

The logo consists of three overlapping, stylized shapes in shades of gold and brown, resembling a folded document or a set of keys.

**LICENSE
SOLUTION**

**REAL ESTATE
TERMINOLOGY**

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Abandonment: Giving up possession or ownership of property by not using it, generally indicated through some affirmative act, like removing one's belongings from an apartment.

Abstract of judgment: Document that summarizes the result of a legal action, which can be filed in any county where the judgment debtor owns a property.

Abstract of title: Summation of all recorded transfers, conveyances, legal proceedings, and any other facts relied on as evidence of title to show ownership continuity and signify any possible loss to title.

Acceleration clause: Provision in a real estate financing instrument allowing the lender to declare the full debt due immediately if the borrower breaches any of the provisions of the loan agreement. Also referred to as a call provision.

Acceptance:

(a) Agree to the terms of an offer and enter into a binding contract.

(b) Receive delivery of a deed from the grantor.

Accession: The process of manufactured or natural improvement or addition to property.

Accretion: A steady addition to dry land through the forces of nature, as when waterborne sediments get deposited on waterfront property.

Acknowledgment: Formal declaration made before an authorized person (generally a notary public) by an individual who has executed a written instrument that it has been done voluntarily.

Acquisition cost: Amount of money required to acquire title to a property, it includes the purchase price as well as the closing costs,

legal fees, escrow, service charges, title insurance, recording fees and other such expenses.

Acre: Area of land measuring 160 square rods, 4,840 square yards, or 43,560 square feet, or a tract of about 208.71 feet square.

Actual age: Number of years since a building was completed; also called *historical or chronological age*.

Actual authority: Authority actually given to an agent by the principal (expressly or by implication).

Actual eviction: Forcing someone physically off real property or preventing someone from re-entering the property or using legal action to make someone leave the premises.

ADA: Americans with Disabilities Act.

Addendum: A page containing additional provisions attached to a purchase agreement or any other contract.

Adjacent: Next to, nearby, bordering, or neighboring (not necessarily in real contact).

Adjustable-rate mortgage (ARM): Loan in which the interest rate increases or decreases periodically to reflect changes in the cost of money.

Adjusted basis: Purchase price of property plus cost of specified improvements, minus any depreciation deductions taken.

Adjustment period: Time period between when the interest rate or monthly payment for an adjustable-rate mortgage is changed.

Administrative agency: Government agency administering a complicated area of law and policy, implementing and enforcing detailed regulations that have the force of law. For example, the Department of Real Estate is the administrative agency charged with regulating the real estate business.

Administrator: Individual appointed by the probate court to manage and distribute the estate of a deceased person if no executor is named in the will or there is no will.

Ad valorem: Latin phrase meaning “according to value,” referring to taxes assessed on the value of property.

Adverse possession: A way of acquiring title to real property belonging to someone else by occupying it without permission, and fulfilling other statutory requirements.

Affidavit: Acknowledged sworn statement in writing made before a notary public (or any other official authorized to administer an oath).

Affiliated licensee: A real estate salesperson or associate broker employed by a broker is known as an affiliated licensee.

Affirm:

(a) To confirm or approve.

b) To make a sincere declaration that is not under oath.

After-acquired title: If a title is acquired by a grantor only after a conveyance to a grantee, the deed to the grantee becomes effective at the time the grantor actually receives title.

Agency: The association between a principal and the agent of the principal that is formed by way of a contract, that may be oral or written, express or implied, by which the agent is employed by the principal to do certain acts dealing with a third party.

Agency, Apparent: When the impression given to a third party is that someone who hasn't been approved to represent another is that person's agent, or are given the idea that an agent has been approved to perform acts which are actually beyond the capacity of his authority; also called *ostensible agency*.

Agency, Dual: An agency relationship where the agent represents two principals in their dealings with each other.

Agency, Exclusive: Listing agreement that employs a broker as sole agent for a seller of real property for which the broker is entitled to compensation if the property is sold via any other broker, but not if a sale is negotiated by the owner without the services of an agent.

Agency, Ostensible: (Refer: Agency, Apparent).

Agency Confirmation Statement: Written statement indicating the representation of a real estate agent of a party. It should be signed by both the buyer and the seller before they enter into a residential purchase agreement.

Agency Disclosure Form: Form explaining the duties of a seller's agent, a buyer's agent, and a dual agent, required to be signed by both the buyer and the seller before they enter into a residential purchase agreement.

Agency law: Body of legal rules governing the relationship between agent and principal by imposing fiduciary duties on the agent as well as liability for the actions of the agent on the principal.

Agent: Individual authorized to represent another (known as the principal) in dealings with third parties.

Agents in production: The elements necessary to generate income and establish a value in real estate: labor, coordination, capital, and land.

Age of Majority: Age of a person when he/she becomes legally competent (usually the age is 18 years).

Agreement: Contract between two or more persons to do or not do a certain thing, for consideration.

Air rights: The right to unobstructed use and possession of the air space over a parcel of land. This right may be transferred separately from the land.

Alienation: The transfer of ownership or an interest in property from one person to another, in any way.

Alienation, Involuntary: Transfer of an interest in property against the will of the owner, or without any action by the owner (ensuing through operation of law, natural processes, or adverse possession).

Alienation, Voluntary: When an interest in property is voluntarily transferred by the owner to someone else (generally by deed or will).

Alienation clause: A security instrument provision giving the lender the right to declare the full loan balance due immediately if the borrower sells or else transfers the security property; also termed as due-on-sale clause.

All-inclusive Deed of Trust: Refer: Mortgage, Wraparound.

Alluvion: Or Alluvium is the increase of soil along the bank of a body of water by natural forces.

Alquist-Priolo Act: A law in California that requires applications for development of property in an earthquake fault zone to include a geologic report.

ALTA: or American Land Title Association is a nationwide organization of title insurance companies. An extended coverage title policy is also referred to as an ALTA policy.

Amendment: A supplementary agreement that changes one or more terms of a contract is called a contract amendment or contract modification. It needs to be signed by all the parties to the original contract.

Amenities: The features of a property that adds to the pleasure and /or convenience of owning it, such as a swimming pool, a beautiful view, a gym and so on.

Americans with Disabilities Act: Federal law mandating that public facilities must be accessible to disabled people.

Amortization, Negative: The adding of interest-not-paid to the principal balance of a loan.

Amortize: To pay off a debt gradually, with installments that include both principal as well as interest.

Annexation: When personal property is attached to real property, so that the personal property becomes part of the real property (a fitting) by law.

Annexation, Actual: Physically attaching personal property to real property, so that it can be made a part of the real property.

Annexation, Constructive: Associating personal property with real property so it is treated as a fixture by law, although it is not attached physically. For instance, a heirloom is constructively annexed to the house.

Annual percentage rate (APR): All the charges paid by the borrower for the loan (including the interest, origination fee, discount points, and mortgage insurance costs), expressed as an annual percentage of the amount borrowed.

Annuity: Sum of money received in a series of payments at regular intervals (usually annually).

Anticipation, Principle of: The principle in an appraisal which holds that value is created by the expectation of benefits to be obtained in the future.

Anticipatory repudiation: Action taken by one party to a contract to inform the other party, before the time set for performance, that he does not intend to fulfill the contract.

Anti-deficiency rules: Laws prohibiting a secured lender from suing the borrower for a deficiency judgment in certain circumstances.

Apportionment: A division of property or liability into proportionate parts (may not be equal parts).

Appraisal: An estimate or opinion of the value of a piece of property as of a specific date.

Appraiser: Person who evaluates the value of the property, especially a trained and experienced person who has expertise in this field.

Appraiser, Fee: A self-employed appraiser who is hired to appraise real estate for a fee, as opposed to an appraiser who works for a lender, a government agency, or some other entity as a salaried employee.

Appreciation: An increase in value; the opposite of depreciation.

Appropriation: Keeping property or reducing it to a personal possession, excluding others from it.

Appropriative Rights System: A water rights allocation system, in which a person wanting to make use of water from a certain body of water (like a river or lake) is supposed to have a permit. A permit that is issued earlier has precedence over a newer permit. This is also called the prior appropriation system.

Appropriative rights: A person's water rights to hold a water appropriation permit.

Appurtenances: Rights that go along with ownership of a particular piece of property, such as air rights or mineral rights. These are generally transferred with the property, but in some cases they may be sold separately.

Appurtenances, Intangible: Rights concerning ownership of a piece of property that does not comprise physical objects or substances. An access easement is a good example of this.

APR: Annual Percentage Rate.

Area:

(a) Locale or region.

(b) The size of a surface, normally in square units of measure, as in square feet or square miles.

ARM: See Mortgage, Adjustable-Rate.

Arm's length transaction: Transaction where there is no family relationship, friendship, or pre-existing business relationship between the two parties.

Arranger of credit: A real estate licensee or attorney who arranges a transaction where credit is extended by a seller of residential property.

Artificial person: A legal unit, such as a corporation, treated as an individual having legal rights and responsibilities by the law; as distinguished from a normal being, a human. An artificial person is also called a legal person.

Assemblage: Merging two or more adjoining properties into one expanse.

Assessment: Property valuation for taxation purposes.

Assessor: Officer responsible for determining the value of the property for taxation.

