

## Glossary of Frequently Used Real Estate Terms

This glossary represents frequently used academic real estate related terms. It does not encompass every real estate related term. These definitions are designed to summarize the term's most widely accepted meaning wherein the definitions are designed for academic purposes only.

**Abstract of Title:** A summary of the condition of title to real property based on an examination of public records; includes a digest of the deeds or other transfers, encumbrances, and other instruments reflecting ownership of title or matters which may impair the title.

**Acceleration Clause:** Clause in trust deed or mortgage giving lender right to call all sums to be immediately due and payable upon the happening of a certain event.

**Acceptance:** The expression of intent of a person receiving an offer to be bound by the terms of the offer. Acceptance must be communicated to the person making the offer (offeror, such as a buyer). The communication need not be in writing – it may be a mere nod of the head – but if the offer is in writing and pertains to real property, the acceptance also must be in writing.

**Accession:** Gaining title when property is added to a property by another or a natural action.

**Accounting:** The fiduciary duty of an agent to maintain and preserve the property and money of the principal. The agent must keep accurate records of funds and documents received.

**Accretion:** An addition to land from natural causes as, for example, from gradual action of the ocean or river waters.

**Acknowledge:** To recognize as genuine or valid; A formal declaration made before a duly authorized officer, usually a notary public, by a person who has signed a document; also, the document itself. An acknowledgment is designed to prevent forged and fraudulently induced documents from taking effect.

**Acre:** A measure of land equaling 160 square rods, or 4,840 square yards, or 43,560 square feet, or a tract about 208.71 feet square.

**Actual Damages:** Those damages that a court of law will recognize and that are a direct result of a wrong.

**Actual Fraud:** An act meant to deceive another, such as making a promise without intending to keep it, suppressing the truth, or making a false statement.

**Actual Notice:** Having actual knowledge of a fact, as compared with implied or inferred notice.

**Ad Valorem:** A Latin phrase meaning, “according to value.” Usually used in connection with real estate taxation.

**Addendum:** Additional material attached to and made part of a document. If there is space insufficient to write all the details of a transaction on the sales contract form, the parties will attach an addendum or supplement to the document. The sales contract should incorporate the addendum by referring to it as part of the agreement. The addendum should refer to the sales contract and be dated and signed or initialed by all the parties.

**Adjustable rate:** A broad term for a loan (mortgage or deed of trust) with rates and terms that can change. Both the Comptroller of the Currency, which regulates national banks, and the Office of Thrift Supervision, which governs federal savings and loan associations, have issued guidelines allowing the issuance of real estate loans having provisions to increase or decrease the rate of interest at certain time intervals within a certain range.

**Advance fee:** A fee paid before any services are rendered. Specifically, it is a practice of some brokers to obtain a nonrefundable fee from the seller in advance to cover the advertising of properties or businesses for sale while giving no guarantee that a buyer will be found, which is often held to be improper conduct. Brokers must keep accurate records of expenditures.

**Adverse Possession:** Claiming based on the open and notorious possession and occupancy, usually under an evident claim or right, in denial or opposition to the title of another claimant.

**Affidavit:** A written statement sworn to or affirmed before an officer who is authorized to administer an oath or affirmation.

**Agency:** A relationship created when one person, the principal, delegates to another, the agent, the right to act on his or her behalf in business transactions and to exercise some degree of discretion while so acting. An agency gives rise to a fiduciary or statutory relationship and imposes on the agent, as the representative of the principal, certain duties, obligations, and high standards of good faith and loyalty.

**Agent:** One authorized to represent and to act on behalf of another person (called the principal). A real estate broker is the agent of the client (seller or buyer) to whom he or she owes a fiduciary or statutory obligation.

**Agreeing:** To consent to as a course of action.

**Air Rights:** The rights in real property to use the air space above the surface of the land.

**Alienation:** The transferring of property to another; the transfer of property and possession of lands, or other things, from one person to another.

**Alienation Clause:** A clause in a note or trust deed permitting the payee or beneficiary to declare the entire unpaid balance immediately due and payable upon a subsequent transfer of the property. Also referred to as a due-on-sale clause.

**Allodial Tenure:** A real property ownership system that can be complete ownership, except for rights held by the government.

**Alluvion:** Soil deposited by accretion. Increase of earth on a shore or bank of a river.

**Amended:** to change or modify for the better, improve, amend the situation, to alter especially in phraseology, to alter formally by modification, deletion, or addition

**Americans with Disabilities Act (ADA):** A federal law that became effective in 1992. ADA is designed to eliminate discrimination against individuals with disabilities by mandating equal access to jobs, public accommodations, government services, public transportation and telecommunications.

**Amortization:** The liquidation of a financial obligation on an equal installment basis; also, recovery over a period of cost or value.

**Annexation:** The addition to property by adding or attaching other property to it, such as a fixture; the addition of unincorporated territory in a county to a city or town.

**Annual Percentage Rate (APR):** The actual cost of credit as determined under the Federal Truth in Lending Act.

**Anticipatory Repudiation:** When one party to a contract informs the other before the time set for performance that he or she does not intend to perform as agreed.

**Appraisals:** The process of developing and communicating an opinion about a property's value. An appraisal is usually required when real property is sold, financed, condemned, taxed, insured or partitioned. Note that an appraisal is an estimate, not a determination, of value. An appraisal may be in the form of a lengthy written report, a completed preprinted form, a simple letter or even an oral report.

**Appraisers:** Qualified person to estimate the value of real property for a specific location at a specific time for a specific reason.

**Appreciation:** A temporary or permanent increase in the worth or value of property due to economic causes; the opposite of depreciation.

**Appropriative Rights:** Water rights allocated by government permit, according to an appropriation system. It is not necessary to own property beside the body of water in order to apply for an appropriation permit.

**Appurtenance:** Something annexed to another thing that may be transferred with it. your real property is burdened with an easement, water rights, or improvements that a person may use.

**Arbitration:** The non-judicial submission of a controversy to selected third parties for their determination in a manner provided by agreement or by law. Disputes between listing Realtors and cooperating Realtors are often settled by arbitration, with both parties agreeing to comply with the final decision of the arbitrator.

**Area Variance:** Entitles landowners to use land in a way that is typically not allowed by the dimensional or physical requirements of the zoning law.

**Arm's Length Transaction:** A transaction in which there is no pre-existing family business relationship (as in a short sale).

**Asbestos:** A fibrous insulation and construction material that causes serious lung problems.

**As Is:** Words in a contract intended to signify that no guarantees whatsoever are given regarding the subject property and that it is being purchased exactly as it is found. An "as-is" indicator is intended to be a disclaimer of warranties or representations. The recent trend in the courts to favor consumers tends to prevent sellers from using as-is wording in a contract to shield themselves from possible fraud charges brought on by neglecting to disclose known material defects in the property.

**Assemblage:** The combining of two or more adjoining lots into one large tract. This is usually done to increase the value of the individual lots because a larger building capable of producing a larger net return may be erected on the larger parcel. The resulting added value is called plottage value.

**Assessed Value:** Value placed on property as a basis for taxation.

**Assign:** To appoint to a post or a duty. An assignment is the transfer of the right, title and interest in the property of one person to another. There are assignments of, among other things, mortgages, sales contracts, contracts for deed, leases and options.

**Assignee:** In any assignment, the assignee becomes primarily liable, and the assignor remains secondarily liable as surety, unless there is a novation agreement relieving the assignor from liability. The assignee acquires the same title, right and interest in the particular contract that the assignor had.

**Assignment:** The transfer of the right, title and interest in the property of one person, the assignor, to another, the assignee.

**Association:** A group of people gathered together for a business purpose, sometimes treated as a corporation under tax law.

**Attachment Lien:** A lien on real property obtained prior to judgment in an action for money; obtained by levy of a writ of attachment.

