventura Blvd., Sherman Oaks	10/27/70 60 days	10177(d), 11000-11202
Armistead, H. H. and Company (REC) Vice Pres. & Secty, Robert James Kenney (REO) (Stayed for a period of 1 year on condition)	327 E. Green St., Pasadena	10/27/70 30 days	10145, 10176(i), 10177(d) (f) (i)
Avese, Francis Jerome (REB) Dbra Viking Real Estate Co.	7036 Victoria, Highland	10/27/70 10 days	10162, 10165, 10177(d)
Patterson, Clarence Jeff (REB) Dbra National Mtge. Co. Dbra C. J. Patterson Co.	7000 Bancroft Ave., Oakland	10/29/70 1 day	10176(d), 10177(g)
(Permanently stayed)	14 Eastmont Mall, Professional Bldg., Oakland		
Flynn, Era Beneta (REB) (Stayed for a period of 3 years on terms and conditions)	2295 State St., San Bernardino	11/ 4/70 30 days	10176(a), 10177(f) (g)
Gaston, Amy Jarvis (RES) (90 days stayed for 2 years on conditions)	901 Dover Dr., Newport Beach	11/10/70 90 days	10177(b) (f)
Sands, Richard Ernest (REB) (After 30 days, remainder or any portion thereof may be stayed on condition)	3987 State St., Santa Barbara	11/10/70 to & incl. 7/2/72	10162, 10165; 2754
York, Onus, Jr. (REB) (After 30 days, remainder or any portion thereof may be stayed on condition)	5025 Olivehurst Ave., Olivehurst	11/10/70 to & incl. 12/3/72	10162, 10177(d)
White, C. Bill (RES) (Stayed for a period of 2 years on terms and conditions)	9701 S. Brookhurst, Anaheim	11/19/70 60 days	10177(b) (f)
Shevlin, John Gerald (RES)	753 Wendy Dr., Newbury Park	11/23/70 Indefinitely	10156.7
Ball, Howard Wesley (REB) (Except for first 15 days, remainder stayed one year on conditions)	1000 Munras Ave., Monterey	11/24/70 30 days	10177(h)
Jacobsen, Jacob Donald (REB) Dbra Windsor Properties (Except for first 5 days, remainder stayed one year on conditions)	9051 Soquel Dr., Aptos	11/24/70 60 days	10177(d) (f), 11012, 11013.2(a); 2811, 2818

* Not previously reported

BARNARD S. ADAMS ELECTED 1971 CREA PRESIDENT

Barnard S. Adams of Castro Valley was elected 1971 president of the California Real Estate Association, succeeding Melvin L. Mould of Long Beach.



BARNARD S. ADAMS

A native of New York, Adams graduated from New York University, where he earned a B.S. degree in aeronautical engineering. After graduation he worked for Pan American Airlines until 1940.

During the war he was section meteorologist in charge at Natal, Brazil, forecasting for all civilian and military flights to Africa.

In 1949, he moved to California where he entered the real estate business with his father in San Leandro. Among his activities during the past 21 years in organized real estate, he served on 26 Committees of the Southern Alameda County Board of Realtors and as board president in 1959. He has been a director in CREA for the past 11 years, served three terms on the Executive Committee, one term as a regional vice president and as chairman of the Taxation Committee. For the past three years he has been a director of the National Association of Real Estate Boards.

In civic affairs, he has been a director and committee chairman for the Castro Valley Chamber of Commerce and active in other civic organizations.

He and his wife, Muriel, have two daughters and a son.

PROMOTIONAL OFFERS TO PROSPECTIVE BUYERS

To promote sales, some subdividers or their agents offer free trips or other accommodations to prospective buyers. Frequently they require the prospect to make a deposit, often referred to as a "good faith deposit" before they furnish the prospect a free trip.

In these circumstances, the DRE requires the developer to furnish the prospect with a copy of the public report on the subdivision before a "good faith deposit" is solicited; to

impound the deposit until it has been returned, or until a determination has been made that the prospect has failed to meet his commitment.

BROKER APPLICANTS

The Department of Real Estate will accept either three semester units of credit, or four quarter units of credit, as meeting applicable course requirements to apply to take the broker examination.

1970 Legislation Safeguards Public Access to Ocean

AB 493 (Dunlap), recently enacted into law, focuses local government on conservation and public utilization of limited shoreline facilities by adding Section 11610.5 to the Subdivision Map Act.

It prohibits the approval of a final subdivision map that does not provide for or have available reasonable access (or otherwise reasonable access) from public highways to the oceans or bay within the subdivision.

Law Enforcement Agencies Combine to Stop False Advertising

State and local law enforcement agencies are collectively investigating and successfully prosecuting advertisers who insist on using misleading or untrue statements which induce the public to enter into real estate transactions. Recently, the Real Estate Commissioner and California Attorney General joined forces with the Lassen County District Attorney and successfully restrained two separate subdividers from using terms which did not accurately describe their subdivisions. The judgments signed by presiding judges of the superior court, required the subdividers to each pay penalties of \$10,000. In addition, one subdivider defendant was ordered to make offers of restitution to any person who had purchased or agreed to purchase any of the subdivision land.

Both suits involved multi-thousand acre subdivisions located in Lassen County. The basis for each suit stemmed from the promoter's use of misleading advertising such as: "Prime, lush, recreational land . . . near swimming, fishing, skiing, golf, or national forest facilities . . . a working ranch . . . sold at a wholesale price . . . your own 40-acre spread can provide rich, all-year pasture for your horses . . .".