Asset: A thing of value owned by a person.

Assets, Capital: Assets that a tax payer holds, other than a property held for sale to customers, or depreciable property or real property used in the taxpayer's trade or business. Real property is a capital asset if it is used for personal use or for profit.

Assets, Liquid: Any assets or cash that can be turned into cash (liquidated), such as stock in a company.

Assets, Section 1231: Properties used in a trade or business or held for the production of income (it is referred as Section 1231 in the federal income tax code).

Assign: Transfer of rights (particularly contract rights) or interests to another.

Assignee: One to whom rights or interests are assigned.

Assignment:

(a) Transferring contract rights from one person to another.

(b) In case of a lease, the transfer of the entire leasehold estate by the original tenant to another.

Assignment of contract and deed: The instrument through which a new vendor is substituted for the original vendor in a land contract.

Assignor: Someone who assigns his rights or interest to another.

Assumption: Action by a buyer to take on personal liability for paying off the seller's existing mortgage or deed of trust.

Assumption fee: A fee paid to the lender, generally by the buyer, when a mortgage or deed of trust is assumed.

Attachment: Court-ordered seizure of property belonging to a defendant in a lawsuit, so it will be available to satisfy a judgment if the plaintiff wins. An attachment creates a lien in case it is real property.

Attestation: The act of witnessing the execution of an instrument, such as a deed or a will.

Attorney General: The principal legal advisor for state government, including legal advisor to the Department or Real Estate on matters regarding the Real Estate Law.

Attorney in Fact: Someone who is authorized to represent another by a power of attorney, not necessarily a lawyer.

Attractive nuisance: A dangerous feature that is appealing to children, thus posing a potential source of liability for the property owner.

Auditing: Verifying and examining records, particularly the financial accounts of a business or other organization.

Automated underwriting: Refer: Underwriting, automated.

Avulsion:

- (a) A sudden (not slow) tearing away of land by the action of water.
- (b) A sudden shift in a water course.

Bad debt/Vacancy factor: A percentage deducted from a property's potential gross income to find the effective gross income, estimating the income that will probably be lost due to vacancies and non-payment of rents by the tenants.

Balance, Principle of: An appraisal principle which holds that the maximum value of real estate is achieved when the agents in

production (labor, capital, land, and co-ordination) are in proper balance.

Balloon payment: A payment on a loan (usually the final payment) that is substantially larger than the regular installment payments.

Bankruptcy:

(a) A condition resulting when the liabilities of an individual, corporation, or firm exceeds assets.

(b) A court declaration that an individual, corporation, or firm is insolvent, resulting in the assets and debts being administered under bankruptcy laws.

Barter: To exchange or trade one commodity or piece of property for another without the use of money.

Base Line: Main east-west line in the government survey system from which township lines are established. Each principal meridian has one base line associated with it.

Basis: Figure used in calculating the gain on the sale of real estate for federal income tax purposes; also called the cost basis.

Basis, adjusted: The initial basis of the owner in the property, plus capital expenditures for improvements and minus any allowable depreciation deductions.

Basis, initial: The amount of the owner's original investment in the property: the cost of acquiring the property including closing costs and other expenses along with the purchase price.

Bearer: A person in possession of a negotiable instrument.

Bench mark: A surveyor's mark at a known point of elevation on a stationery object, used as a reference point in calculating other elevations in a surveyed area, most often a metal disk set into cement or rock.

Beneficiary:

(a) One for whom a trust is created and on whose behalf the trustee administers the trust.

(b) The lender in a deed of trust transaction.

(c) Someone who is entitled to receive real or personal property under a will (a legatee or devisee).

Beneficiary's Statement: Document in which a lender confirms the status of a loan (the interest rate, principal balance, etc.) and describes any claims that could affect an interested party.

Bequeath: To transfer personal property to someone by will.

Bequest: Personal property (including money) that is transferred by will.

Betterment: An improvement to real property that is more extensive than ordinary repair or replacement which increases the value of the property.

Bilateral contract: Contract under which each party promises performance.

Bill of sale: A document used to transfer title to personal property from a seller to a buyer.

Blanket mortgage: Mortgage that include more than one property parcel as security.

Blind ad: An advertisement placed by a real estate licensee that does not indicate the ad is from a licensee.

Block: A group of lots surrounded by streets or unimproved land in a subdivision.

Blockbusting: Attempting to lure owners to list or sell their homes by predicting that the members of another race or ethnic group, or people suffering from some disability, will be moving into the neighborhood; also called “panic selling.” It is a violation of the antidiscrimination laws.

Blue sky laws: Laws regulating the promotion and sale of securities in order to protect the public from fraud.

Board of Directors: The body responsible for governing a corporation on behalf of the shareholders.

Bona fide: In good faith; genuine, not fraudulent.

Bond:

(a) A written obligation, normally interest bearing, to pay a certain sum at a specified time.

(b) Money put up as a surety, protecting against failure to perform, negligent performance, or fraud.

Bonus: An additional payment, over and above the due payment.

Boot: Something given or received in a tax-free exchange, which is not like-kind property. For instance, in an exchange of real property where one party gives another one cash in addition to real property, the cash is the boot.

Boundary: The perimeter or border of a parcel of land; the dividing line between two pieces of property.

Branch manager: An associate broker appointed by a firm’s primary broker to manage the operations of a branch office.

Breach: Violation of an obligation, duty, or law.

Breach of contract: Failure to perform a contractual obligation.

Broker, Associate: Someone who is qualified as a broker and is affiliated with another broker.

Broker, Cooperating: A broker belonging to a multiple listing service who helps sell a property listed with another member of the listing services.

Broker, Designated: A corporate officer or a general partner who is authorized to act as the broker for a licensed corporation or for a partnership.

Broker, Fee: A real estate broker who allows the use of his license to another person to carry on a brokerage, in violation of the license law.

Broker, Listing: A broker having a listing agreement with a property seller.

Broker, Real estate: Someone who is licensed to represent members of the public in real estate transactions in exchange for compensation.

Brokerage: Business of a real estate broker.

Brokerage fee: Service charges of a real estate broker that is paid as a commission or as other compensation.

Buffer: Undeveloped area that separates two areas zoned for incompatible uses.

Building codes: Regulations that set minimum standards for construction methods and materials.

Building restrictions: These are rules that apply to building size, type, or placement. They may be public restrictions, such as in a zoning ordinance or private restrictions, like CC&R's.

Bulk transfer: The sale of all or a substantial part of the merchandise, equipment, or any other inventory of a business that is not in the ordinary course of business.

Bulk transfer law: A law that requires a seller who negotiates a bulk transfer (generally connected with the sale of the business itself) to furnish the buyer with a list of creditors and a schedule of the property being sold, and to notify creditors of the impending transfer.

Bump clause: A provision in a purchase agreement allowing a seller to keep the property on the market while waiting for a contingency clause to be fulfilled. In the meantime, if the seller receives another good offer, he can ask the buyer either to waive the contingency clause or terminate the contract.

Bundle of rights: The rights inherent in ownership of property, including the right to use, lease, enjoy, encumber, will, sell, or do nothing with the property.

Business opportunity: A business that is for sale.

Buy down: Discount points paid to a lender to reduce (buy down) the interest rates charged to a borrower, especially when a seller pays discount points to help the buyer (borrower) qualify for financing.

Buyer representation agreement: A contract in which a prospective buyer hires a real estate broker to act as his agent for locating desirable property and negotiating its purchase, or in negotiating the purchase of a property that the buyer has already found. This is also called the buyer agency agreement.

California Coastal Act: Law that is designed to protect and control development along the California coastline.

California Fair Housing Law: Law that guarantees equal treatment for everyone in all business establishments, often referred to as the Rumford Act.

California Veterans Farm and Home Purchase Program: State-sponsored residential finance program utilized to provide cheap home and farm loans to veterans, often called the “Cal-Vet program.”

Call: A specification that describes a segment of the boundary in a metes and bounds description; for example, “South 20° west 100 feet” is a call.

Cancellation clause: Terminating a contract without undoing acts that have already been performed under the contract.

Cap: A limit on how much a lender may raise an adjustable rate mortgages interest rate or monthly payment per year, or over the life of the loan.

Capacity: The legal ability or competency to perform any act, such as enter a binding contract (contractual capacity) or execute a valid will (testamentary capacity).

Capital: Money or other forms of wealth available for use in producing more money.

Capital assets: Assets held by a taxpayer other than property held for sale to customers in the normal course of the taxpayer’s business, It also comprises depreciable property or real property used in the taxpayer’s trade or business. Therefore, real property is a capital asset if owned for personal use or for profit.

Capital expenditures: Money spent on improvements and alterations that add to the value of the property and/or prolong its life.

Capital gain: Profit achieved from the sale of a capital asset. It is a long-term capital gain, if the asset was held for more than one year and it is a short-term capital gain, if the asset was held for one year or less.

Capital improvement: Any improvement so designed that it becomes a permanent part of the real property or that will have the effect of prolonging the property's life significantly.

Capitalization: A method of appraising real property by converting the anticipated net income from the property into the present value; also called the income approach to value.