**Attorney Fees:** Monies an attorney charges for his or her legal services. Unless provided for by statute or in a contract, attorney fees usually cannot be recovered by an aggrieved party.

**Attorney:** One who is legally appointed to transact business on another's behalf

**Auction:** A form of selling land or personal property whereby oral offers are taken and the property is sold to the highest bidder. Real estate auctions are generally used in mortgage foreclosure sales, tax sales and with hard-to-sell properties.

**Authorization:** The act of authorizing

**Avulsion:** The sudden tearing away or removal of land by action of water flowing over or through it.

**Balloon Payment:** Where the final installment payment on a note is greater than the preceding installment payments and it pays the note in full, such final installment is termed a balloon payment.

**Bargain and Sale Deed:** Any deed that recites a consideration and purports to convey the real estate.

**Beneficiaries:** A person who received benefits from the gifts or acts of another, as in the case of one designated to receive the proceeds from a will, insurance policy, or trust; the real owner, as opposed to the trustee, who holds only legal title. With a trust, the trustee holds the legal title, but the beneficiary enjoys the benefits of ownership.

**Bilateral Contract:** A contract in which a promise is given by both parties; distinguished from a unilateral contract, which calls for an act by one party in exchange for a promise by the other.

**Bill of Sale:** A written instrument given to pass title of personal property from vendor to the vendee.

**Biweekly Payment Plan:** A loan that calls for 26 half-month payments a year, resulting in an earlier loan retirement date and lower total interest costs than with a typical fully amortized loan with regular monthly payments.

**Binding:** Purchaser's good faith and intention to complete the transaction. A binder is an agreement formed by the receipt of an earnest money deposit for the purchase of real property as evidence of the purchaser's good faith and intention to complete the transaction.

**Blanket Mortgage:** A single mortgage that covers more than one parcel of real estate; A blanket mortgage is often used to secure construction financing for a subdivision or condominium projects.

**Blind Advertisement:** An advertisement placed by a licensee that does not include the broker's name.

**Blockbusting:** The practice on the part of unscrupulous speculators or real estate agents of inducing panic selling of homes below market value, especially by exploiting the prejudices of property owners in neighborhoods in which the racial make-up is changing, or appears to be on the verge of changing. It is an actionable wrong.

**Breach:** The breaking of a law, or failure of duty, either by omission or commission.

**Broker:** One who acts as an intermediary between parties to a transaction. A real estate broker is a properly licensed party who, for a valuable consideration or promise of consideration, serves as a special agent to others to facilitate the sale or lease of real property.

**Broker Price Opinion (BPO):** A broker's written opinion of the value of a particular property, often in the form of a competitive market analysis. Depending on state law, the broker may charge a separate fee for a BPO, provided it is not used in connection with originating a federally related loan and is not labeled as an appraisal.

**Broker Protection Clause:** Provides the broker is still entitled to commission if the property sells during a certain time period under certain circumstances.

**Brokerage:** A real estate broker's business.

**Brokers:** One who acts as an intermediary between parties to a transaction. A real estate broker is a properly licensed party who, for a valuable consideration or promise of consideration, serves as a special agent to others to facilitate the sale or lease of real property. Brokers represent their principals and accept the fiduciary responsibility of exercising care, skill and integrity in carrying out their instructions.

**Budget Mortgage:** A mortgage with payments set up to cover more than interest and principal reductions. In addition to monthly amortized principal and interest payments, the monthly payments may include an amount equal to 1/12 of the year's property taxes, a pro rata share of the fire insurance premium and any other similar charges that if not paid, could result in a foreclosure.

**Building Permits:** A written governmental permission for the construction of a new building or other improvement, the demolition or substantial repair of an existing structure or the installation of factory-built housing. The proposed construction must conform to local zoning and building codes and usually must be inspected and approved upon completion.

**Bundle of Rights:** Beneficial interests or rights attached to the ownership of real property.

**Business Broker:** A business broker is a properly licensed individual, who, for a valuable consideration or promise of consideration, serves as an agent to others to facilitate the sale or lease of a business.

**Buyer:** Party which acquires, or agrees to acquire, ownership (in case of goods), or benefit or usage (in case of services), in exchange for money or other consideration under a contract of sale.

**Buyer Agency Agreement:** A contract between a broker and a buyer that grants the broker the right to represent the buyer in the purchase or lease of property and that makes the buyer responsible for paying commission to the broker.

**Buyer's Agent:** An agent representing the buyer rather than the seller.

**Buyer's Market:** The conditions which exist when a buyer is in a more commanding position as to the price and terms of sale, primarily because real property offered for sale is in plentiful supply compared to demand.

**Bylaws:** As related to condominiums, the regulations, rules or laws adopted by a condominium owners' association or corporation for the condominium's management and operation. Bylaws cover such matters as the manner and selection of the board of directors and the duties and obligations of the corporation members. These self-imposed rules are a form of private law.

**Cancellation:** The act or an instance of canceling. A cancellation clause is a clause that may be included in a commercial or industrial lease granting the lessor or the lessee the right to terminate the lease term upon the happening of certain stated events or occurrences by the payment from one party to the other of definite amounts of money as consideration.

**Capacity:** Specific ability of an entity (person or organization) or resource, measured in quantity and level of quality, over an extended period. The legal ability of an entity (person or organization) to perform an act such as creating a binding contract.

**Capital Gain:** Income from a sale of an asset rather than from the general business activity. Capital gains are generally taxed at a lower rate than ordinary income.

**CC&Rs:** Abbreviation for covenants, conditions, and restrictions.

**Certificate of Eligibility (COE):** Certificate issued by the government evidencing an individual's eligibility to obtain a Veterans Administration (VA) loan.

**Certificate of Reasonable Value (CRV):** The federal Veterans Administration appraisal commitment of property value.

**Certificate of Title:** A certification as to the ownership of land and the condition of title, based on an examination of the public records.

**Chain of Title:** A history of conveyances and encumbrances affecting the title from the time the original patent was granted, or as far back as records are available.

**Chattel:** Goods or every species of property movable or immovable that are not real property.

**Civil Rights Act of 1866:** The first federal fair housing act (applied to race only).

**Civil Rights Act of 1968:** Federal fair housing act that expanded the Civil Rights Act of 1866.

**Client:** The person who employs an agent to perform a service for a fee; also called a principal. The client is owed the duty of care and diligence, fiduciary duties in common-law states and statutory duties where the common law has been abrogated. In traditional real estate brokerage, the client is the seller, and the buyer is the prospect or customer. In modern practice, more and more buyers are seeking representation as a client. Dual agency occurs when a broker represents the seller and the buyer as clients.

**Closing:** Process by which all the parties to a real estate transaction conclude the details of a sale or mortgage. The process includes the signing and transfer of documents and distribution of funds.

**Closing Statement:** Statement furnished by an escrow holder to the principals at the time of closing an escrow, setting forth the charges and costs.

**Cloud on the Title:** Any conditions revealed by a title search that affect the title to property; usually relatively unimportant items, but which cannot be removed without a quitclaim deed or court action.

**Code of Ethics:** A set of rules and principles expressing a standard of accepted conduct for members of a professional group.

**Commercial Property:** Property zoned and used for business purposes, such as a store, restaurant or office building; as distinguished from residential, industrial, or agricultural property.

**Commingling:** Unauthorized mixing of funds of a customer or client with one's own personal funds.

**Commission:** Payment, remuneration; The compensation paid to a real estate broker (usually by the seller) for services rendered in connection with the sale or exchange of real property. To collect a commission, the broker must be licensed in the state, have a written employment agreement (listing) with the seller and sell the property and/or execute a valid contract of sale for the property.

**Common Areas:** Land or improvements in a residential or commercial development designated for the use and benefit of all residents, property owners, and tenants.

*Example:* Common areas include such amenities as corridors, elevators, parks, playgrounds and parking lots.