The complaint against the subdividers alleged that the subdivisions were . . . "raw, unimproved land . . . dry, high desert with low annual rainfall, large portions of it containing alkali soil covered primarily by sagebrush, and little, if any, water is readily available . . . does not lend itself to development in the foreseeable future . . .".

One judgment specifically prohibits further misrepresentation regarding the recreational use, physical characteristics, or investment and growth potential of the land. It requires that any projection as to the investment value or growth potential of the land be supported by opinions of qualified experts, and that potential purchasers be provided with copies of the expert opinions, and of the facts upon which the expert relied for his opinion.

The Attorney General and the Commissioner have jointly warned that the state will vigorously enforce laws governing false and misleading advertising in land sales and that appropriate disciplinary action will be

Broker Exam Dates

The department will administer the broker examination on the following Saturdays during the next six months:

March 13, May 8, July 10
(The Finance and Appraisal Supplemental Tests will be administered on the Friday preceding each Saturday)

This is important: An application in good order—including verification of two years salesman employment and college transcripts—must be received in the Sacramento office prior to the first day of the month of the preferred test date.

Applications based upon equivalent experience (in lieu of two years of salesman employment) must be submitted with appropriate and ample evidence suitable for evaluation by the State Real Estate Commission at least sixty (60) days before the examination date.

The detailed review and evaluation of an applicant's claim of eligibility takes time and quite often an exchange of correspondence is needed to eliminate deficiencies. The department cannot assure prompt scheduling for the broker examination unless the candidate properly prepares and submits his formal application or petition well in advance of the date he wishes to be examined.

Applicants who file too late to be processed according to the above schedule will be required to submit evidence of satisfactory completion of three semester unit course in Appraisal and three semester unit course in Finance or the equivalent thereof. This is in addition to the Law and Practice courses now required.

taken against offending subdividers and their agents. The actions referred to in this article were brought under

Repeal of Section 8616 of the Pest Control Law Does Not Negate Licensees' Responsibility

Section 8616 of the Business and Professions Code was repealed as of November 23, 1970. As a section of the Structural Pest Control Act, it had required real estate brokers to give written notice to each party to a real estate transaction of the provisions of Section 8614 of the same code. Although the change relieves the real estate licensees of one task formerly associated with many real estate transactions, it will not affect the licensee's duty to disclose structural defect and wood-destroying organisms of which he has knowledge.

The repeal of Section 8616 abrogates or voids Section 10177(1) of the Real Estate Law which provided for possible disciplinary action for a violation of that specific pest control section.

Section 8614 Amended

Section 8614 of the Business and Professions Code has been amended and still provides that any person whether or not a party to the transaction may request from the Structural Pest Control Board upon payment of a fee, certified copies of inspection reports and completion notices filed during the preceding two years by any Structural Pest Control operator. Notice of this right to request certified copies and reports must be prominently disclosed in every inspection report and work completion notice executed after Jan. 1, 1971.

Real estate licensees are no longer charged with the responsibility of giving separate written notice of the provisions of former Section 8614 to each party and obtaining written acknowledgment of that fact. It does not change the Commissioner's Regulation 2903 which essentially requires full disclosure by the licensee to buyers and sellers of any knowledge or information he may have concerning any infestations or structural defects caused by termites or other wood-destroying organisms.

Business and Professions Code authority for the courts to levy civil penalties in false advertising.

A Master Plan for the Professional Development of the Real Estate Industry in California

Developed by a Special Liaison Committee of Representatives of the California Real Estate Association and the State Department of Real Estate

History

In 1966, the Real Estate Commissioner's office drafted and distributed a "Blueprint for Professionalization of the Real Estate Business in California." The Blueprint was designed to provide a frame of reference for discussion which might lead to a consensus on the part of all those interested in a general plan of procedure to raise the standards of real estate practitioners over the years immediately ahead.

In 1968, Real Estate Commissioner Burton E. Smith revised the initial Blueprint, based upon the development of educational opportunities in the interim, using as his "starting point" proposed departmental legislation to make certain real estate courses at the college level mandatory in connection with the issuance of real estate broker licenses.

As was stated initially, "Through the years, the California Real Estate Association not only supported legislation raising licensing standards, thus providing increased protection for the public dealing through licensees, but it steadily enlarged opportunities for its members to increase their knowledge and improve their skills."

Real estate licensees' funds have been utilized, with the total input now in excess of six million dollars, to help lay the groundwork to make available throughout California the courses which cover the real estate field. Today, 82 community colleges participate in the program by giving one or more real estate courses each semester. Seventy-six of these give all four of the courses which under present law will be mandatory by January 2, 1972, and 74 of these offer AA degrees.

Among the state colleges, 13 offer a B.S., M.S., or M.B.A. in real estate. The University of California and several of the private institutions of higher learning also offer courses.

As a further step toward earning the consensus originally desired, CREA Past President Melvin L. Mould asked for the establishment of a liaison

committee involving representatives of the Department of Real Estate and the California Real Estate Association to work toward a plan which might bear the imprint of both entities and make more likely the early attainment of the goals desired.