Capitalization rate: A percentage used in capitalization ($\text{Net Income} = \text{Capitalization Rate} \times \text{Value}$). It is the rate believed to represent the proper relationship between the value of the property and the income it produces; the rate that would be a reasonable return on an investment of the type in question; or the yield necessary to attract investment of capital in property like the subject property. It is also called the cap rate.

Capital loss: A loss that is a result of a sale of a capital asset. It may either be long-term (held for more than one year) or short-term (held for one year or less).

Capture, rule of: Legal rule that grants a land owner the right to all oil and gas produced from wells on his land, even if it migrated underneath from land that belongs to someone else.

CAR: California Association of Realtors®.

Carryback loan: *Refer:* Mortgage, Purchase Money.

Carryover clause: *Refer:* Safety clause.

Cash flow: The residual income after deducting all operating expenses and debt service from the gross income.

Cash on cash: The ratio between cash received in the first year and cash initially invested.

CC&Rs: A declaration of covenants, conditions, and restrictions that is generally recorded by a developer to place restrictions on all lots within a new subdivision.

CEQA: California Environmental Quality Act.

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act.

Certificate of Discharge: Document given by the mortgagor to the mortgagee when the mortgage debt has been paid in full, acknowledging that the debt has been paid and the mortgage is no longer a lien against the property; also called a satisfaction of mortgage or mortgage release.

Certificate of Eligibility: Document issued by the Department of Veterans Affairs regarding the veteran's eligibility for a VA-guaranteed loan.

Certificate of Occupancy: Document issued by a local government agency (such as the building department) verifying that a newly-constructed building is in compliance with all codes and may be occupied.

Certificate of Reasonable Value (CRV): Based on an appraiser's estimate of the value of a property, it is mandatory for a VA-guaranteed home loan to be authorized; the amount of the loan can not be more than the CRV.

Certificate of Sale: Document given to the purchaser at a mortgage foreclosure sale, instead of a deed which is replaced with a sheriff's deed only after the redemption period expires.

Chain of Title: Record of encumbrances and conveyances pertaining to a property.

Change, Principle of: An appraisal principle holding that it is the future, not the past, which is of primary importance in estimating a property's value.

Charter: A written instrument granting a power or a right of franchise.

Chattel: An article of personal property.

Chattel mortgage: Using personal property as security for a debt.

Chattel real: Personal property closely associated with real property. A lease is a good example.

Civil Rights Act of 1866: Federal law guaranteeing all citizens the right to purchase, lease, sell, convey, and inherit property, regardless of race and color.

Civil Rights Act of 1964: Federal law that disallows discrimination on the basis of race, color, national origin, or religion in programs for which the government provides financial assistance.

Client: Someone who employs a broker, lawyer, appraiser, or any other professionals. A real estate broker may have clients who is either is a seller, a buyer, a landlord, or a tenant.

Closing: The last stage of a real estate transaction when the seller receives the purchase money and the buyer receives the deed with the title transferred to him. It may also be called a settlement.

Closing costs: Expenses incurred while transferring real estate in addition to the purchase price.

Closing date: Date on which all the terms of a purchase agreement have to be met, or else the contract is terminated.

Closing statement: Accounting of funds from a real estate purchase, furnished to both seller and buyer.

Cloud on title: A claim, encumbrance, or apparent defect that makes the title to a property unmarketable.

Code of ethics: Set of rules of accepted standards of conduct, reflecting principles of fairness and morality.

Codicil: An addition to, or a revision of a will.

Collateral: Anything of value used as security for a debt or obligation.

Collusion: Agreement between two or more persons to defraud another.

Color of title: Appears to be of good title, but in fact, is not.

Commercial bank: Type of financial institution that has traditionally emphasized commercial lending (loans to businesses), and also makes residential mortgage loans.

Commercial paper: Negotiable instruments, such as promissory notes, sold to meet the short-term capital requirements of a business.

Commercial property: Property that is zoned and used for business purposes, such as restaurants, office buildings. Set apart from residential, industrial, and agricultural property.

Commingled funds: Funds received from different sources that are deposited in one account and thus lose their separate character.

Commingling: Illegally mixing trust funds held on behalf of a client with personal funds.

Commission:

(a) Compensation received by a broker for services provided in connection with a real estate transaction (normally a percentage of the sales price).

(b) Group of people gathered for a purpose or a function (generally a governmental body, as in a planning commission).

Commitment: A lender's promise to make a loan, in real estate finance; loan may be firm or conditional. A conditional loan is based on fulfillment of certain conditions, such as a satisfactory credit report on the borrower.

Common elements: Land and improvements in a condominium, planned unit development, or other housing development that are owned and used collectively by all the residents, as in parking lots, hallways, and recreational facilities provided for common use.

Common elements, limited: There are features outside of dwelling units in condominiums and other developments that are reserved for the use of owners of a particular unit. For example, assigned parking lots, these are also called limited common areas.

Common law: Long-established rules of law based on early English Law, it usually prevails unless overruled by statutory law.

Community property: In California as well as other community property states, property jointly owned by a married couple, as distinguished from each spouse's separate property; usually, any property acquired through the labor or skill of either spouse during marriage.

Co-mortgagor: Family member (generally) who accepts responsibilities for the repayment of a mortgage loan, along with the primary borrower, to help the borrower qualify for the loan.

Comparable: In appraisal, a property that is similar to the subject property and which has been sold recently. The sales prices of comparables provide data for estimating the value of the subject property using the sales comparison approach.

Comparative Market Analysis: Estimate of property value for appraisals based on indicators from the sale of comparable properties.

Competent:

(a) Having a sound mind for the purpose of entering into a contract or executing a legal instrument (mentally competent).

(b) Having a sound mind and also having reached the age of majority (legally competent).

Competition, Principle of: Appraisal principle which holds that profits tend to encourage competition, and excess profits tend to result in disastrous competition.

Compliance inspection: For the benefit of a lender, a building inspection done to determine if the building codes, specifications, or conditions established after a prior inspection have been met, before funding a loan.

Comprehensive Environmental Response, Compensation, and Liability Act: A federal law governing liability for environmental cleanup costs.

Condemnation:

(a) Taking private property for public use via the government's power of eminent domain.

(b) A declaration that a structure is not fit for occupancy and must be closed or demolished.

Condemnation appraisal: An estimate of the value of condemned property to find out the just compensation to be paid to the owner.

Condition:

(a) A provision in a contract that makes the parties' rights and obligations depend on the occurrence (or nonoccurrence) of a particular event; also called a contingency clause.

(b) A provision in a deed that makes title-conveying subject to compliance with a particular restriction.

Conditional use permit: Authorization for a land use that would otherwise not be allowed by zoning ordinances.

Condominium: A subdivision that provides an exclusive ownership (fee) interest in the airspace of a particular portion of real property, and an interest in common in a section of that property.

Confirmation of sale: Court approval of a sale of property by an executor, administrator, or guardian.

Conflict of interest: Situation in which an action that would promote the interests of the agent is in conflict with an action that would promote the interests of the principal. In such a situation the agent must inform the principal and offer to retreat.

Conforming loan: Home mortgage loan in which the borrower and real estate conform to Fannie Mae and Freddie Mac guidelines, with a lower interest rate than a non-conforming loan.

Conformity, principle of: This principle holds that property values are boosted when buildings are similar in design, construction, and age.

Conservation:

(a) Preservation of structures or neighborhoods in a healthy condition.

(b) Preservation or limited use of natural resources for long-term benefits.

Consideration: Something of value provided to induce entering into a contract; money, personal services, love. Without consideration, a contract is not legally binding.

Construction lien: Refer: Lien, Mechanics.

Consumer Price Index: An index that tracks changes in the cost of goods and services for a typical consumer.

Contiguous: Adjacent, abutting, or in close proximity.

Contingency clause: See: Condition.

Contract: A written or oral agreement to do or not do specified things, in return for consideration.

Contract, Bilateral: A contract by which each party is bound to a promise to perform.

Contract, Executed: A contract whose contractual obligations have been completely performed by all parties.

Contract, Executory: A contract in which one or both the parties have not yet completed their contractual obligations.

Contract, Express: A contract that has been worded, either spoken or written.

Contract, Implied: A contract that has been worded, but is implied by the actions of the parties.

Contract, Land: A contract for the sale of real property in which the buyer (the vendee) pays in installments. The buyer obtains possession of the property immediately while the seller (the vendor) retains legal title until the full price of the property has been paid. It is also called the conditional sales contract, installment sales contract, real estate contract, or contract for deed.

Contract, Oral: A spoken agreement that has not been written down, also called a parol contract.

Contract, Unenforceable: An agreement that a court of law refuses to enforce.

Contract, Unilateral: A contract that is accepted by performance. The offerer promises to perform his side of the bargain if the other party performs, but the other party has not made the same promise.

Contract, Valid: A binding, legally enforceable contract.

Contract, Void: An agreement that is not an enforceable contract, as there is an absence of a required element (like consideration) or there is a defect of any kind.

Contract, Voidable: A contract that any of the parties involved may negate without liability, due to lack of capacity or a negative factor such as fraud or duress.

Contract of deed: *Refer:* Contract, land.

Contract of adhesion: A one-sided contract that is unfair to one of the parties.

Contract of sale: *See:* Purchase agreement.