**Comparables:** Sales which have similar characteristics as the subject property and are used for analysis in the appraisal process. Commonly called comparables, they are recent selling prices of properties similarly situated in a similar market.

**Comparative Market Analysis (CMA):** A method of determining the approximate market value of a home by comparing the subject property to similar homes that have sold, are presently for sale, or did not sell in a given area.

**Compensation:** Payment, remuneration; The compensation paid to a real estate broker (usually by the seller) for services rendered in connection with the sale or exchange of real property. To collect a commission, the broker must be licensed in the state, have a written employment agreement (listing) with the seller and sell the property and/or execute a valid contract of sale for the property.

**Compensatory Damages:** Damages to reimburse an injured party for the actual loss suffered.

**Competency:** Legally qualified.

**Compliance:** the act or process of complying to a desire, demand, proposal, or regimen or to coercion; conformity in fulfilling official requirements

**Concealment:** Occurs when a licensee fails to disclose information that is material to a decision to a party to whom the licensee has such a duty.

**Condemnation:** The act of taking private property for public use. Also a declaration that a structure is unfit for use.

**Conditional Approval:** A situation where a lender approves a loan under certain stated conditions.

**Conditional Use Permit:** Permitting a use of a parcel of property in contravention of zoning upon a finding that the permitted use is essential or desirable to the public convenience or welfare and is in harmony with the objectives of the master plan.

**Conditions:** Contingencies, qualifications or occurrences upon which an estate or property right would be gained or lost. Conditions may be either precedent or subsequent.

**Condominium:** A system of individual fee ownership of units in a multi-family structure, combined with joint ownership of common areas of the structure and the land.

**Confidential:** Private, secret, containing information whose unauthorized disclosure could be prejudicial to the national interest.

**Confidential information:** containing information whose unauthorized disclosure could be prejudicial to the national interest

**Confirmation:** The process of supporting a statement by evidence; A confirmation of sale is a court approval of the sale of property by an executor, administrator, guardian, conservator or commissioner in a foreclosure sale.

**Conforming Loan:** A standardized conventional loan written on uniform documents that meets the purchase requirements of Fannie Mae and Freddie Mac.

**Conformity:** Holds that the maximum of value is realized when a reasonable degree of homogeneity of improvement is present.

**Consent:** To give assent or approval.

**Consideration:** The inducement for entering into a contract; consists of either a benefit to the promisor, or a loss or detriment to the promise. Anything of value given to induce entering into a contract. It may be money, person services, or, in some cases, even love and affection.

**Constructive Fraud:** A breach of duty, as by a person in a fiduciary capacity, without an actual fraudulent intent, which gains an advantage to the person at fault by misleading another to the other's prejudice. Any act of omission declared by law to be fraudulent, without respect to actual fraud.

**Constructive Notice:** Notice given by the public records.

**Contingent:** Dependent on or conditioned by something else; happening by chance or unforeseen causes; A contingency is a provision in a contract that requires the completion of a certain act or the happening of a particular event before that contract is binding.

**Contract:** A legally enforceable agreement between competent parties who agree to perform or refrain from performing certain acts for a consideration. In essence, a contract is an enforceable promise. In real estate, there are many different types of contracts, including contracts for sale, options, mortgages, leases, contracts for deed, escrow agreements and loan commitments.

**Contractors:** One who contracts or covenants, either with a public body or private parties, to construct works or erect buildings at a certain price. A contractor is ordinarily understood to be the person who undertakes to supply labor and materials for specific improvements under a contract with an owner or principal.

**Contractual Capacity:** The legal ability to enter into a contract.

**Contribution, Principle of:** Holds that maximum real property values are achieved when the improvements on the site produce the highest (net) return commensurate with the investment.

**Conventional:** Conforms to accepted standards. A conventional loan is a loan made with real estate as security and not involving government participation in the form of insuring (FHA) or guaranteeing (VA) the loan. The mortgagee can be an institutional lender or a private party.

**Conveying:** The transfer of title or an interest in real property by means of a written instrument such as a deed or an assignment of lease.

**Cooperating Agent:** An agent who works with a listing agent to sell property in a real estate transaction; the selling agent who finds a buyer for the listed property.

**Cooperative:** A building owned by a corporation, where the residents are shareholders in the corporation; each shareholder receives a proprietary lease on an individual unit and the right to use the common areas.

**Co-Ownership:** A form of concurrent property ownership in which two or more persons own an undivided interest in the same property. When title to one parcel of real estate is vested in (or owned by) two or more persons or other entities, such persons or entities are said to be co-owners of the property.

**Corporation:** A legal entity created under state law, consisting of an association of one or more individuals but regarded under the law as having an existence and personality separate from such individuals.

**Cost Approach:** One of three methods in the appraisal process. An analysis in which a value estimate of a property is derived by estimating the replacement cost of the improvements, deducting therefrom the estimated accrued depreciation, then adding the market value of the land.

**Cost of Money:** The interest rate that people or businesses must pay to use another's money for their own purposes.

**Counteroffers:** A return offer made by one who has rejected an offer; A new offer made in response to an offer received from an offeror. A counteroffer has the effect of rejecting the original offer, which cannot thereafter be accepted unless revived by the offeror's repeating it.

**County Treasurer:** An officer entrusted with the receipt, care, and disbursement of funds; a governmental officer charged with receiving, keeping, and disbursing public revenues

**Covenant:** Agreements written into deeds and other instruments promising performance or nonperformance of certain acts or stipulating certain uses or non-uses of the property.

**Credit:** A bookkeeping entry on the right side of an account, recording the reduction or elimination of an asset or an expense, or the creation of or addition to a liability or item of equity or revenue.

**Credit Report:** A report detailing the credit history of a person or business, used to determine creditworthiness. The financial status of commercial or industrial tenants can be checked by consulting a Dun & Bradstreet reference book, a credit reporting agency or a local chamber of commerce or better business bureau.

**Cubic Feet:** Length X width X depth = cubic feet. Divide cubic feet by 27 to find cubic yards.

**Customer:** One that purchases a commodity or service

**Damages:** A compensation recoverable in a lawsuit by a complainant who sustained an injury, either to their person or property, through an act or default of another. Example: A buyer forfeited his earnest money to the owner of the property as damages for failing to purchase as agreed.

**Dangling Commission:** Compensation that licensees may accept from a broker with whom they are no longer associated, assuming they were licensed with that broker at the time the commission was earned and the right to any commission under such circumstances is spelled out in the licensee's agreement with the broker.

**Days on Market (DOM):** The time period between listing a property and either selling or removing it from the market.

**DD 214:** A Certificate of Release or Discharge from Active Duty, or DD-214, issued by the Department of Defense. The DD 214 identifies the character of service and reason for discharge (honorable, dishonorable, etc.).

**Debt Service:** The amount needed to make a periodic payment of principal and interest on an amortized loan.

**Debt to Income Ratio:** The relationship of a borrower's total monthly debt to gross monthly income, expressed as a percentage (total debt \ income = ratio %). Debt obligations include housing and long term debts with more than 10 payments remaining.

**Declaration:** The legal document that the developer of a condominium must generally file and record in order to create a condominium under state law. The declaration usually contains a precise description of the land on which the project is located; whether it is fee or leased; a description of the apartments, common elements and limited common elements; a statement indicating the use of the building or buildings and apartments, including restrictive uses; and a statement of other detailed legal requirements, such as service of process and provision for amendment of the declaration.

**Deed:** An instrument by which a property owner(grantor) conveys and transfers to a grantee an ownership interest in real property.

**Deed in Lieu of Foreclosure:** Mortgagor gives a quit claim deed to mortgagee. There could be a problem as to junior liens.

**Deed of Trust:** A legal document in which title to property is transferred to a third-party trustee as security for an obligation owed by the trustor (borrower) to the beneficiary (lender). Also called a trust deed. A deed of trust is similar to a mortgage – the main difference is that it involves three parties. When a borrower repays the note secured by a deed of trust, the trustee must reconvey title back to the borrower by way of a deed of reconveyance, which is also called a release deed.