The committee drafted such a Plan, after many all-day meetings. Numerous alternative plans were advanced and debated to consider the road which has been traveled and to recommend a method which would achieve professional recognition for those engaged in the real estate business in California. **On January 16, 1971, the plan was approved by both the Real Estate Department and the California Real Estate Association.**

Introduction to the Plan

Studies formally undertaken by academic institutions, by the DRE and by the organized real estate industry relating to the image of the real estate business have shown that some real estate licensees are thought to be inadequately prepared for the complex field in which they operate. **A "good image" is desirable for all licensees—it is essential if a full measure of competency and protection to the public is to flow from the activities of real estate licensees.**

Professional recognition by the public is not likely unless all of the ingredients of the professional are present in the pre-qualification process.

In general, this includes a test in depth of competence, a substantial amount of experience, a broad academic base and an acceptance of a full measure of responsibility.

The Committee recognized that in connection with the attainment of professional recognition through a statutory licensing framework it will be necessary, as each proposal is advanced, to further the Plan and to be in a position to establish that the public interest will be better served by the additional requirements. **Further, a realistic approach suggests that the industry, itself, must generate and sustain enthusiasm for the**

concept if real estate industry support is to be gained and retained and the Legislature and the Administration be convinced that the statutory changes are needed.

The Plan avoids lengthy discourse on the history of the educational effort, since a portion of every licensee's fees were first set aside for the advancement of education and research in 1956. The development of educational opportunities during the intervening years, along with the growth of research and the developing body of knowledge of real estate, is recognized as a basic building block in the entire professionalization effort.

Thus, the program moves ahead in the atmosphere of a wide availability of college level courses in real estate, a growing acceptance by real estate brokers of their responsibilities, and the dedication of thousands of licensees to furthering the work which has been accomplished.

This cadre of professionals and attendants to the professionalization effort, the Committee believes, provides the necessary thrust for implementation of the Plan.

The Committee recognizes that events may cause the timetable to change—that experience and new techniques may lead to revisions of the Plan at any step along the way.

The Plan accommodates the economic needs of the industry without sacrifice of any of the basic ingredients of the recognized professions. Yet, it is a program unique to the real estate industry, as well it should be. There are no exact parallels of activity in any other arena on the business or professional scene.

The reader should recognize as he reviews each step in the Plan as outlined that the work for each step must be undertaken in advance so that all concerned will have ample notice and the legislation will provide a fair amount of lead time.

Finally, it should be clearly stated that every member of the Committee

(Continued, Col. 1, Page 926)

did not agree with every element of the Master Plan. The Committee, however, was unanimous in presenting the overall Plan as the joint product of their thinking and with the sincere belief that it affords a dynamic opportunity for the real estate industry and the general public of California to benefit from its implementation.

The Plan in Summary

The following narrative describes the elements of a new concept for the development of real estate licensure. Both the academic and experience qualifications are considered in a progressive relationship which will provide the opportunities to the individual to attain professional status.

Before detailing the steps which will be necessary during the next decade in connection with each category of license, a feeling for what is being attempted may best be obtained by the brief summary which follows. It should be noted that some of the earlier thinking on the national scene relating to the "single license concept" is *not* reflected in this Plan. On the contrary, the economic needs of the real estate community appear to compel the retention of a salesman status; further, the long road between entry at the salesman level and attainment of the professional designation has led to a provision for an intermediate or Associate step. **The committee believes the Plan will be the catalyst for similarly oriented efforts elsewhere in the United States and Canada.** The framework will accommodate other developing programs in other jurisdictions. The three-category proposal is:

Certified Real Property Broker

The category will become fully effective in 1980. At that time it will be mandatory in order to perform those acts which are today included within the definitions of acts for which a real estate broker license is required. **In 1980 all current real estate broker licensees will be "grandfathered" without the need to meet the additional requirements for this category. No new real estate broker licenses will be issued after January 1, 1980.**

The basic ingredients in order to qualify for the designation will be a

baccalaureate degree (or its equivalent), four years experience, passing the prescribed examination and acknowledgment by the broker of his full responsibility.

A *voluntary certification* for this category will become available in 1974. During the transitional period (1974-1980) substitution of additional experience in lieu of education will be allowed for those who apply for the voluntary certification.

Real Estate Salesman Licenses

Except for a gradual strengthening of the examination, no substantive changes in the requirements for a real estate salesman license are anticipated. In connection with existing reasonable supervision requirements over salesmen, after January 1980 real estate salesmen will not be allowed to supervise other salesmen or manage a branch or main office for a Certified Real Property Broker.

Associate Real Property Broker

A new category of Associate Real Property Broker will be established in January 1980. This category of licensee will be an intermediate category for salesmen moving toward the Certified Real Property Broker status. The Associate will be required to have completed a portion of the educational requirements and to have completed a middle-difficulty examination. This category of licensure will be available to either the baccalaureate degree holder with no salesman experience or the real estate salesman with a mix of academic accomplishment and experience.

Note

As seen in a review of the details of the Plan, which follows, the opportunity to acquire academic knowledge outside the rigid format of a degree program has been woven into the Plan at every juncture where additional educational requirements are involved. A sampling of existing real estate licensees shows that roughly 75 percent of those holding broker licenses in 1970 have completed at least two college level courses in real estate. 50 percent or more have completed two years of college. **Thus, it can be**

seen that the grandfathering concept in 1980 will not only meet a practical need but should be generally acceptable—since such a small group to be grandfathered might be thought of as having marginal qualifications for the Certified Real Property Broker designation. Further, the existence of the voluntary designation for six years prior to the 1980 target date will serve as an inducement for licensees to remedy any academic deficiencies.