Contractual capacity: The legal capacity to enter into a binding contract. A mentally competent person who has attained the age of majority is a person with contractual capacity.

Contribution, Principle of: An appraisal principle which holds that the value of real property is at its best when the improvements produce the highest return proportionate with their cost – the investment.

Conventional loan: Mortgage loan not guaranteed by governmental agency, such as the Veterans Administration.

Conversion:

(a) Misappropriating property or funds belonging to another (for example, converting trust funds to one's own use).

(b) The process where an apartment complex is changed to a condominium or cooperative.

Conveyance: Transfer of title of real property from one person to another through a written document (usually a deed).

Cooperating agent: A member of a multiple listing service who finds a buyer for property listed for sale by another broker.

Cooperative: Building owned by a corporation, in which the residents are the shareholders. Each shareholder receives a proprietary lease for an individual unit along with the right to use the common areas.

Cooperative sale: A transaction in which the listing agent and the selling agent work together but for different brokers.

Corporation: Legal entity that acts via its board of directors and officers, usually without liability on the part of the person or persons owning it.

Correction lines: Guide meridians running every 24 miles east and west of a meridian, and standard parallels running every 24 miles north and south of a base line, used to correct inaccuracies in the rectangular survey system of land description caused by the earth's curvature.

Cost approach to value: One of the three key methods of appraisal. An estimate of the subject property's value is determined by estimating the cost of replacing the improvements, and deducting the estimated accrued depreciation from it while adding the estimated market value of the land.

Cost basis: See Basis.

Cost recovery deductions: See: Depreciation deductions..

Counteroffer: Reacting to a contract offer by changing some of the terms of the original offer as a substitute offer.

Covenant: An agreement or a promise to perform or not perform certain acts (generally imposed by deeds). See: CC&Rs.

Covenant, Restrictive: A promise to do or not do acts concerning real property, particularly a promise that concerns land. Most often it is an owner's promise to not use the property in a certain manner.

Covenant against encumbrances: A promise (in a deed) that the property is not weighed down by any encumbrances other than those disclosed in the deed.

Covenant of quiet enjoyment: A promise to not disturb a buyer's or tenant's possession by the previous owner, landlord, or anyone else that makes a lawful claim against the property.

Covenant of right to convey: A promise (in a deed) that the grantor has the legal ability to make a valid conveyance.

Covenant of Seisin: A promise (in a deed) by the grantor that he actually owns the interest being conveyed to the grantee.

Covenant of warranty: A promise (in a deed) that the grantor will defend the title of the grantee against claims superior to the grantor's that exist when the conveyance is made.

CPM: A Certified Property Manager has satisfied the requirements set forth by the Institute of Real Estate Management of the National Association of Realtors®

Credit arranger: A mediator between prospective borrowers and lenders negotiating loans, such as a mortgage broker.

Credit bidding: When the lender obtains a property by bidding the amount the borrower owes in a foreclosure sale.

Credit union: Financial institution that may serve only members of a certain group (as in a labor union or a professional association) and has traditionally emphasized consumer loans.

Cul-de-sac: A dead-end street with a semi-circular turnaround at its end.

Damage deposit: *See* Security deposit.

Damages:

- (a) Losses suffered by a person due to a breach of contract or a tort.
- (b) An amount of money the defendant is ordered to pay to the claimant in a lawsuit.

Damages, Actual: *See:* Damages, compensatory.

Damages, Compensatory: Damages that are awarded to a claimant as compensation for injuries (personal injuries, property damages, or financial losses) caused by the acts of the defendant; also called actual damages.

Damages, Liquidated: Sum agreed upon by the parties in advance, while the contract is being made, to serve as full compensation in case a breach of contract occurs.

Damages, Punitive: An award added to actual damages (in a civil lawsuit), as a punishment to the defendant for contemptible or malicious conduct and to discourage others from doing such acts.

Dealer: Someone whose business is to buy and sell real estate.

Dealer property: Property that is held for selling rather than for long-term investment. An example of this would be a developer's inventory of subdivision lots.

Debit: A charge or debt owed to another.

Debtor: Someone who owes money to another.

Decedent: A dead person.

Declaration of abandonment: An owner-recorded document that voluntarily releases a property from homestead protection.

Declaration of homestead: A recorded document that creates homestead protection for a property that would otherwise not receive it.

Declaration of restrictions: *See:* CC&Rs.

Decrement: Means a decrease in value, the opposite of increment.

Dedication: Land that is given by its owner for public use and accepted (for that particular use) by the appropriate representative of the government.

Deduction: Amount on which income tax is not required to be paid.

Deed: Correctly executed and delivered written instrument that conveys title to real property (from the grantor to the grantee).

Deed, Administrator's: Deed that an administrator of an estate uses to convey a deceased person's property to his heirs.

Deed, General warranty: Deed by which the title is warranted by the grantor against defects that may have surfaced before or after his tenure of ownership; also called a warranty deed.

Deed, Gift: Deed in which there is no support of valuable consideration, most frequently listing "love and affection" as the consideration.

Deed, Grant: The most commonly-used type of deed in California, it uses the word "grant" in its words of conveyance and holds certain

implied warranties that the property is not encumbered and has not been deeded to someone else.

Deed, Quitclaim: Deed conveying any interest in the property that a grantor may have at the time of executing the deed, without warranties.

Deed, Tax: A deed that a buyer of a property obtains at a tax foreclosure sale.

Deed, Trustee's: A deed that a buyer of a property receives at a trustee's sale.

Deed in lieu of foreclosure: A deed given to the lender by the borrower (who has defaulted) to avoid foreclosure proceedings by the lender.

Deed of reconveyance: Once the debt has been repaid the security property is released from the lien that is created by a deed of trust. The instrument used is called the deed of reconveyance.

Deed of trust: To secure the repayment of a debt, an instrument is used that creates a voluntary lien on real property. This lien includes a power of sale clause that allows non-judicial foreclosure. The parties to this deed are the grantor (borrower), the beneficiary (lender) and the trustee (neutral third party).

Deed restrictions: Provisions in a deed that set restrictions on the use of property. It may either be covenants or conditions.

Default: When one of the parties to a contract fails to fulfill one or more of the obligations or duties as enforced by the contract.

Defeasance clause: There is a clause in a mortgage, deed of trust, or lease which provides for the cancellation of a certain right if a particular event occurs.

Deferred maintenance: Curable depreciations that ensue due to maintenance or repairs that were postponed and thus caused physical deterioration.

Deficiency judgment: Determination by the court that the borrower owes more money when the security for a loan does not completely satisfy a debt default.

Delivery: When a deed is legally transferred from the grantor to the grantee, thus transferring title.

Demand: One of the four elements of value (other three being scarcity, utility, and transferability). It is a desire to own along with the ability to afford.

Demise:

(a) Conveying an interest in real property via the terms of a lease.

(b) Transferring an estate or interest in property to someone for a long time period, for life, or at will.

Department of Housing and Urban Development: (HUD) Federal agency responsible for public housing programs, FHA-insured home mortgage loans, and enforcing the Federal Fair Housing Act. The FHA and Ginnie Mae both are a part of HUD.

Department of Real Estate: (BRE) The Real Estate Law of California is administered by the BRE, as well as the licensing of real estate brokers and salesperson.

Depreciable property: In regards to the federal income tax codes, a property that is qualified for depreciation deductions as it might wear out and may have to be replaced.

Depreciation:

(a) A loss in value as a result of physical deterioration, functional obsolescence, or external obsolescence.

(b) Allocating the cost of an asset over a period of time for the purpose of income tax deductions.

Descent: When a property is transferred through intestate succession rather than by will. Receiving property by intestate succession is said to be received by descent (not by devise or bequest).

Developer: Someone who subdivides land or improves land to obtain a beneficial use.

Devise: Transferring title to property by will. *See* Bequest.

Devisee: Person who receives title to real property by way of a will.

Devisor: Testator by whom real property is devised by way of his will.

Disaffirm: To request a court to terminate a contract that is voidable.

Disbursements: Money spent out or paid out.

Disclaimer: Denying legal responsibility.

Discount points: Percentage of the principal amount of a loan that is collected by the lender or withheld from the loan amount when the loan is originated. This is done to increase the lender's revenue on the loan.

Discount rate: Interest rate which is charged when a member bank borrows money from the Federal Reserve Bank.

Discrimination: Unequal treatment given to people on the basis of their race, religion, sex, national origin, age, or some other trait.

Disintegration: Period of decline in a property's life cycle, when the property's current economic usefulness is ending and constant maintenance becomes inevitable.

Dispossess: Forcing someone out of possession of real property by using legal procedures, as it is done in an eviction.

Down payment: Portion of the purchase price of a property that is paid in cash by the buyer, generally the difference between the purchase price and the financed amount.

Downzoning: Rezoning a land for limiting its use.

Drainage: Natural or artificial method of removing surface or sub-surface water from an area.

Duress: When someone enters into an agreement as a result of threats of physical violence or mental harassment.

Dwelling: A place of living, a house or a home.

Earnest money: Deposit made by a real estate buyer demonstrating her good faith.

Easement: Right given to another person or entity to trespass upon property that is not owned by that person or entity.

Easement, Access: An easement that allows the holder of the easement to reach (and leave) his property (which is the dominant tenement) by passing through the servient tenement; also called an easement for ingress and egress.