**Deed Restriction:** This is a limitation in the deed to a property that dictates certain uses that may or may not be made of the property.

**Default:** The nonperformance of a duty or obligation that is part of a contract. A default is normally a breach of contract, and the non-defaulting party can seek legal remedies to recover any loss. Defaults in long-term leases or contracts for deed other than nonpayment might be failure to renew insurance policies, failure to pay real estate taxes, damage to the property and so forth.

**Defeasance Clause:** The clause in a mortgage that gives the mortgagor the right to redeem his/her property upon the payment of his obligations to the mortgagee.

**Defeasible Fee:** Sometimes called a base fee or qualified fee. A fee simple absolute interest in land that is capable of being defeated or terminated upon the happening of a specified event.

**Delinquent:** The past due status of a financial obligation such as a promissory note.

**Delivery:** Giving possession of a document, such as a deed, by one party (the grantor) to the other (the grantee) with the intent to convey title.

**Deposit:** Money offered by a prospective buyer as an indication of good faith in entering into a contract to purchase; earnest money; security for the buyer's performance of a contract. An earnest money deposit is not necessary to create a valid purchase contract because the mutual promises of the parties to buy and to sell are sufficient consideration to enforce the contract.

**Depreciation:** Loss of value in real property brought about by age, physical deterioration or functional or economic obsolescence. Broadly, a loss in value from any cause.

**Designated Agency:** A licensee appointed by a broker as the legal agent of a client.

**Developer:** One who attempts to put land to its most profitable use through the construction of improvements, such as commercial condominiums or subdivision projects. The developer organizes and supervises the entire project, usually from the acquisition of land all the way through construction and final sales, and sometimes continuing with the maintenance of the project.

**Devise:** A gift of real property by will.

**Direct Capitalization Rate:** A rate of return, stated as a percent, used to derive a value opinion from the anticipated net operating income a property could generate. It is used for direct capitalization in the income approach.

**Disability:** A physical or mental impairment that substantially limits one or more major life activities, such as walking, seeing, learning and working. Disability includes a record of such impairment or the fact of being regarded as having such impairment.

**Disclose:** To reveal, make known. A recognized “risk reduction tool” for real estate brokers. You must disclose major physical defects in a house you are selling such as a leaky roof.

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**Discount Point:** The amount of money the borrower or seller must pay the lender to get a mortgage at a stated rate. This amount is equal to the difference between the principal balance on the note and the lesser amount which a purchaser of the note would pay the original lender for it under market conditions. A point equals one percent of the loan.

**Discrimination:** The act of making a distinction against or in favor of a person on the basis of the group or class to which the person belongs; the failure to treat people equally under the law. The civil Rights Act of 1866 prohibits any discrimination based on race. In 1968, this act was upheld by the United States Supreme Court in *Jones v. Alfred H. Mayer company*, when the court ruled that the 1866 federal law “prohibits all racial discrimination, private and public, in the sale and rental of property.”

**Disintermediation:** The process of individuals investing their funds directly instead of placing their savings with banks, savings and loan associations and similar institutions for investment by such institutions. This has a direct influence on the scarcity of mortgage money, in that diverted savings rarely find their way into mortgages.

**Disparate Impact:** A legal doctrine used in federal discrimination cases to show a violation even when the defendant’s actions have no apparent relationship to a protected class. In a disparate impact case, an intent to discriminate is not necessary. The doctrine prohibits a neutral restriction that has a statistically greater effect on a protected class than on other classes.

**Doctrine of Emblements:** A rule that allows a tenant farmer to re-enter the land to harvest crops that were planted by the tenant farmer even after the land has been sold to a new owner.

**Doctrine of Part Performance:** A legal doctrine that allows a court to enforce an oral agreement that should have been in writing, when one party has taken irrevocable steps to perform his or her side of the bargain, and failure to enforce the contract would result in an unjust benefit for the other party.

**Dominant Tenant:** A person with easement rights on another’s property; either the owner of a dominant tenement, or someone who has an easement in gross.

**Dominant Tenement:** Estate benefited by an easement right of use.

**Double Net Lease:** A lease in which the tenant pays two of the expenses associated with property ownership, in addition to paying the rent.

**Dower:** The legal right or interest recognized in some states that a wife acquires in the property her husband held or acquired any time during their marriage. During the husband’s life, the dower is an expectant, or inchoate, interest that does not actually become a legal estate until the husband’s death.

**Down Payment:** The amount of cash a purchaser will pay at the time of purchase. Even though down payment usually includes the earnest money deposit, the terms are not synonymous. Earnest money is applied toward the total amount of cash down payment due at the closing.

**Due Diligence:** A fair, proper and due degree of care and activity. An expressed or implied requirement in certain real estate contracts stating that a person use good-faith efforts to perform obligations under a contract. A buyer who makes an offer contingent on obtaining financing must use due diligence in seeking such financing.

**Dual Agents:** When an agent (or agency in some states) represents both principals to a transaction, a dual agency exists. In many states, it is unethical and illegal for a broker to represent both buyer and seller in a real estate transaction without written consent. Most license laws provide that a real estate license will be revoked or suspended if a licensee engages in a dual agency without such consent.

**Duties:** A moral or legal obligation. Conduct, service or functions that arise from one’s position.

**Duty:** A moral or legal obligation. Conduct, service or functions that arise from one’s position.

**Earnest Money:** Down payment made by a purchaser of real estate as evidence of good faith.

**Earnest Money Receipt:** The cash deposit paid by the prospective buyer of real property as evidence of good-faith intention to complete the transaction. The amount of earnest money deposited rarely exceeds 10 percent of the purchase price, and its primary purpose is to serve as a source of payment of damages should the buyer default.

**Easement:** Created by grant or agreement for a specific purpose, an easement is the right, privilege or interest which one party has in land of another.

**Easement Appurtenant:** An easement that benefits a particular piece of property, the dominant tenement.

**Easement by Prescription:** An easement acquired by prescription.

**Easement in Gross:** An easement that benefits a person instead of a piece of land; there's a dominant tenant, but no dominant tenement.

**Economic Base:** An appraisal term to describe a means of measuring the economic activity of a community that enables it to attract income from outside its borders; the study of the relationship between basic and non-basic employment patterns as a means of predicting population, income and other variables having an effect on real estate and land use.

**Economic Life:** The estimated period over which an improved property may be profitably utilized so that it will yield a return over and above the economic rent attributable to the land itself; the period during which an improvement has value in excess of its salvage value.

**Effective Age:** The number of years of age that is indicated by the condition of the structure, not its actual chronological age.

**Effective Date of Value:** The specific day the conclusion of value applies.

**Emblem:** Crops produced annually, by labor and industry, as distinguished from crops that grow naturally on the land.

**Eminent Domain:** The right of the government to acquire property for necessary public or quasi-public use by condemnation; the owner must be fairly compensated. The right of the government to do this and the right of the private citizen to get paid is spelled out in the 5<sup>th</sup> Amendment to the United States Constitution.

**Employees:** One who works under the supervision and control of another. For purposes of state licensing law, the real estate salesperson is employed by the broker.

**Encapsulation:** The process of applying a sealant to asbestos-containing material, which penetrates the material's surface, preventing the release of the dangerous fibers into the air.

**Encroachment:** The building of a structure or construction of any improvements, partly or wholly on the property of another. A form of trespass.

**Encumbrances:** Any claim, lien, charge or liability attached to and binding on real property that may lessen its value or burden, obstruct or impair the use of a property but not necessarily prevent transfer of title.

**Enforceability:** The ability to carry out effectively

**Entitlement:** To be owned something under the law. That portion of a VA guaranteed loan that protects a lender if the veteran defaults.