Timetable for Implementation of Master Plan 1970

Recognizing that the ingredients of professionalization include experience, an acceptance of a higher level of responsibility than that of the non-professional, proven competency and educational attainment, a review of the situation as it existed when this Plan was formulated in 1970 follows:

1. An applicant for a broker license must pass the written examination. **This examination was revised, strengthened and up-dated in 1970.**
2. A broker candidate must show he has completed three-unit college level courses in Real Estate Law and in Real Estate Practice.
3. Except for those applying for a broker license on the basis of experience gained in general real estate or as graduates of a four year college or university course which included a specialization in real estate, broker applicants must show they have completed two years full-time experience as a California licensed real estate salesman.
4. **The broker may be disciplined if he fails to exercise reasonable supervision over his salesmen.** A regulation relating to the reviewing of documents, consistent with this statutory requirement, was enacted by the Commissioner in 1970.

1971

The Commissioner will consider further regulations to spell out criteria of what constitutes reasonable supervision. The criteria will include:

A requirement that every real estate broker shall maintain a written contract or memorandum of the

working relationship between himself and any other real estate salesmen or brokers (operating as salesmen) associated with his firm.

1972

Laws already operative make mandatory, effective **January 2, 1972, that an additional 6 units of college level courses be completed.** (For those new broker licenses issued on or after that date these are: Three units in Real Estate Appraisal and three units in Real Estate Finance.)

This totals four college courses required of all new real estate broker applicants in 1972.

It was recognized that the effective date of this second phase of the course requirement legislation completes the groundwork for the professional development plan which follows.

1974

The Plan calls for legislation to be effective on **January 1, 1974, adding a mandatory college level course requirement of 3 units each in two related business subjects.** For example, real estate or general economics, marketing, accounting, or advanced real estate subjects. This will bring to a total of 18 the number of units of college work which must be completed as a matriculated student or through approved extended day, evening or correspondence courses.

Legislation will be sought with an effective date of January 1, 1974, to provide for a *regular* inspection of the operational records of all real estate brokers, except those working as salesmen for other brokers.

As a further element of broker responsibility in the area of solvency in the face of emergencies, **legislation will be sought with a similar effective date (1974) calling for every real estate broker who has other real estate brokers or salesmen associated with his firm, or employing anyone handling money or valuables, to be covered by a fidelity bond in favor of the employer-broker in an amount of \$5,000 for each loss.**

Voluntary Certification

Legislation will be sought with an effective date of January 1, 1974, to allow candidates to apply, voluntarily, for a new designation of Certified

Real Property Broker. The requirements for this certification will be:

1. Pass a state administered examination designed to establish competency by the applicant at a higher level than that being required of real estate brokers; and
2. Applicant must make a showing of at least four years full-time experience as a real estate salesman or broker licensee. It is contemplated that the statute, as it does today, will provide a means by which equivalent experience may be measured. That is, experience as a licensee in another state or in large-scale activities as a principal dealing in real estate could be considered as well as full-time salesman and broker licensee experience; and
3. Applicant must possess a baccalaureate degree or make a showing that he has completed sufficient college level work to qualify for a degree as if all of the completed courses had been taken as a matriculated student in a degree program. A further educational equivalent in connection with the voluntary certification will be included and is set forth below.

Voluntary Certification Educational Equivalent: In lieu of the degree or its direct equivalent, the Commissioner shall be authorized to accept any one of the following as meeting the educational requirement for voluntary certification as a Certified Real Property Broker during the period voluntary certification would be in existence (1974 through 1979):

- a. Have completed two years experience as an active real estate broker licensee in lieu of each year of college course completion (based on 120 units of college work constituting a baccalaureate degree program). This experience would be in addition to the basic four-year experience requirement as either a salesman or broker; or
- b. Similar to the educational alternatives set forth in the Business and Professions Code in order to qualify for the designation as a Certified Public Accountant, the Certified Real Property Broker voluntary certification

program would accept: An applicant with a degree which included a specialization in real estate or a degree which included evidence of study substantially the equivalent of a real estate major, including courses in real estate or related courses in business administration.

—OR—

Satisfactory evidence of having successfully completed a two-year course of study at the college level or received an Associate in Arts degree from a community college *and* submits satisfactory evidence that the applicant has studied, under appropriate supervision, real estate and related business administration subjects for a period of at least four years.

—OR—

A showing satisfactory to the Commissioner that the applicant has had the equivalent of the educational qualifications required by either of the above, or shall pass a preliminary written examination approved by, and administered by an agency approved by, the California State Department of Education to determine that he has the equivalent of the educational qualifications required for the Certified Real Property Broker category.*

* By way of clarification, the committee, again, felt the pattern followed by the Board of Accountancy would be used to fit this situation. That is, the candidate would be required to successfully complete at his own cost college level examinations administered by an agency such as the Educational Testing Service of Princeton, New Jersey (the firm has a branch in Berkeley, California) in five areas: English, The Humanities, Mathematics, The Social Sciences and History.

The voluntary certification will allow the successful applicant to use this designation in his advertising and other indicia, but would confer upon him no additional functional authority beyond that exercised by brokers.

1975

The statutory maximum time during which an inactive licensee can remain inactive without being required

(Continued, Col. 1, Page 928)

to take an examination to reinstate will be reduced from the existing 10 years to 5 years.

1976

Legislation to be effective in 1976 will require real estate broker applicants to have completed 60 units of college level courses. This college work would, of course, include the 18 units previously required (see 1974).