Easement, Appurtenant: An appurtenant easement is a right to use an adjoining property. The one benefitting from the easement is the dominant tenement.

Easement by express grant: Easement that is voluntarily created in a deed, will, or other written instrument.

Easement by express reservation: When an easement is created in a deed by which the property is divided by the landowner, the servient tenement is transferred while the dominant tenement is retained.

Easement by implication: Easement that is created by law so as to provide access to a landlocked parcel of land.

Easement by necessity: Such an easement is most commonly implied in favor of grantees that do not have any access to their land except over the land owned by the grantor.

Easement in gross: Easement benefitting a person rather than a piece of land. There is a dominant tenant, without a dominant tenement.

Economic life: Time period when an improved property yields a return on investment apart from the rent due to the land itself; also called the useful life.

Economic obsolescence: Loss of value due to factors stemming from beyond the property.

Effective age: Age of a structure as its condition indicates and the remainder of its usefulness (as opposed to its actual age). Effective age of a building may be increased if maintained well.

Ejectment: Legal action through which possession of real property is recovered from someone who has illegally taken possession of it; also called an eviction.

Emblements, Doctrine of: Law allowing an agricultural tenant to enter the land for harvesting the crops even after the lease period ends.

Eminent domain: Right of the government to take title to real property for public use by condemnation. The property owner receives just compensation for property.

Encroachment: Unlawful intrusion onto neighborhood property, often due to a mistake regarding boundary location.

Encumber: Placing a lien or encumbrance against the title to a property.

Encumbrance: Non-possessory interest in real property, such as a mortgage (loan), a lien (voluntary or involuntary), an easement, or a restrictive covenant that limits the title.

Entitlement: In terms of a VA loan, it is the amount of the borrower's guaranty.

EPA: Environmental Protection Agency.

Equal Credit Opportunity Act: Federal law prohibiting lenders from discriminating against loan applicants on the basis of race, color, religion, national origin, sex, marital status, or age, or that the applicant's income is generated from public assistance.

Equitable remedy: Judgment granted by a civil lawsuit to a complainant that is not an award of money/damages which could be an injunction, rescission, or a specific performance.

Equitable right of redemption: Real estate owner's right to take back property after default but before foreclosure, by paying all debt, costs and interest.

Equity: Difference between the current market value of the property and the liens against the property.

Erosion: Process where the surface of the land wears away by the actions of water or wind.

Escalation clause: Provision in a lease agreement that allows an increase in payments on the basis of an increase in an index, such as the consumer price index.

Escheat: Reverting of a property to the state in case there are no capable heirs found.

Escrow: Agreement that a neutral third party will hold something of value (money or a deed) until the provisions of a transaction or a contract may be carried out.

Escrow agent: Neutral third party entrusted by a seller and purchaser to hold a something of value pending the fulfillment of conditions needed to close a transaction.

Escrow instructions: Directions that a party to a transaction gives to an escrow agent specifying the terms under which the escrow is to be conducted.

Estate: Interest held by the property owners, it may be a freehold or a leasehold property.

Estate at sufferance: Unlawful occupation of a property by a tenant after their lease has terminated.

Estate at will: Occupancy of real estate by a tenant for an indefinite period, which either party can terminated at will

Estate of inheritance: Estate that may be passed on to the heirs of the holder, as in a fee simple.

Estate for years: Interest in real property that permits possession for certain, set time period.

Estoppel: Legal principle that restricts a party from negating or asserting a certain fact owing to that party's previous actions or statements.

Estoppel certificate: Document that prevents a person who signs it from later asserting facts different from mentioned in the document; also called an estoppel letter.

Et ux: Abbreviation for the Latin phrase “et uxor” which means “and wife.”

Eviction: Dispossession through the process of law.

Eviction, Actual: Forcing someone physically from a property or preventing them from re-entering the real property or using lawful procedure to make someone leave the premises.

Eviction, Constructive: Act of the landlord that interferes with the tenant's quiet enjoyment of the property to such an extent that the tenant is forced to move out.

Excess land: Part of a parcel of land that does not add to the value of the property.

Exclusive agency listing: Employment contract providing one broker the right to sell property for a definite period, while also enabling owner to sell it without having to pay commission.

Exculpatory clause: Provision in a mortgage relieving the borrower of personal liability on the loan (for certain defaults or problems) if the borrower voluntarily surrenders the property to the lender.

Execute:

(a) Signing an instrument and taking other steps that may be necessary for validation.

(b) To perform or complete.

Executor: Person named in a will to carry out the provisions of the will; also called a personal representative.

Executed contract: Contract for which all terms and conditions have been completed, making it legally enforceable.

Executor: Person selected in a will to carry out its provisions.

Exemption: Provision by which a law or a rule is not applicable to a certain group or person.

Expenses, fixed: Recurring property expenses such as real estate taxes or hazard insurance.

Expenses, maintenance: Cost of cleaning, supplies, utilities, tenant services, and other administrative costs for properties that produce income.

Express: Spoken or written words.

Fair Employment and Housing Act: Civil rights law in California prohibiting all housing discrimination on the basis of race, color, religion, sex, marital status, national origin, sexual orientation, familial status, source of income, or disability; also called the Rumford Act.

Fair Housing Act: Also called Title VIII of the Civil Rights Act of 1968, federal law that makes discrimination illegal on the basis of race, color, religion, sex, marital status, national origin, sexual orientation, and familial status, source of income, or disability for the purpose of sale or rental of residential property (or just land that may be used for constructing a residential building).

Federal Deposit Insurance Corporation (FDIC): Federal agency that insures accounts in savings and loans and commercial banks, bolstering confidence in the banking system.

Federal Home Loan Bank System (FHLB): Twelve regional wholesale banks that loan funds to FHLB members to bolster local community lenders.

Federal Home Loan Mortgage Corporation (FHLMC) (Freddie Mac): Federally-sponsored agency that buys mortgages on the secondary market, bundles and sells them to investors.

Federal Housing Administration (FHA): Federal agency that insures lenders for the repayment of real estate loans.

Federal National Mortgage Association (FNMA) (Fannie Mae): Federally-sponsored agency that buys and sells residential mortgages, thereby enhancing liquidity in the mortgage market.

Federal Reserve (the Fed): Government body that regulates commercial banks and implements monetary policy in order to stabilize the national economy.

Federal Reserve System: Consisting of the twelve Federal Reserve Banks, which make loans to member banks.

Federal Trade Commission (FTC): Federal agency with the responsibility for investigating and terminating unfair and misleading business practices; in charge of enforcing the Truth in Lending Act.

Fee: See: Fee Simple.

Fee simple: Recognized this as the highest form of estate ownership in real estate. Duration of this ownership is unlimited and can be conveyed in a will to the owner's heirs.

Fee simple absolute: A form of freehold ownership, not subject to termination.

Fee simple defeasible: A form of fee simple estate subject to termination in case of a condition not being fulfilled or there is an occurrence of a specified event; also called a qualified fee.

Fee simple subject to a condition subsequent: Form of estate ownership that can only be terminated by legal action in case a condition is not fulfilled; also called a conditional fee.

Fidelity bond: Bond that covers any losses that occur due to an employee's dishonesty.

Fiduciary relationship: Relationship of trust and loyalty in which one party owes a high level of good faith and loyalty to someone

else. For example, an agent is in a fiduciary relationship with his principal.

Financial statement: Summation of facts that show the financial condition of an individual (or a business), including a detailed list of assets and liabilities.

Finder's fee: A referral fee paid to someone who directs a buyer or a seller to a real estate agent.

First lien position: Mortgage or a deed of trust that has a higher lien priority than any other mortgage or deed of trust against the property.

Fiscal year: Twelve-month period that is used as a business year for accounting, tax, and other financial activities, in contrast to a calendar year.

Fixed disbursement plan: Financing arrangement in a construction project where loan proceeds are to be disbursed in a series of preset installments at different phases of the construction.

Fixture: Personal property that is permanently attached to land or improvements so that it becomes a part of the real property.

Floor area ratio: Zoning requirement controlling the ratio between a building's floor space and the percentage of the lot occupied.

Foreclosure: Sale of real property by mortgagee, trustee, or other lien-holder when a borrower defaults.

Foreclosure, Judicial:

(a) Sale of property as ordered by the court.

b) Lawsuit that is filed by a mortgagee or deed of trust beneficiary to foreclose on the security property of a defaulting borrower.

Foreclosure, Nonjudicial: Trustee's foreclosure under the power of sale clause in a deed of trust.

Foreign Investment in Real Property Tax Act (FIRPTA): Federal law which requires a real estate seller to withhold funds from a buyer who is neither a U.S. citizen nor a resident alien.

Forfeiture: Failure to perform a duty or condition leading to a loss of rights or something else of value.

Franchise: Government-granted right or privilege for conducting a particular business, or a private business-granted right for the use of its trade name for conducting a particular business.

Fraud: Premeditated or careless misrepresentation or cover-up of a material fact, on which someone is relying upon causing him to suffer loss or harm.

Fraud, Actual: Premeditated deceit or misrepresentation to cheat or defraud someone.

Fraud, Constructive: Misrepresentation made without any fraudulent intent.