**Environmental Protection Agency (EPA):** A federal agency created in 1970 by bringing together various federal pollution control activities that had been scattered among a number of federal departments and agencies. The EPA is involved with environmental problems of air and water pollution, solid-waste management, pesticides, radiation and noise.

**Equal Credit Opportunity Act (ECOA):** Federal legislation passed in 1974 to ensure that the financial institutions and other firms engaged in the extension of credit exercise their responsibility to make credit available with fairness and impartiality and without discrimination on the basis of race, color, religion, national origin, sex or marital status, age, receipt of income from public assistance programs, and ensure good-faith exercise of any right under the Consumer Credit Protection Act.

**Equitable Right of Redemption:** The right which the mortgagor has of redeeming his or her property for a limited period of time after a foreclosure sale.

**Equitable Title:** Title of the purchaser under a contract of sale.

**Equity:** The interest or value which an owner has in real estate over and above the liens against it; branch of remedial justice by and through which relief is afforded to suitors in courts of equity.

**Erosion:** The wearing away of land by the action of water, wind or glacial ice.

**Escalation Clause:** A clause in a contract or lease providing for the upward or downward adjustment of payments.

**Escape Clause:** A contract provision relieving a party of liability for failure to perform, as where a stated contingency does not occur.

**Escheat:** The reverting of property to the State when heirs capable of inheriting are lacking.

**Escrow Closing:** A settlement procedure conducted by a disinterested third party, often an escrow agent, where the seller and buyer are not present.

**Escrows:** The process by which money and/or documents are held by a disinterested third person until satisfaction of the terms and conditions of the escrow instructions has been achieved. Once these terms have been satisfied, delivery and transfer of the escrowed funds and documents takes place. Although in some states a real estate broker is authorized to handle escrow functions, the common practice is to employ the services of a licensed escrow company, title company or lending institution.

**Estate:** The degree, quantity, nature and extent of ownership interest that a person has in real property. One's legal interest or rights, not the physical quantity of land. To be an estate, an interest must be one that is possessory and whose ownership is measured in terms of duration. A freehold estate (a fee simple or a life estate) is an interest in land for an uncertain duration. All other interests are less than freehold and include leasehold interests, such as an estate for years or an estate at will.

**Estate for Years:** An interest in lands by virtue of a contract for the possession of them for a definite and limited period of time. A lease with a definite termination date may be said to be an estate for years.

**Estoppel:** A doctrine which bars one from asserting rights which are inconsistent with a previous position or representation.

**Ethics:** A system of moral principles, rules and standards of conduct. High ethical standards are more important in real estate than in certain other transactions where the clients may be more familiar with the services performed. Good ethics is concerned with fidelity, integrity and competency.

**Eviction, Actual:** Physically forcing someone off of property (or preventing them from re-entering), or using the legal process to make someone leave.

**Eviction, Constructive:** Conduct by the landlord that so materially disturbs or impairs a tenant's enjoyment of the leased premises that the tenant is effectively forced to move out and terminate the lease without liability for further rent.

**Eviction, Retaliatory:** When a landlord evicts a tenant in retaliation for requesting repairs, filing a complaint against the landlord, or organizing or participating in a tenants' rights group.

**Eviction, Self-help:** When a landlord uses physical force, a lockout, or a utility shutoff to remove a tenant, instead of going through the legal process.

**Evidence of Title:** Proof of ownership of property. Common examples of such evidence are a certificate of title, title insurance policy or, with Torrens-registered property, a Torrens certificate of title. A person who contracts to sell property must furnish the buyer with a marketable title to the property

**Exchange:** A transaction in which all or part of the consideration for the purchase of real property is the transfer of property of "like kind" (i.e., real estate for real estate). The original attraction of an exchange was in those cases where it was difficult to produce a cash buyer. Later, however, the exchange became a popular device for deferring capital gains taxes.

**Exclusive Agents:** A written listing agreement giving a sole agent the right to sell a property for a specified time, but reserving to the owner the right to sell the property himself without owing a commission. The exclusive agent is entitled to a commission if he or she personally sells the property or if it is sold by anyone other than the seller.

**Exclusive Buyer Agency Agreement:** A contract between a buyer and broker in which the broker earns commission only if he is the broker who finds the property the buyer eventually purchases.

**Exclusive Right to Sell Listing:** A written agreement between owner and agent giving agent the right to collect a commission if the property is sold by anyone during the term of his agreement.

**Execute:** To carry out fully : put completely into effect. The act of making a document legally valid, such as formalizing a contract by signing, or acknowledging and delivering a deed. In some cases, execution of a document may refer solely to the act of signing; in other cases it may refer to complete performance of the document's terms.

**Executed:** The act of making a document legally valid, such as formalizing a contract by signing, or acknowledging and delivering a deed.

**Executor:** A person named in a will to carry out its provisions as to the disposition of the estate of a person deceased.

**Executory Contract:** A contract in which one or both parties have not yet completed performance of their contractual obligations.

**Expert:** Having, involving, or displaying special skill or knowledge derived from training or experience

**Express Contract:** An agreement that's been expressed in words, either written or spoken.

**Expressly:** In an express manner: explicitly <expressly rejected the proposal

**Facilitating:** To make easier : help bring about as in assisting a buyer and seller in reaching agreement in a real estate transaction.

**FHA:** A federal agency established to encourage improvement in housing standards and conditions, to provide an adequate home-financing system through the insurance of housing mortgages and credit and to exert a stabilizing influence on the mortgage market.

**Fair Housing Law:** Title VIII of the Civil Rights Act of 1968.

**Fair Market Value:** An outdated appraisal term for the most probable price in terms of money that a property, if offered for sale for a reasonable period of time in a competitive market, would bring to a seller who is willing but not compelled to sell, from a buyer who is willing but not compelled to buy, both parties being fully informed of all purposes to which the property is best adapted and ways it is capable of being used. The accepted term today is market value.

**Familial Status:** As defined in the Fair Housing Act, a situation in which one or more individuals under age 18 live with a parent or legal guardian or another person given written permission from a parent. Specifically covered are pregnant women or a person in the process of securing legal custody.

**Federal Fair Housing:** Law that makes discrimination based on race, color, sex, familial status, handicap, religion or national origin illegal in connection with the sale or rental of most dwellings.

**Fee Simple Absolute:** The highest type of estate or interest a person may have in property. In modern usage, it expressly establishes the title to real property in the owner, without limitation or end. The owner may dispose of it by sale or trade or will as he or she chooses.

**Fee Simple Determinable:** A defeasible fee that terminates automatically if certain conditions occur. The grantor (or his or her heirs) has a possibility of reverter.

**FHA-Insurance:** An undertaking by FHA to insure the lender against loss arising from a default by borrower.

**Fiduciary:** A relationship that implies a position of trust or confidence wherein one person is usually entrusted to hold or manage property or money for another. The term fiduciary describes the faithful relationship owed by an attorney to a client or by a broker (and salesperson) to a principal. The fiduciary owes complete allegiance to the client.

**Fiduciary Deed:** A deed executed by a person in a position of trust, held by law to high standards of good faith and loyalty.

**Financial:** Relating to finance or financiers; financing is that part of the purchase price for a property exclusive of the down payment.

**First Substantive Contact:** An event triggering agency disclosure (e.g., prior to entering into a listing agreement, prior to showing a property, at an open house when a buyer displays serious interest, etc.).

**Fixed Expenses:** Those recurring expenses that have to be paid regardless of whether the property is occupied, for example, real property taxes, hazard insurance and debt service. These expenses contrast with operating expenses necessary to maintain the production of income from the operation of a property.

**Fixed rate:** Having the same rate of interest for the life of the loan.

**Fixtures:** An article (such as a stove, bookcase or track lighting) that was once personal property but has been so affixed to real estate that it has become real property.

**Flood Zone:** Geographic areas that the FEMA has defined according to varying levels of flood risk.

**Foreclosure:** A legal procedure whereby property used for security for a debt is sold to satisfy the debt in the event of default of payment of the mortgage note or default of other terms of a mortgage document.