Broker applicants who had not completed two years of college level work could apply on the basis of the **equivalents set forth under the voluntary certification, paragraph "b" above**, either under the supervised four-year study program or by passing the college level examination. Thus, as with each entry in the plan dealing with educational requirements, an applicant would be allowed to submit educational accomplishment *equivalent* to the basic requirement.

1978

Broker applicants will be required to make a showing that they have completed at least 4 years full-time experience as a salesman licensee.

It is contemplated that the legislation *requiring* four years' experience will not be effective until the *end* of 1978.

The existing statute providing for an automatic waiver of the two-year experience requirement for broker applicants who have completed a four-year college or university course which includes a specialization in real estate will be phased out since the basic experience requirement is raised to four years in 1978.

1980

The Certified Real Property Broker designation will become mandatory for all applicants who desire to perform the acts for which a real estate broker license is required prior to the effective date of the mandatory certification—January 1, 1980.

Voluntary certifications will no longer be issued, and the mandatory requirements will include all of those set forth for voluntary certification (see 1974) *except* that experience as a real estate salesman or broker could no longer be used as an equivalent for the educational requirement. The three basic educational equivalents to a degree in real estate (see 1974—voluntary certification educational equiv-

alent category in paragraph "b" above would continue to apply. To restate briefly, a means is provided by which a related four-year college course may be deemed equivalent to a degree in real estate; or two years of college plus verification of four years' supervised study in business fields (equivalent in content to upper division college work); or completion of a battery of tests to be administered by an independent testing agency to show requisite knowledge equivalent to that which would be gained through a four-year college degree program.

Real estate broker licenses will not be issued after this date. All real estate brokers on or after January 1, 1980, will be "grandfathered."

The Committee took cognizance of the fact that in all movements of this type some sort of grandfather clause is a practical necessity. A view of the 10-year plan and contemplation of the expected attrition rate, plus a recognition by the committee that all real estate brokers licensed from 1972 on will have completed at least 12 units of college work—plus the progressively higher standards, thereafter—all suggest that the majority of licensees to be grandfathered to the Certified Real Property Broker class will substantially meet the requirements then applicable.

Further, the committee projected a compact with the legal profession leading to a broadened definition of the acts for which a Certified Real Property Broker designation is required to include certain contract preparation duties presently restricted to those licensed as an attorney-at-law. **Certified Real Property Brokers will be the only licensee class after January 1, 1980, which will be allowed to employ other real estate licensees.**

New Class of License—Associate Real Property Broker

This new category of license will be available as a step upward for real estate salesman licensees with two years of college (or the previously described equivalents thereto) plus two years of experience and who pass the prescribed examination—which will be designed to be equivalent to the real estate broker license examinations given prior to 1980.

The requirements for Associate

Real Property Broker will also be met if one has a baccalaureate real estate degree, but lacks the required four years' experience in order to qualify as a Certified Real Property Broker. **This will make it possible for purely academically trained people to enter the real estate business as a career at an intermediate level.**

Again, the three basic *educational* equivalents to a baccalaureate degree in real estate (see 1974) will continue to apply in connection with the educational requirements for Associate Real Property Broker.

Associate Real Property Brokers will be required to be under contract with Certified Real Property Brokers, and will be allowed to carry on office management functions in either a branch or the main office.

Adequate lead time will be provided to permit qualified salesmen to secure Associate Real Property Broker status on January 1, 1980. In this manner, no qualified salesman working as an office manager need be displaced.

Real Estate Salesman Licenses

As previously stated, it is anticipated that other than a gradual strengthening in the examination requirements, real estate salesman licenses will undergo little or no change until January 1, 1980. As of that date real estate salesman licensees will be **prohibited from managing branch or main offices or exercising supervision over other real estate licensees.**

In addition to the educational requirements established by law for attainment of the licenses, organized real estate should continue to offer in-service education in the many specialized fields of the real estate business. Both the practitioner and the public benefit from these educational programs.

In the concluding remarks on the plan when it was drafted, the Committee stated that although events move inexorably forward, and more and more real estate broker licensees are being accepted as professionals as the years go by, the greater protection to which the public is entitled demands that an organized plan be adopted. Further, they believed the plan will give meaning and direction to the efforts of the thousands already engaged in attempting to raise their standards.

Misrepresentation of Facts Causes License Suspension

It is an elementary principle that a real estate licensee is duty bound to accurately disclose to buyers and sellers all material facts and circumstances surrounding the sale of property wherein he acts as the agent.

Recently the Commissioner ordered a real estate broker's license suspended for failing to follow this rule.

Facts Are Cited

The broker knew, when he prepared a listing on a piece of property under a multiple listing agreement, that the building was not connected to a main sewer line fronting the property. The only sewer line in the vicinity terminated at an adjoining property which was located *upgrade* from the listed property. In order to provide sewage service to the property, it would have required an extension of the main sewer line, a lateral connection from the house to the main line and installation of a booster pump into the system.

In completing the listing agreement, the broker represented, at least by implication, that a *sewer existed* but that the property *was not connected* to the service. He did this by checking the line marked "Yes" after the word "Sewer" and by checking the word "No" after the word "Connected" on the prepared listing agreement.

A salesman from a cooperating broker's office showed the property to prospective buyers. When the prospects inquired as to whether the property was connected to a sewer he referred them to the information shown on the multiple listing sheet. Reasonably assuming that a main sewer line existed and fronted the property, they completed their purchase only to learn at a later date of the substantial sewage disposal problem unless a septic tank was used. **The hearing officer found the listing broker substantially misrepresented the facts concerning sewage disposal by failing to make a full disclosure, although he made no oral or written presentations directly to the buyers to the salesman who handled the sale. The Commissioner considered the evidence sufficient for discipli-**

COMMINGLING!