Freehold: Estate in land where ownership is for an indefinite length of time, such as a fee simple or a life estate.

Frontage: Distance between the two side boundaries at the front of the lot.

Front foot: Property that is measured by the front linear foot on its street line, each front foot extending the depth of the lot.

Front money: Money needed to initiate a project, including expenses such as attorney's fee, loan charges, feasibility studies, and a down payment.

Fructus industriales: Plants such as crops that are cultivated by people.

Fructus naturales: Plant growth that grow naturally, such as trees, plants, and shrubbery.

Fugitive substance: Substance that is not stationary in nature such as natural gas, oil, and water.

Functional obsolescence: Loss of value from causes within the property, excluding any due to physical deterioration.

Garnishment: Legal procedure through which a creditor acquires access to the funds or personal property of a debtor previously under the control of a third party.

General plan: Long-term, comprehensive plan for development of a community implemented through zoning and other laws; also called a comprehensive plan or master plan.

Gift funds: Money given by a relative (or a third party) of a buyer who himself does not have enough cash to close a transaction.

Good faith deposit: Deposit provided by a prospective buyer to the seller as evidence of his good intention of closing the transaction; also called an earnest money deposit.

Goodwill: Intangible asset of a business it acquires from having a good reputation with the public. Goodwill is generally as indication of the future return business.

Government National Mortgage Association (GNMA) (Ginnie Mae): One of the three main secondary market agencies, this federal agency is part of the Department of Housing and Urban Development.

Government-sponsored Enterprise: GSE's are private corporations chartered and managed by the federal government.

Secondary market agencies Fannie Mae and Freddie Mac are the most important GSEs in the real estate industry.

Government Survey System: System of grids made up of range and township lines dividing the land into townships, which are further subdivided into sections. Identification of a particular property is done through its location within a particular section, township, and range; called the Rectangular Survey System.

Grant: To transfer or convey an interest in real property through a written instrument.

Grantee: Person receiving a grant of real property.

Granting clause: Words in a deed that points out the grantor's granting clause.

Grantor: Person conveying an interest in real property.

Gross Income Multiplier: Figure multiplied by the gross income of a rental property to calculate an estimate of the property's value; also called the gross rent multiplier.

Gross Income Multiplier Method: Way of appraising residential property by reference to its rental value; also called gross rent multiplier method.

Guardian: Person appointed by a court to manage the affairs of a minor or an incompetent person.

Guide Meridians: Lines running north-south (parallel to the principal meridian) at 24-mile intervals, in the Government Survey System.

Habendum clause: Clause included after the granting clause in many deeds, it begins "to have and to hold" and describes the type of estate the grantee will hold.

Habitability, implied warranty of: Warranty implied by law in every residential lease that states that the property is fit for habitation.

Heir: One who is entitled to inherit the property of another under the laws of intestate succession.

Heirs and assigns: Phrase used in legal documents to take into account all successors to a person's interest in property. Assigns are successors who acquire title in some manner other than inheritance, as in deed.

Hereditable: Real or personal property that can be inherited.

Hereditable, Corporeal: Real or personal tangible property that can be inherited; a property with physical substance such as a car or a house.

Hereditable, Incorporeal: Real or personal property that is intangible and can be inherited, for example an easement appurtenant or accounts receivable.

Highest and Best Use: Legal and physically possible use of a property that, at the time it is appraised, is most likely to generate the greatest return over a particular time period.

Holden Act: See Housing Financial Discrimination Act.

Holder in Due Course: One who has taken a note, check or similar asset prior to it being overdue, in good faith and for value, and with no knowledge that it had previously been dishonored.

Holdover tenant: Tenant who keeps possession of leased property after the lease term has expired.

Home Equity Line of Credit (HELOC): Credit account secured by equity in the borrower's home, enabling him to borrow up to a specified credit limit.

Home Equity Loan: Loan secured by a second mortgage on a principal residence, usually used for a non-housing purpose.

Homeowners Association: Non-profit organization comprising homeowners from a particular subdivision, responsible for enforcing their CC&Rs and managing other community affairs.

Homestead: Dwelling occupied by the owner along with any appurtenant outbuildings and land.

Homestead Law: State law providing limited protection to homestead properties against judgment creditor's claims.

HUD: See Department of Housing and Urban Development.

Hypothecate: Using real property as collateral for a debt without having to give up possession of it.

Implied agency: Understood from actions or circumstances without expressing in words that an agency relationship exists.

Impounds: Borrower's funds collected and kept in a reserve account by the lender.

Improvements: Additions to land property that are man-made.

Imputed knowledge: Legal doctrine stating that a principal is considered to have notice of information that the agent has, even if the agent never told the principal.

Inadvertent dual agency: Occurs when a real estate agent while representing one party to a transaction, unintentionally becomes the agent of the other party -- a dual agent -- by leading the other party to believe he is acting as their agent.

Inchoate: Unfinished or incomplete, a task begun but not completed.

Inchoate instruments: Documents not fully executed, or documents that should be, but have not been, recorded.

Income, Disposable: Income that remains after the payment of taxes.

Income, Effective gross: Measure of a rental property's capacity to generate income calculated by subtracting a bad debt/vacancy factor from the economic rent-potential gross income.

Income, Gross: total income of a property before making any deductions such as bad debts, vacancies, operating expenses, etc.

Income, Net: It is the income that is capitalized to estimate the value of a property. It is calculated by subtracting the operating expenses (i.e. fixed expenses, maintenance expenses, and reserves for replacement) of the property from the effective gross income.

Income, Potential gross: Economic rent of the property, the income the property would earn if it were available for lease in the current market.

Income approach to value: One of the three main methods of appraisal in which an estimate of the property value is based on the net income it produces; also called the capitalization method or the investor's method of appraisal.

Income property: Property which generates rent or other income for the owner, referred to as property held for the production of income in the income tax code.

Income ratio: Criteria used for qualifying a buyer for a loan, to find if their income is sufficient. The buyer's debt and proposed housing expenses should not be over a specified percentage of his income.

Incompetent: Person who cannot manage their own affairs, due to reason of insanity, or lack of mental capacity; business matters relating an incompetent should be overseen by a guardian.

Incorporeal rights: Rights in real property where physical possession is not involved, as in an easement.

Increment: An increase in value, the opposite of which is decrement.

Independent contractor: Contractor who is self-employed and whose method of work is not controlled by another.

Index: Changes in the cost of money indicated in a published statistical report, which can be used to make adjustments in such areas as wages, rental figures, and loan interest rates.

Inflation: Decrease in money's purchasing power, measured by the Consumer Price Index; real estate is considered a hedge against inflation because it generally holds its value.

Injunction: Court order or writ designed to stop a party to a lawsuit from committing an act that is seen as unjust or inequitable in regard to the rights of another party.

Installments: Portion of a debt paid in successive period, usually to reduce a mortgage.

Installment sales contract: Real estate purchase structured to be paid in installments with title retained by seller until all payments are made; also called contract of sale and land contract.

Instrument: Written document formulated to set the rights and liabilities of the parties; examples are a will, lease, or promissory note.

Interest: Money charged by bank or other lending institution for the use of money. Also, a partial degree of ownership.

Interest rate: Percentage of an amount of money that is the cost of using it, usually expressed as a monthly or yearly percentage.

Interpleader: Proceeding started by a third party to find the rights of other claimants to a property or in a transaction.

Inter vivos trust: Trust created during a person's lifetime.

Intestate: One who dies leaving no will or a will that is incomplete or not transacted correctly; property then is conveyed to heirs at law or next of kin.

Investment property: Property acquired for its capacity to produce income or anticipated resale value, such as office buildings or undeveloped land.

Involuntary lien: Lien applied against a property without the owner's agreement, such as unpaid taxes.

Irrevocable: Incapable of being reversed or revoked; unalterable.

Joint tenancy: Ownership of a property interest by two or more parties, each of whom has an undivided interest with the right of survivorship (sharing equally in the interest of a deceased joint tenant with the surviving tenants).

Joint venture: Agreement to invest in a single property or business by two or more parties.

Judgment: A court ruling directing that one party is indebted to another one and setting the amount of indebtedness.

Judgment creditor: Party who has received a judgment from the court for money owed to her.

Judgment debtor: Party whom a judgment has been directed against for money owed.

Judgment lien: Claim upon the property of a debtor as the result of a judgment, enabling the judgment creditor to have the property sold for payment to satisfy the judgment.

Junior mortgage: Mortgagee whose claims on a property will be addressed only after previous mortgages have been settled.

Laches: Negligence or delay in putting forward one's rights.

Land: Earth's surface area that is solid, and not composed of water.

Land contract: Installment agreement for the purchase of real estate in which the buyer may use and occupy the land, without the passage of deed or title until all or a portion of the selling price is conveyed.

Landlord: Person, the lessor, who rents property to another person, the lessee.

Landmark: A stationary object that serves a boundary or reference point for a land parcel.

Late charge: Amount assessed by a lender against a borrower who misses making an installment payment when due.

Lateral support: Support which the ground of an adjoining property provides to a neighbor's land.

Lease: Contract agreement in which an owner of real property, in exchange for the consideration of rent, passes the rights of possession to the property to another party for a specified time period.