**Fraud:** Any form of deceit, trickery, breach of confidence or misrepresentation by which one party attempts to gain some unfair or dishonest advantage over another. Unlike negligence, fraud is a deceitful practice or material misstatement of a material fact, known to be false, and done with intent to deceive, or with reckless indifference as to its truth, and relied on by the injured party to his or her damage.

**Fraudulent:** characterized by, based on, or done by fraud : deceitful

**Freehold Estate:** An estate of indeterminable duration, e.g., fee simple or life estate.

**Frontage:** A term used to describe or identify that part of a parcel of land or an improvement on the land which faces a street. The term is also used to refer to the lineal extent of the land or improvement that is parallel to and facing the street, e.g., a 75-foot frontage.

**Fructus Naturales:** Naturally growing plants and trees.

**Functional Obsolescence:** A loss of value due to adverse factors built into the structure which affects the utility of the structure.

**Fungal:** Of, relating to, or having the characteristics of fungi

**General Agent:** One authorized by a principal to perform any and all acts associated with the continued operation of a particular job or a certain business of the principal. The essential feature of a general agency is the continuity of service, such as that provided by a property manager of a large condominium project. Most real estate brokers are treated as special agents.

**General Lien:** A lien on all the property of a debtor.

**General Partnership:** A form of business organization in which two or more co-owners carry on a business for profit. All the owners are general partners and share a full liability for the debts and obligations of the partnership.

**General Warranty Deed:** The warranty deed where the seller guarantees that the title is marketable.

**Genuine Assent:** Consent given freely to create a binding contract. If offer or acceptance is given as a result of fraud, undue influence, duress, or mistake, then the contract is voidable by the victimized party.

**Good Consideration:** A consideration founded on love and affection for kindred by blood or marriage, which may be found in a gift deed. However, a good consideration is not sufficient to support a contract.

**Good Faith:** Bona fide; an act is done in good faith if it is in fact done honestly, whether negligently or not. The recording laws are designed to protect a "good-faith" purchaser. Most antidiscrimination laws require a broker to transmit all good-faith offers to lease or buy. Many states add a requirement of good faith for a person to acquire title to someone else's real property by adverse possession.

**Government Survey System:** A method of specifying the location of parcels of land using prime meridians, base lines, standard parallels, guide meridians, townships, and sections.

**Graduated Lease:** Lease which provides for a varying rental rate, often based upon future determination; sometimes rent is based upon result of periodical appraisals; used largely in long-term leases.

**Grantee:** The purchaser; a person to whom a grant is made.

**Grantor:** Seller of property; one who signs a deed.

**Gross Lease:** A lease of property under which the lessee pays a fixed rent and the lessor pays the taxes, insurance and other charges regularly incurred through ownership; also called a fixed or flat lease.

**Gross Living Area:** Residential space that is finished, heated, and above grade. Garages, finished basements, and storage areas do not count in GLA.

**Gross Rent Multiplier:** A figure which, times the gross income of a property, produces an estimate of value of the property.

**Habendum Clause:** That clause in a deed which states, “to have and to hold to said grantee, his heirs, successors, and assigns, forever.”

**Heirs:** Recipients of an inheritance from a deceased owner. A person who inherits under a will or a person who succeeds to property by the state laws of descent if the decedent dies without a will (intestate). State probate codes (laws of descent and distribution) set up the method of determining heirs for distributing an intestate decedent’s real property.

**Highest and Best Use:** An appraisal phrase meaning that use which at the time of an appraisal is most likely to produce the greatest net return to the land and/or buildings over a given period of time; that use which will produce the greatest amount of amenities or profit. This is the starting point for appraisal.

**Holder in Due Course:** One who has taken a note, check or bill of exchange in due course:

1. Appears good on its face;
2. Before it was overdue;
3. In good faith and for value;
4. Without knowledge that it has been previously dishonored without notice of any defect at the time it was negotiated to him.

**Holdover Tenant:** Tenant who remains in possession of leased property after the expiration of the lease term.

**Home Equity Loan:** A mortgage loan (usually in a subordinate position) that allows the borrower to obtain multiple advances of the loan proceeds at the borrower’s discretion, up to an amount that represents a specific percentage of the borrower’s equity in a property.

**Home Inspection:** A visit to and review of particular premises. A purchaser should always inspect the property before closing. Because possession of property gives constructive notice of any claims of ownership, an inspection is an important step in discovering any possible claims by others. An inspection might also reveal any encroachments or unrecorded easements.

**Homeowner’s Association:** A nonprofit association of homeowners organized pursuant to a declaration of restrictions or protective covenants for a subdivision, PUD or condominium. Like other nonprofit associations, a homeowner’s association has members, not shareholders.

**Homeowner’s Insurance:** A combined property and liability insurance policy designed for residential use. A variety of packaged policies are designed for owners of single-family dwellings, for tenants and for condominium owners.

**Home Warranty:** A contract between a homeowner and a home warranty company that provides for discounted repair and replacement service on a home’s major components.

**Homestead:** A home upon which the owner or owners have recorded a Declaration of Homestead. As provided by Statutes in some states, it protects home against judgments up to specified amounts.

**Housing Expense Ratio:** The relationship of a borrower’s total monthly housing expense to gross monthly income, expressed as a percentage (total housing expense \ income = ratio%).

**HVAC:** Heating, ventilation, and air conditioning.

**Hypothecation:** To give a thing as security without the necessity of giving up possession of it.

**Implied Agency:** An actual agency that arises by deduction or inference from other facts and circumstances, including the words and conduct of the parties (i.e., implied in fact through behavior).

**Implied Contract:** An unwritten contract inferred from the actions of the parties. Such an agreement is created by neither words nor writing; it is inferred from the conduct of the parties. Also, a contract in which the terms are understood and agreed to, but not fully stated in the document.

**Incentive Zoning:** A system by which developers receive zoning incentives on the condition that they provide specific physical, social, or cultural benefits to the community.

**Incidental Authority:** The authority to do everything reasonably necessary to carry out the principal's express orders.

**Income Approach:** One of the three methods in the appraisal process; an analysis in which the estimated net income from the subject residence is used as a basis for estimating value by dividing the net by a capitalization rate.

**Independent Contractor:** A person who acts for another but who sells final results and whose methods of achieving those results are not subject to the control of another.

**Index:** A statistical report that is generally a reliable indicator of the approximate change in the cost of money; often used to adjust the interest rate of adjustable rate mortgages.

**Inflation:** An increase in the cost of goods or services, or too many people wanting too few goods.

**In-House Transaction:** A sale in which the listing broker is the only broker in the transaction; there is no outside broker involved as in a cooperative sale. Either the listing salesperson finds the buyer, or another salesperson working for the listing broker finds the buyer.

**Injunction:** A writ or order issued under the seal of a court to restrain one or more parties to a suit or proceeding from doing an act which is deemed to be inequitable or unjust in regard to the rights of some other party or parties in the suit or proceeding.

**Inquiry Notice:** Legal notice that is presumed by law when factors exist that would make a reasonable person inquire further.

**Interest:** The sum paid or accrued in return for the use of money. Usually stated in terms of an annual rate, although the parties may not always call this payment interest, because it may be disguised in the form of points or mortgage prepayment penalties. Interest on a promissory note is usually charged and due in arrears at the end of each payment period.

**Intermediation:** The process of pooling and supplying funds for investment by financial institutions called intermediaries. The process is dependent on individual savers placing their funds with these institutions and foregoing opportunities to directly invest in the investments selected.

**Interval Ownership:** A popular system of timeshare ownership in which the owner acquires title to a specific unit for a certain week (or weeks) of each year.

**Intestate:** Without a will; a person who died without leaving a will.

**Invalidity:** Lack of validity or cogency

**Involuntary Alienation:** Involuntary transfer such as foreclosure for eminent domain.

**Involuntary Lien:** A lien imposed against property without consent of an owner. Example: taxes, special assessments, federal income tax liens, etc.