A broker is in violation of the law when he places purchase deposits, rent collections and other monies entrusted to him in his own personal bank account or keeps such funds in his own office beyond the next business day. Any course of action other than placing such monies in a neutral escrow depository, in his trust account or in the hands of principals can lead to disciplinary measures and possibly to litigation.

REAL ESTATE COMMISSIONER ELECTED VP OF NARELLO

Commissioner Burt Smith has been elected vice president of the National Association of Real Estate License Law Officials for 1971 at its annual conference held recently in New Orleans.

The Commissioner will represent the Western District which includes 11 western states and the Canadian Provinces of Alberta and British Columbia.

Retains Chairmanship

Commissioner Smith will retain his chairmanship of the NAREB/NARELLO liaison committee — a standing committee made up of top level representatives from NARELLO and officials from the National Association of Real Estate Boards. Its primary duty is to coordinate the various programs between the two national associations in areas when there is a mutuality of interest. **An important move is now under way to communicate the ideas and views of each organization's problems, goals and objectives by an interchange of their respective committee reports.**

Among the areas explored at the New Orleans conference were contracts, formal real estate education programs, interstate cooperation, court decisions, investigative techniques and hearings, a National real estate examination question bank, "out-of-state" land sales, competency standards and the professionalization concept.

nary action because the buyers relied upon important information contained in a listing agreement which proved to be false or misleading.

Out-of-State Land Promotions to Comply With Subdivision Law

Subdivision legislation directed toward regulation of marketing of out-of-state parcels to California buyers was first enacted in 1963. The act spelled out the commissioner's authority in enforcing more stringent subdivision laws and provided for examination of properties to determine whether the offerings would meet a "fair, just and equitable" test. Desist and Refrain Orders have been used effectively by the commissioner to curb illegal or unauthorized practices by out-of-state subdividers. **The legislature has provided that summary powers may be exercised by administrative bodies in order to protect the public, and they may do so without prior notice in hearing, provided that subsequent administrative or judicial review is allowed.** Injunctions are also used as an effective enforcement tool in cooperation with the California Attorney General.

Since the inception of this act, a number of out-of-state developers have met the rigorous requirement of the law in order to reach the California market. During the last five fiscal years, 93 out-of-state permits were issued covering 33,923 acres divided into 25,272 lots mostly located in Arizona, Hawaii, Nevada, New Mexico, Oregon, Utah and Washington.

In brief, where subdivided lands are to be offered for sale or lease in California, the subdivider must file an out-of-state subdivision questionnaire and application for public report and permit with the Department of Real Estate. He must also file a bond in the penal sum of \$5,000 issued by an admitted corporate surety approved by the commissioner. The commissioner requires an appraisal of the parcel to be sold in this state and, in addition to the developer meeting all normal subdivision requirements, the offering must pass the "fair, just and equitable" test.

Once the permit and public report is issued, the out-of-state subdivider must submit all advertising concerning his tract to the department for review at least ten days prior to the time the advertising is distributed, displayed or published.

GOVERNOR SIGNS MORE BILLS AFFECTING REAL ESTATE

(Continued from Col. 3, Page 921)

sioner may suspend or revoke the license of any real estate licensee or deny a license to an applicant who has violated any of the provisions of the Franchise Investment Law or regulations of the Corporations Commissioner pertaining thereto.

Penalties for willful violation of the Franchise Investment Law include fines of up to \$10,000, imprisonment in a state prison for not more than ten years, or in a county jail for not more than one year, or by both such fine and imprisonment.

● **SB 566 (Burgener)**—Amends *Sections 10450.6, 10472* and adds *Section 10451.6* of the Business and Professions Code. Revises allocations of funds and allows Real Estate Commissioner to authorize transfer of certain surplus amounts in Real Estate Education Research and Recovery Fund to Real Estate Fund.

The bill specifies that an application for payment from the Recovery Fund must be filed within one year after the civil judgment becomes final.

● **SB 565 (Burgener)**—Amends *Section 8614* and repeals *Section 8616* of the B & P Code to eliminate the requirement that real estate brokers give separate written notice to parties to a real estate transaction of their right to request old inspection reports from Structural Pest Control Board. *Section 8614*, as amended, requires that a notice of the right to obtain a certified copy of all inspection reports and completion notices from the Structural Pest Control Board must be prominently disclosed on every inspection report and work completion notice executed after January 1, 1971.

● **SB 98 (Grunsky)**—This bill amends and revises various sections of the law in respect to fictitious business names and directly affects the procedures set up under *Sections 10159.5* and *10522.5* (B&P Code) relating to real estate and mineral, oil and gas licensees with fictitious business names.

The law, as amended, is contained in *Section 7540* of the B & P Code and *Sections 17900-17930* (B&P Code) and retains many of the provisions of the present statutes. All real estate

brokers who operate or intend to operate under a fictitious business name will be affected by these statutes.

A fictitious name statement is required to be filed with the clerk of the county in which the registrant has his principal place of business, or if he has no place of business in the state, with the Clerk of Sacramento County. The statement must also be published in a newspaper of general circulation and evidence of the publication filed with the clerk within 30 days after completion of the publication. An expiration provision somewhat similar to past requirements is also included—generally the statement expires at the end of five years from December 31 of the year in which it was filed in the office of the county clerk.