Leasehold estate: Tenant's ownership interest in the property that is leased to her.

Leasehold improvements: Fixtures attached to real estate that are installed by the tenant and which can be moved by him after the lease's expiration if their removal does not damage the property.

Legal description: Legally proper identification of realty by one of three agreed-upon methods: the government rectangular survey, metes and bounds, lot and block number.

Lessee: Person to whom property is rented under a lease; a tenant.

Lessor: Person who rents property to another person; a landlord.

Leverage: Using borrowed funds to raise purchasing power and enhance profitability of an investment.

License: Having the right granted by the state of California to work as a real estate broker or salesperson.

Licensee: Person who hold a real estate license, which conveys the privilege to accept compensation for helping with a real estate transaction.

Lien: Encumbrance against property rendering it security for the payment of a debt, mortgage or other money judgment.

Life estate: Freehold land interest that terminate upon the death of the owner or another designated person.

Life tenant: Individual who is permitted to possess property for her lifetime or during the lifetime of another specified person.

Limited partnership: Business organization in which at least one partner is passive, with liability limited to the sum invested, and one partner whose liability extends beyond his amount invested.

Liquidated damages: Amount designated in a contract that one party will owe the other party in case of a breach of contract.

Lis pendens: Recorded notice that the rights to the possession of real property is the subject of litigation, thus impacting disposition of its title.

Listing: Employment contract in writing between an agent and principal authorizing the agent to conduct services for the principal regarding the principal's property. Also, a record of the property for sale by the broker authorized by the owner to sell it.

Loan-to-value ratio (LTV): Ratio calculated by dividing the mortgage principal by the property value.

Lock-in: Agreement to maintain a certain rate or price for a specified time period.

Lot and block number: Method of land description that relies on the placement of recorded plats.

MAI: Professional membership in the Appraisal Institute.

Margin: Figure added to an index in order to adjust an interest rate on an adjustable-rate mortgage.

Marginal property: Realty that generates barely enough income to cover the cost of using it

Marketable title: *See* insurable title. Title that a court will assess as being free enough from defect so it will enforce its acceptance by buyer.

Market Data Approach: *See* Sales Comparison Approach. One of the three methods of appraisal, it compares recently-sold properties to the property being appraised.

Market price: Actual price paid for a property in a transaction.

Market value: Highest price a willing buyer will pay for a property and the lowest a willing seller will accept, assuming no undue, outside pressures.

Material fact: Fact that is significant in regard to a particular transaction, without which it can be assumed a contract would not be agreed upon.

Mechanics lien: Lien created by law against real property as security for payment for the labor and materials used for the improvement of the property.

Mello-Roos Community Facilities Act: Enacted in 1982, it authorizes the creation of community facilities, issuing bonds, and levying taxes to finance specified public services.

Meridian: North-south line used in government rectangular survey.

Metes and bounds: Land description method that relies on land boundary lines, utilizing those lines with their terminal points and angles.

Mineral rights: Authorization to amass income from the sale of gas, oil and other resources underground.

Misrepresentation: Untrue or misleading statement, whether unintentional or on purpose. Misrepresentation of a material fact, the injured individual may sue for damages or revoke any agreement affected by the false assertion.

Monument: Fixed object and point specified by surveyors to establish land locations, such as boulders or unusual trees.

Mortgage: Written instrument that establishes a lien on real estate as security for payment of a designated debt.

Mortgage banker: Person who originates, finances, sells, closes, and services mortgage loans, which are generally insured or guaranteed by a private mortgage insurer or government agency.

Mortgage broker: Places loans with investors for a fee, but does not service them.

Mortgage commitment: Agreement between a borrower and a lender to set up a loan at a later date, dependent on the conditions specified in the agreement.

Mortgagee: Someone who receives a mortgage from a mortgagor to secure a loan or performance of a duty; also called a lender or a creditor.

Mortgage loan disclosure statement: Statement on a form approved by the Real Estate Commissioner that discloses to a potential borrower the terms and conditions of a mortgage loan, required by law to be proffered by mortgage brokers before the borrower is bound by the loan terms.

Mortgagor: Person who provides a mortgage on property to a mortgagee to secure a loan or the mortgagee's performance of a duty.

Multiple listing: Arrangement between real estate brokers to cooperate by providing information to each other regarding listings and to split commissions between the listing and selling brokers.

National Association of Realtors (NAR): Organization which promotes professionalism in real estate business.

Negative amortization: Increase in a loan's outstanding balance due to periodic debt service payments not covering the total amount of interest attached to the loan.

Net income: Actual earnings remaining after deducting all expenses from gross income.

Net lease: In addition to rent, tenant pays charges against the property, such as taxes, insurance and maintenance.

Net Listing: In a sale, broker's commission payment is anything over and above an agreed-upon net price to the seller.

Net operating income: The income from realty or a business after deducting operating expenses but before deducting tax payments on and interest and principal payments.

Non-conforming loan: Mortgage loan that does not meet the criteria for being funded by Fannie Mae or Freddie Mac.

Note: Written instrument acknowledging a debt and promises to pay.

Notice, Actual: Implied or express factual knowledge

Notice, Constructive: Fact which should have been discovered due to one's actual notice and/or inquiries that a reasonably prudent person would be expected to make

Notice, Legal: Notice required by law to be given

Notice to quit: Notice provided to a tenant to vacate property

Novation: Substitution of a revised agreement for a previous one upon the agreement of all parties.

Null and void: Without any legal validity.

Obsolence: Decline in value to a reduction in desirability and usefulness of a structure because its design and construction become obsolete or decline due to a structure becoming outmoded, not in keeping with current needs.

Offer to purchase: Proposal to a property owner by a potential purchaser to acquire the property under previously-stated terms.

Open-end mortgage: Mortgage including a clause under which the mortgagor may obtain additional funds from the mortgagee after some loan payments have been made.

Open listing: Listing provided to a number of brokers without a duty to compensate any besides the particular broker who first secures a buyer ready, willing and able to accept the listing's terms or obtains the seller's acceptance of a different offer.

Open mortgage: Mortgage that has matured or whose payments are late, so that it is open to being foreclosed upon.

Operating expenses: Funds used to maintain property, such as insurance and repairs, but excluding depreciation or finance costs.

Operating lease: Lease that a lessee subleases to another party who is the actual user of the property.

Option: Right without the obligation, to lease or purchase a property upon specified terms during a specified period.

Optionee: One who receives or acquires an option.

Optionor: One who gives or sells an option.

Oral contract: An agreement not in writing, usually unenforceable.

Overall capitalization rate: Rate calculated by dividing net operating income by the property's purchase cost.

Ostensible authority: Authority that a reasonable third person believes an agent was given, due to the principal's acts or omissions.

Package mortgage: Mortgage created in which the principal loan amount is raised to include improvements and movable items such as appliances, along with real estate.

Paramount title: Title which takes priority over any others.

Partition: Dividing real property between its owners in undivided shares.

Partnership: Agreement between two or more parties to enter into a business venture, with each partner sharing in the partnership's profits as well as being liable for its debts.

Party wall: Constructed on the dividing line between two properties with different ownership, a wall that either party has the right to use.

Patent: Title conveyed to government land.

Percentage lease: Property lease with the rental amount based on a percentage of sales made on the premises, with a set minimum amount; usually used by retailers.

Periodic estate: Lease based on a specified calendar amount of days, like month to month or year to year; also known as a periodic tenancy.

Personal property: All property that is not realty; also known as personalty.

Physical depreciation: Decline in value stemming from age, wear and tear, and the elements.

Planned Unit Development (PUD): Zoning or land-use plan for large tracts that includes intensive development of common and private areas, designed as one integrated unit.

Plottage: Increasing the value of a plot of land that has been assembled from smaller plots under a single ownership.

Points: Fees provided to lenders to attract a mortgage loan. One point equals one percent of the principal loan amount, which lowers the funding amount advanced by the lender, effectively raising the interest rate.

Police power: Governmental right to pass laws and enforce them to achieve health, order, public safety and general welfare for the public.

Power of attorney: Instrument through which a principal confers authority to a person to act as their agent.

Premises: Land and buildings, an estate.

Prepayment clause: Mortgage clause conveying the privilege to a borrower to pay her entire debt prior to its maturity; in some cases, a penalty is assessed against the borrower for exercising this right.

Principal:

- (a) Employer of a broker or agent
- (b) Amount of money from the mortgage or other loan, apart from the interest due on it.
- (c) One of the main parties in a real estate deal

Private mortgage insurance (PMI): Mortgage guarantee insurance that protects conventional lenders in case of default, with premiums paid by the borrower.

Probate: To prove the validity of a will of a deceased person.

Procuring cause: Legal term for the cause resulting in the objective of a real estate broker or agent procuring a ready, willing and able realty purchaser, used to determine who is entitled to a commission.

Promissory note: Borrower's signed promise to repay the loan to a specific person under specific terms.

Property: Rights that a party has to use and possess land or chattel to the exclusion of anyone else.

Proprietorship: Business ownership, including the management of real estate, by a person, as opposed to a corporation or partnership.

Proration: Allocation between seller and purchaser of proportional shares of a debt that has been paid, or due to be paid, regarding a realty sale, such as property taxes and insurance.