**Irrevocable:** An agreement that cannot be withdrawn or revoked. Most state licensing laws require a nonresident broker to file an irrevocable consent agreeing to be bound to the outcome of lawsuits brought against the broker.

**IRS:** An agency that issues its own regulations interpreting the body of statutes codifying the federal tax laws.

**IRV Formula:** A simple calculation for finding the net operating income (I), the capitalization rate (R), or the value (V) of an investment property. When any two factors are known, the third can be determined.

**Joint Tenancy:** Joint ownership by two or more persons with right of survivorship; all joint tenants own equal interest and have equal rights in the property and are formed at the same time by the same instrument.

**Judgment Lien:** A legal claim on all of the property of a judgment debtor in the county where recorded, which enables the judgment creditor to have the property sold for payment of the amount of the judgment.

**Judicial Foreclosure:** A method of foreclosing on real property by means of a court supervised sale. In a judicial foreclosure, there is an appraisal, after which the court determines an upset price below which no bids to purchase will be accepted.

**Just Compensation:** An amount of compensation to be received by a party for the taking of his or her property under the power of eminent domain. Under both federal and state constitutions, private property may not be taken for public use without just compensation having first been determined by the court.

**Laches:** Delay or negligence in asserting one's legal rights.

**Land:** The solid material of the earth and anything affixed permanently to it, including buildings, trees, minerals, water flowing on the land or beneath it, and air space above it.

**Land Contract:** A contract ordinarily used in connection with the sale of property in cases where the seller does not wish to convey title until all or a certain part of the purchase price is paid by the buyer; often used when property is sold on small down payment.

**Land Lease:** A lease under which the tenant leases the land from the owner, but the tenant owns the building.

**Landlord:** The lessor or the owner of leased premises. The landlord retains a reversionary interest in the property, so that when the lease ends the property will revert to the landlord.

**Latent Defect:** Defects that are not visible or apparent; hidden defects.

**Lawful and Possible Objective:** Allowed or permitted by law; one of the requisites of a valid contract.

**Lead:** A bluish-white metal added to both exterior and interior paint as a drying agent and for pigmentation before 1978. Also, once used for pipes in plumbing systems in homes and businesses; can cause health issues, especially for children.

**Lead-Based Paint Disclosure:** The law requires disclosure of any lead tests and/or the possibility of the presence of lead-based paint. A notice concerning the risks of lead poisoning that must be given to purchasers of housing constructed prior to 1978.

**Lease:** An agreement, written or unwritten, transferring the right to exclusive possession and use of real estate for a definite period of time. To create a valid lease, the lessor must retain a reversionary right; that is, the lessor (landlord) must grant the right of possession to the lessee (tenant) but retain the right to retake possession after the lease term has expired.

**Lease Purchase:** An agreement in which part of the rent payment is applied toward a set purchase price. title is transferred from lessor to lessee when the lessor receives the prearranged total price.

**Lease with Option to Buy:** A lease clause that gives the tenant the right to purchase the property under specified conditions. It usually runs with the land, so that if the lease is assigned, the option to purchase is likewise assigned. Usually it does not extend beyond the term of the lease.

**Leased Fee Estate:** The owner's interest in a leased estate, which is reversionary in that possession reverts to the landlord (lessor) when the lease ends.

**Leasehold:** A less than freehold estate that a tenant possesses in real property. Leasehold estates are generally classified as estates in personal property.

**Leases:** An agreement, written or unwritten, transferring the right to exclusive possession and use of real estate for a definite period of time. To create a valid lease, the lessor must retain a reversionary right; that is, the lessor (landlord) must grant the right of possession to the lessee (tenant) but retain the right to retake possession after the lease term has expired.

**Legal Counsel:** One who is legally appointed to transact business on another's behalf

**Legal Description:** A description recognized by law; a description by which property can be definitely located by reference to government surveys metes and bounds or approved recorded maps.

**Legal Title:** The interest in property held by the rightful owner. The seller's interest in property under a land contract.

**Lender:** To let out (money) for temporary use on the condition of repayment with interest

**Lessee:** The person to whom property is rented or leased

**Lessor:** One that conveys property by lease; The person who rents or leases property to another. In residential leasing, he or she is often referred to as a landlord.

**Liable:** Legal responsibility for an act.

**License:** A personal privilege to enter upon or do some act on the land of another; also, authorization to engage in a business, an activity, or profession.

**Licensee:** A person who has a valid real estate license. A real estate licensee can generally be a salesperson or broker, active or inactive, or an individual, corporation or partnership.

**Lien:** A charge that one person has on the property of another as security for a debt or obligation. A lien always arises from a debt and can be created by agreement of the parties (i.e. mortgage) or by a operation of law (i.e. tax lien).

**Lien Theory:** A mortgage theory that a mortgage creates only a lien.

**Life Estate:** An estate or interest in real property which is held for the duration of the life of some certain person.

**Life Estate Pur Autre Vie:** A life estate “for the life of another,” where the measuring life is someone other than the life tenant.

**Life Tenant:** A person possessing a life estate.

**Limitation:** An act or instance of limiting

**Limited Liability Company:** An alternative business entity with the with the combined characteristics and benefits of both limited partnership and S corporation.

**Limited Common Areas:** That special class of common elements in a condominium project that is reserved for the use of one or more apartment(s) to the exclusion of other apartments. This would include assigned parking stalls, storage units or any comon areas and facilities available for use by one or more, but less than all, unit owners.

**Limited Partnership:** A partnership composed of one or more general partners and one or more limited partners. The contribution and liability of the latter are limited.

**Limited Warranty Deed:** A deed that contains warranties covering the time period the grantor holds title.

**Liquidated Damages:** An amount predetermined by the parties to an agreement as the total amount of compensation an injured party should receive if the other party breaches a specified part of the contract. Often in building contracts the parties anticipate the possibility of a breach (for example, a delay in completion by a set date) and specify in the contract the amount of the damages to be paid in the event of the breach. To be enforceable, the liquidated damages clause must set forth an amount that bears a reasonable relationship to the actual damages as estimated by the parties; otherwise, the court will treat the amount as a penalty for failure to perform.

**Lis Pendens:** A recorded notice stating that there is a lawsuit pending that may affect title to the defendant’s real estate.

**Listing Agreement:** A written agency contract between a seller and a real estate broker, stipulating that the broker will be paid a commission for finding (or attempting to find) a buyer for the seller’s property.

**Listing Broker:** To assist in the selling of his or her property for which the owner agrees to pay certain identified compensation

**Listed Property:** Property which has been listed for sale; A written employment agreement in place between a property owner and a real estate broker authorizing the broker to find a buyer or a tenant for certain real property.

**Listing Brokers:** To assist in the selling of his or her property for which the owner agrees to pay certain identified compensation

**Litigation:** Ultimate legal method for settling controversies or disputes between and among persons, organizations, and the State. In litigation process, a case (called suit or lawsuit) is brought before a court of law suitably empowered (having the jurisdiction) to hear the case, by the parties involved (the litigants) for resolution (the judgment).

**Littoral Rights:** Water rights of landowners whose land touches a commercial lake, sea or ocean.

**Loan:** Money lent at interest. A loan commitment is a written pledge by a lender to lend a certain amount of money to a qualified borrower on a particular piece of real estate for a specified time under specific terms. It may be a conditional or qualified commitment, or it may be a firm commitment.

**Loan Estimate:** The disclosure of loan terms, annual percentage rate and other credit costs, and estimated settlement costs that lenders must present to borrowers within three business days of a completed loan application in order to satisfy provisions of the Truth in Lending Act and the Real Estate Settlement Procedures Act.

**Loan-to-Value Ratio (LTV):** The percentage of a property's value that a lender can or may loan to a borrower. For example, if the ratio is 80% this means that a lender may loan 80% of the property's appraised value to a borrower.