This act becomes operative on July 1, 1971, however, any time after January 1, 1971, a fictitious business statement may be filed and published as provided in the act.

● **AB 2033 (Wilson)**—Adds *Sections 1941.1, 1941.2, 1942, 1942.1* and *1942.5* to the Civil Code. Defines *untenantable* dwellings. Defines lessee and lessor obligations and prohibits retaliatory eviction by lessor after tenant has complained to authorities about untenable conditions. Also permits limited stay of proceedings on appeal by defendant in unlawful detainer proceedings. *Note:* Does not apply to any lease-option or agreement entered into prior to January 1, 1971, except that it shall apply to a lease or hiring of a dwelling which is renewed by agreement or presume to have been renewed pursuant to *Section 1945* of the Civil Code after January 1, 1971.

● **AB 1581 (Beverly)**—Adds *Section 2954.5* to Civil Code. Requires that borrowers of loans secured by real property be notified in writing by lenders of any assessments of charges for default, delinquency or late payments. With respect to the first delinquency, the borrower must either be given six days from the date notice is sent to pay the delinquency or is to be notified of the date after which a late charge will be assessed. On subsequent delinquencies the borrower must either be notified that he will be

Statement to Respondent Amended by 1970 Legislation

SB 592 (Moscone) amends the Administrative Procedure Act (*Section 11505, Government Code*) to require a Statement to Respondent accompanying an accusation to advise respondent that he may be represented (but need not be) by counsel.

FHA Requirements for Purchase of Another Home With FHA Financing

All licensees who handle the sale of homes with existing FHA loans that are being assumed can be of great assistance to their principals by advising them of the requirements they must meet before they can purchase another home with FHA financing. If the seller intends to buy another home within six months, the following are required:

- (1) A credit report on the substitute mortgagor (purchaser who assumed the loan).
- (2) A statement as to whether the substitute mortgagor intends to occupy the property.
- (3) A statement from the mortgagee as to the current status of the loan.

If the seller intends to buy on FHA terms after six months, but within two years, the following are required:

- (1) A statement from the mortgagee as to the current status of the loan.
- (2) A statement from the mortgagee as to the payment record of the substitute mortgagor.

Compliance with these requirements in the beginning will obviate undue delays when purchasing another property with an FHA-insured loan. If evidence is furnished that the FHA insurance on the property has been terminated, then the above conditions will not be required. It is to the benefit of all real estate licensees to advise their sellers of these facts.

charged unless payment is received by a certain date or must be informed by a semiannual statement of the total amount of late charges imposed in the previous six-month period.

First A Foundation, Then The Building

(Continued from Col. 1, Page 921)

of responsibility which practitioners have been unable or unwilling to fill themselves. He extracted the following Articles (and others) from the Code of Ethics as examples: Article 8 deals with commingling of clients' funds with the broker's own; Article 9 states that Realtors' advertising should present a true picture; Article 11 requires a Realtor to deal fairly and in absolute fidelity to the client's interest; and Article 13 states that the Realtor may not accept compensation from more than one party to a transaction without the full knowledge of all parties. This latter article is included as a specific basis for revocation in the Real Estate Law. The others are similarly on target.

Quoting from Article 3, in part, "It is the duty of the Realtor to protect the public against fraud, misrepresentation or unethical practices in the real estate field", the Commissioner noted it is the Realtor's duty to *protect the public*. The Article goes on to say that "He should endeavor to eliminate in his community any practices which would be damaging to the public or to the dignity or integrity of the real estate profession." This suggested to the Commissioner that every Realtor owes an individual duty and that every board and every state association owes a particular duty to do what is designed to protect the public and to see that contrary practices are eliminated.

Article 4 reads, "The Realtor should ascertain all pertinent facts concerning every property for which he accepts the agency, so that he may fulfill his obligation to avoid error, exaggeration, misrepresentation or concealment of pertinent facts." Granted that exaggeration may or may not fall within the sanctions of the law or one might obtain insurance against error, the Commissioner contended that it was the Realtor's ethical duty to avoid error. This means, simply avoiding the easy statement which is not well rounded in fact—it is the licensee's duty to turn his back on the temptation to give the client an *estimate of the situation* which might well be

NEW LAW REGULATES RENTAL DEPOSIT SECURITY DISPOSITION

Section 1951 was added to the Civil Code when AB 1189 (Brown and Burton) was enacted into law by the 1970 Legislature. The new law regulates payments or deposits of money given primarily to secure performance of rental agreements.

A landlord holds the deposits in trust for his tenant, who has a lien upon such portion not lawfully claimed by the landlord.

The landlord may only claim such amounts as are reasonably necessary to remedy default in the rent, to repair damages, or to clean premises at termination of tenancy. He must return any unearned deposit two weeks after termination of tenancy.

Willful retention of an unearned deposit is a misdemeanor, punishable by a maximum \$200 fine.

tinged with error.

Space will not permit an account of other Code Articles which the Commissioner touched upon. In closing, he expressed the sincere belief that individual Realtors, local boards and the State Association should develop tougher attitudes towards internal enforcement of the Code of Ethics.

He spoke of the excellent indoctrination program of many of the local boards which includes review of the Code of Ethics and the National Association of Real Estate Boards publication, *Interpretation of the Code of Ethics*. This book has dozens of cases listed under various articles of the Code and helps bring the meaning and intent of each section into focus.