Purchase capital: Funds used to purchase realty, from whatever source.

Purchase money mortgage: Mortgage provided by a buyer (grantee) to a seller (grantor) in partial payment of a real estate purchase price.

Quiet enjoyment: Right of an owner or tenant to the use of a property without any interference to their possession.

Quiet title: Court action to remove a defect or cloud on an owner's legal right to a piece of realty.

Quitclaim deed: Conveyance establishing only the grantor's interest in real estate, with no ownership warranties.

Range lines: Used in the government rectangular survey method of land description as lines parallel to the principal meridian, demarcating the land into 6-mile strips called ranges.

Ratification: Approval of an action done on someone's behalf without prior authorization.

Real estate: Land and all permanent attachments to it.

Real Estate Advisory Commission: Ten-member board that makes recommendations to the Real Estate Commissioner on pertinent issues.

Real Estate Commissioner: Appointed by the governor as head of the California Bureau of Real Estate (BRE), in charge of appointing

the Real Estate Advisory Commission and administering the Real Estate Law.

Real estate investment trust (REIT): Mutual fund authorized by law to be immune from corporate taxes if most of its profits are distributed to individual investors who are taxed.

Real property: All the rights inherent in ownership to use real estate.

Realtor: Real estate professional who follows the code of ethics pursuant to their membership in the National Association of Realtors.

Recapture clause: Contract clause allowing party granting an interest or right in real estate to re-take it under specific conditions.

Recording: Act of entering documents regarding title to real estate in the public record.

Recourse: Authority of a lender to assert a claim to funds from a borrower in default, besides the property pledged as collateral.

Redlining: Unlawful policy of a lender denying to make loans in certain areas with high minority populations due to alleged overall lending risks there without considering the creditworthiness of each applicant.

Release clause: Mortgage clause that provides property owner with the right to pay off part of their indebtedness, releasing a specified portion of the property from the mortgage.

Reliction: Gradual lowering of a water level, uncovering more dry land.

Remainder: Estate that goes into effect after a prior estate, usually a life estate, is terminated.

Remainderman: Party who receives possession of a property upon the death of a life tenant.

Rent: Compensation paid for the use of realty.

Replacement cost: In appraisals, the cost of construction to replace or serve the same function as a similar, previous building.

Reproduction cost: In appraisals, the cost of construction of a replica of a property as of a certain date.

Rescission: Terminating a contract and restoring the parties to the identical positions they occupied before entering into the contract, permitted when the contract was induced by fraud, duress, misrepresentation or mistake.

Restriction: Limitation enplaced on property use, as included in the deed or other instrument in the chain of title.

Reversion: Lessor's right to take possession of leased property upon the end of a lease.

Reversionary interest: Future interest held by a person in property upon the termination of the preceding estate.

Revocation: Recalling power of authority previously conveyed, such as an agency.

Right of survivorship: Right of a surviving joint tenant to take the interest of a deceased joint owner.

Right of way: Easement right to use to specific path for access or passage, as well as the subdivision areas allocated to government use for streets and other types of public access.

Riparian rights: Rights regarding water use on, under or adjacent to a person's land, providing reasonable use of such water.

Rumford Act: See Fair Housing Law.

Sale-and-leaseback: Seller retains occupancy to land by leasing it back simultaneously with its sale, generally for a long term lease.

Sales comparison approach: In appraisals, estimating value through analysis of comparable properties' recent sales prices.

Salesperson: One licensed to perform any act authorized by the state's Real Estate Law, if employed by a broker also licensed.\

Salvage value: Anticipated value an asset will be worth at the conclusion of its useful life.

Sandwich lease: Leasehold which has been sublet by a lessee to another party, so the former becomes a lessor.

Satisfaction piece: Written instrument for the recordation and acknowledgement of a mortgage loan's last payment.

Section of land: Square mile in the government rectangular survey description of land.

Security instrument: Realty interest permitting the property to be sold if the obligation for which the security interest was created is defaulted upon.

Seizin: Possession of real estate by one who purportedly owns a valid salable interest.

Separate property: As distinguished from community property, property owned by a spouse prior to marriage; acquired by gift or bequest; or, by proceeds from other separate property.

Setback: Area from the the curb or other set line of demarcation within which no construction can take place.

Special assessment: Property is assessed a certain amount to pay for public improvements which will benefit the property.

Special warranty deed: Deed under which the grantor warrants the title provided to the grantee only against defects that arose during grantor's ownership, not from any that might stem from conditions existing before that time.

Specific performance: Court action directing a party to fulfill contract terms which he has refused to perform these obligations.

Statute of Frauds: State law holding that certain contracts be in writing and signed to be enforceable, unless the terms of a contract can be performed within one year.

Straight-line depreciation: Method of depreciation which uses equal yearly reductions to estimate property's book value.

Subagent: One who receives the powers of an agent not from a principal, but from another agent whom the principal has authorized to do so.

Subdivided Lands Law: Regulating the sale of subdivided land in California, this law mandates the subdivision meet state standards and that the Real Estate Commissioner publish a Subdivisions Public Report provided to potential purchasers.

Subdivision: Land tract divided into plots appropriate for the construction of homes, as per the state's Subdivided Lands Law.

Subject to mortgage: Method to take title to mortgaged realty without being personally liable for payment of amount due on the promissory note. If the new buyer fails to make payments going forward, the most he will lose is his equity in the property.

Sublease: Lease from a lessee to a different lessee, who becomes the sublessee or subtenant.

Subordination clause: Instrument allowing a mortgage recorded at a subsequent date to take precedence over an earlier mortgage.

Surety: One who guarantees another's performance; a guarantor.

Surrender: Lease's cancellation before its termination by consent of both the lessor and lessee.

Survey: Procedure under which a parcel of land is measured and its area calculated.

Tax: Charge assessed against individuals, corporations and organizations to fund government.

Tax-free exchange: Trade of one property for another that is excluded from tax liability on any profit when the trade occurs.

Tax sale: Property being sold after a period of unpaid taxes.

Tenancy at sufferance: Tenancy created when a lawful tenant retains possession of a property after the lease terminates.

Tenancy at will: License to possess realty and tenements for an indefinite period, at the owner's will.

Tenancy by the entirety: Estate that exists just between spouses, with each having equal right of possession and with right of survivorship.

Tenancy in common: Ownership of real property by two or more persons, with each having an undivided interest but without the right of survivorship.

Tenant: Person given possession of real property belonging to someone else for a fixed term or at will.

Termites: Insects that feed on wood causing great damage.

Testament: A will.

Testamentary trust: Trust established by will which only comes into effect after testator dies.

Testate: The making of a valid will.

Time of the essence: A contract condition requiring that all references to specified dates regarding performance be followed exactly.

Title: Establishes that a land owner has lawful possession of a property, having all the elements of ownership.

Title insurance: Insurance policy providing protection from losses caused by possible defects in the title.

Title search: Public records inquiry to ascertain any issues of ownership and encumbrance regarding realty.

Topography: Surface of the land; may be hilly, flat, rocky.

Tort: Wrongful act which is not criminal in nature but gives rise to a civil action with the committer of the tort (tort-feasor) potentially liable for civil damages.

Township: Six-mile square tract located between two range lines and two township lines established by government rectangular survey.

Trade fixtures: Articles annexed to rental structures by a commercial tenant in the course of operating their business, removable by the tenant.

Trust deed: Conveyance of realty to a neutral third party (trustee) which that person holds for another party's benefit.

Trustor: Party who gives property to a trustee to be held on a beneficiary's behalf, so that the trustor becomes the owner of real estate and the lender is the beneficiary.

Urneared increment: A rise in real estate value due to no effort by the owner, usually due to population growth.

Unit in place method: Projecting the cost of building a structure based on estimating the price of its individual components, such as the foundation, floors, walls and cost of labor.

Unity: Four unities are needed to establish a joint tenancy: interest, possession, time and title. Thus, joint tenants are required to have equal interests created by a conveyance, the identical undivided possession, and the same use during the same time.

Unruh Act: State law requiring real estate borrowers be provided with explicit notices of default on a mortgage to safeguard homeowners from losing their residence due to default on a retail installment purchase.

Urban property: City, closely-settled realty.

Usury: Interest rate impermissibly set higher than allowed by law.

Utility: One of the elements of value, the capability to provide gratification, inciting the wish to possess a property.

Valid: Having legally sufficient force, enforceable by a court.

Value: What something is worth to a particular party.

Variable expenses: Operating costs for a property that rise upon occupancy.

Vendee: Buyer, a purchaser.

Vendee's lien: Lien applied to property according to a contract of sale, to secure buyer's deposit.

Vendor: Seller

Vicarious liability: Someone being responsible for the actions of someone else.

Void: With no force of law or effect

Voidable: Something that can be voided, but action must be directed to void it.

Voluntary alienation: Term designating a sale or gift made with free will.

Warranty: Promise or guaranty included in a contract.

Warranty deed: Instrument that includes a covenant declaring the grantor will protect the grantee from claims on title.

Will: Directions for the disposition of one's property after death.

Without recourse: Phrase employed in endorsement of a note or bill indicating that the holder cannot expect payment from the debtor personally if non-payment occurs.

Zoning: Governmental authority designating an area for a particular use.