He invited local boards everywhere to expand these training and indoctrination and enforcement functions—*that licensees make a greater effort toward policing themselves.*

Throughout his entire address the Commissioner paid tribute to those licensees both in and out of organized real estate who subscribe to the ethical principles of integrity, fairness, painstaking service and honesty in the conduct of their business and stated these provide a substantial foundation upon which the real estate business will build its long-dreamed-of structure of professionalization.

RESEARCH REPORT

"A legacy of households stacked atop one another in endless profusion is in the offing," states the author of: "Distribution and Morphology of Apartments in the Santa Clara Valley," a research report of San Jose State College. The report is available to real estate practitioners and educators.

Where do apartments locate? Are there specific determinants of their location? Land? Expressways and freeways? Employment? Where on the landscape will they develop? What effects do money lenders, interest rates, vacancy rates, local employment levels, or for that matter, the national economy have on distribution and location of apartments? Such questions are considered in the study.

The 70-page study was published by San Jose State College. If interested, send \$1.58, check or money order, to Department of Real Estate, 714 P Street, Sacramento 95814, along with your request.

In Memoriam

J. P. Mahoney, Assistant Commissioner in charge of the Legal and Compliance functions for the Department of Real Estate was stricken with a fatal heart attack on Tuesday, December 15, 1970.

As the department's Chief Legal Officer, he had primary responsibility for the department's law enforcement program and for preparation and presentation of legislation relating to real estate licensing, subdivisions and real property securities. He was a key figure in changing of the statutes which brought regulation of real estate syndicates under the Commissioner's jurisdiction in 1970.

Mr. Mahoney was initially employed with the department as a Deputy Real Estate Commissioner in 1949. The following year he received his LL.B. degree and was appointed as attorney for the department's district office in San Francisco. In 1961 he was appointed an Assistant Commissioner with headquarters in Sacramento and advanced to head of Legal and Compliance November 1, 1967.

A native of San Francisco, Mr. Mahoney received his elementary and higher education in that city.

He served in the U.S. Army Corps during World War II in the Pacific Theatre of Operations.

In his immediate family, he is survived by his wife, Sheila, four sons, Tim, Mike, Jim and Terry and two daughters, Peggy and Sheila Pat.

Plans for 1971 Internship Program Are Underway

Last spring, the Real Estate Commissioner implemented a college level Pilot Internship Program during the vacation periods. The objective of this pilot project was to furnish an opportunity for college students to participate in a full-time paid work experience in the real estate environment.

The pilot project was jointly supported by the DRE and the California Real Estate Association. The project coordinator developed an informational kit which included an application for both participants—real estate brokers and students. The program was publicized via the local real estate boards, community and state colleges and universities, local newspapers and the Real Estate Bulletin.

Students who submitted applications were referred to prospective real estate brokerage firms. The matching of students with brokers was primarily accomplished on a geographical basis with the final selection and decision reserved to the employing broker.

Twenty-four students were enrolled in the project and employed with 23 sponsoring brokers. Of these internships, 14 were in southern California and 10 were in the north.

The training given the interns varied widely as the structure of each internship was under the supervision of the employing broker. Some of the larger offices were able to provide a diversified and broad training experience. In one area, several employing brokers rotated their interns among their respective offices for the additional experience it provided.

A REMINDER

If a check is deposited directly into escrow, some brokers believe that a record of the handling of that check is not necessary. This is not the case.

Section 2831 of the Commissioner's Regulations requires that a columnar record be maintained to indicate the receipt and disposition of any check the broker handles for his principal.

Throughout the state, many participants were given training tours to real estate board functions, lending institutions, escrow companies, title insurance companies and to government agencies having some jurisdiction over real estate.

Compensation to the intern ranged from \$50 to \$200 per week, paid by the employing broker, except for one local real estate board, which diverted the money normally paid out in scholarships into a fund from which one-half of the intern's salary was paid.

The participants in the program offered many suggestions for improvement. These included setting definite guidelines and objectives, requiring reports at the end of the training period for evaluation, additional publicity for the program, having frequent contacts with participants by representatives from the local real estate board, the Department of Real Estate and college. Plans for a 1971 intern program are being formulated. The California Real Estate Association is currently considering offering to sponsor and coordinate the statewide program.

NEW HOUSING CONCEPT APPEALS TO BUYERS AND DEVELOPERS

A sharp trend is in evidence that both developers and buyers favor a relatively new housing concept—planned-unit developments. These subdivisions are real estate developments consisting of separately owned lots or parcels together with common area and recreational facilities and are commonly known as "garden clusters."

In the San Francisco office of the Department of Real Estate in December 1968, of 48 subdivision filings received, only five were planned-unit developments, while a year later, of 21 filings received, four were in this category; but by December 1970, of 41 filings, 15 were "garden cluster" type; an impressive increase from 10 to 30 percent in this northern coastal area of the state.

The concept is useful both to developer and buyer. The former gains in that he can place up to 15 units on an acre compared to five conventional plans. Savings are made on construction costs by use of party walls. This enables the developer to locate on higher-priced land within more favorable commuting range. The buyer benefits not only from a reduced price and down payment, but also in return for a monthly assessment of from \$20 to \$40, he may have the benefit of recreational facilities, generally including swimming pool, clubhouse, exterior maintenance, lawn care, and liability insurance.

The clusters have a definite community appeal since the structures often cover only 20 to 25 percent of the land and the rest is professionally landscaped.