**Lot:** A plot of ground.

**Lot and Block System:** The type of legal description used for platted property. The description states only the property's lot number and block number in a particular subdivision. To find out the exact location of the property's boundaries you consult the plat map for that subdivision at the county recorder's office.

**Loyalty:** A fiduciary duty that requires a real estate licensee to put the principal's interests above all others' interests, including her own.

**Maintenance Fee:** A charge or lien levied against property owners to maintain their real estate in operation and productive use, especially in condominiums. In condominium living, the amount of the maintenance fee is usually determined by the board of directors upon review of the budgets.

**Maliciously:** Having or showing a desire to cause harm to someone : given to, marked by, or arising from MALICE

**Market Value:** Under guidelines published by federal lending institutions (Fannie Mae, Freddie Mac), the most probable price a property should bring in a competitive and open market under all conditions requisite to a fair sale.

**Marketable Title:** Title which a reasonable purchaser, informed as to the facts and their legal importance and acting with reasonable care, would be willing and ought to accept.

**Matched Pair Analysis:** Process of determining the value of specific property characteristics or features by comparing pairs of similar properties.

**Material:** Having real importance or great consequences. Any fact that is relevant to a person making a decision. Agents must disclose all material facts to their clients. Agents must also disclose to buyers material facts about the condition of the property, such as known structural defects, building code violations and hidden dangerous conditions.

**Materialman:** Someone who supplies materials for a construction project.

**Material Breach:** A breach of contract important enough so that it excuses the nonbreaching party from performing his or her contractual obligations.

**Material Fact:** A fact is material if it is one which the agent should realize would be likely to affect the judgment of the principal in giving his consent to the agent to enter into the particular transaction on the specified terms.

**Measuring Life:** A person whose life determines the length of a life estate.

**Mechanic's Lien:** A lien created by statute which exists against real property in favor of persons who have performed work or furnished materials for the improvement of the real estate.

**Mediation:** An alternative process of dispute resolution in which an independent third party works with two disputing parties to help them resolve their differences. If successful, the mediation should be reduced to an enforceable written agreement. If mediation is not successful, the next step often is binding arbitration.

**Meeting of the Minds:** When all parties freely agree to the terms of a contract, without fraud, undue influence, duress, menace, or mistake. Mutual consent is achieved through offer and acceptance; it is a "meeting of the minds."

**Methamphetamine:** An amine C<sub>10</sub>H<sub>15</sub>N used medically in the form of its crystalline hydrochloride especially in the treatment of obesity and often used illicitly as a stimulant

**Metes and Bounds System:** A term used in describing the boundary lines of land, setting forth all the boundary lines together with their terminal points and angles.

**Millage:** A rate of taxation for real property calculated as \$1 per \$1,000 (or .001) of assessed value.

**Mineral, Oil, and Gas Rights:** The right to minerals, oil and gas in the ground and the implied easement to enter to mine or drill.

**MIP:** An annual premium amounting to one-half percent of the loan balance each year paid by the borrower.

**Misconduct:** Intentional wrongdoing

**Misleading:** To lead in a wrong direction or into a mistaken action or belief often by deliberate deceit

**Misrepresent:** A false statement or concealment of a material fact made with the intention of inducing some action by another party. A court will grant relief in the form of damages or rescission if the misrepresented fact is material to the transaction.

**Mitigation:** When the non-breaching party takes action to minimize the losses resulting from a breach of contract.

**Mold:** The cornice; wood molding applied to cover the junction of roof boards and outside wall. On the interior, the picture mold is placed where a wall joins a ceiling.

**Mortgage:** A written instrument that creates a lien upon real property as a security for the payment of a specified debt.

**Mortgage Broker:** A broker who charges borrowers for loans arranged.

**Mortgage Insurance Premium (MIP):** Most of the popular FHA programs require the borrower to pay two mortgage insurance premiums. One is an upfront MIP paid at closing that amounts to 2.25 percent of the loan amount. The MIP is reduced for first time and central cities buyers who complete a homebuyer education program. The other charge is an annual premium amounting to one-half percent of the loan balance each year.

**Mortgagee:** One to whom a mortgagor gives a mortgage to secure a loan or performance of an obligation, a lender.

**Mortgagor:** One who gives a mortgage on his property to secure a loan or assure performance of an obligation; a borrower.

**Multiple Listing Service:** A Multiple Listing Service, or MLS, is a marketing database set up by a group of cooperating real estate brokers. Its purpose is to provide accurate and structured data about properties for sale. It also is a mechanism for listing brokers to offer compensation to buyer brokers who bring a buyer for their listed property.

**Mutual:** Shared in common

**National Association of Realtors:** Formerly known as the National Association of Real Estate Boards (NAREB), NAR is the largest and most prestigious real estate organization in the world.

**Negative Amortization:** Loan payments that do not cover the interest due so that the loan principal increases.

**Negligence:** The failure to use ordinary or reasonable care under the circumstances

**Negotiate:** To confer with another so as to arrive at the settlement of some matter. A real estate sale illustrates the negotiation process: The first offer received for property often is considered merely an intention to deal. Thereafter follows a series of counteroffers leading up to the consummation of the transaction. Usually, however, negotiation takes place only if the broker's efforts have proceeded to the point where the prospect is considered a likely purchaser.

**Negotiable Instrument:** A promissory note or check or certificate of deposit or draft (bill of exchange) which under the Negotiable Instruments Law (now contained in the Commercial Code), entitles an endorsee to greater rights than an assignee, under certain prescribed conditions.

**Negotiated:** The completed transaction of business aimed at reaching a meeting of the minds among the parties. A real estate sale illustrates the negotiation process: The first offer received for property often is considered merely an intention to deal. Thereafter follows a series of counteroffers leading up to the consummation of the transaction. Usually, however, negotiation takes place only if the broker's efforts have proceeded to the point where the prospect is considered a likely purchaser.

**Neighborhood:** Contiguous areas showing common characteristics of population and homogeneity of land use.

**Net Lease:** A lease requiring a lessee to pay certain charges against the property such as taxes, insurance and maintenance costs in addition to rental payments.

**Net Listing:** A listing which provides that the agent may retain as compensation for his services all sums received over and above a net price to the owner.

**Net Operating Income (NOI):** The balance remaining after deducting from gross receipts all fixed expenses, operating expenses, replacement reserves and allowance for vacancy and bad debts, but before deducting any debt service or depreciation.

**Net to Seller:** An estimate of the money a seller should receive from a real estate transaction based on a certain selling price after all costs and expenses have been paid.

**Nonconforming Loan:** Loan that does not meet Fannie Mae/Freddie Mac standards and, thus, cannot be sold on the secondary market.

**Nonconforming Use:** A property use that doesn't conform to current zoning requirements, but is allowed because the property was being used in that way before the present zoning ordinance was enacted.

**Nonjudicial Foreclosure:** The process of selling real property under a power of sale in a mortgage or deed of trust that is in default. One disadvantage is that the lender cannot obtain a deficiency judgment.

**Notice of Foreclosure:** The notification given by a lender to a borrower who has failed to repay a debt according to the terms of the loan, accelerating the due date of the debt to the present and requiring the borrower to repay the entire outstanding balance of the loan at once.

**Nonresident:** Not residing in a particular place.

**Notice of Default:** A notice to a defaulting party announcing that a default has occurred. The defaulting party is usually provided a grace period during which to cure the default. Notices of default are frequently provided for in contracts for deed and mortgages and are sometimes required by operation of law.

**Novation:** The substitution of a new obligation in place of an existing one.

**Obedience:** A fiduciary duty that requires a licensee to follow the (legal) instructions of the principal, obey the parameters of the agency relationship, and not stray beyond the scope of authority.

**Obligation:** Something (as a formal contract, a promise, or the demands of conscience or custom) that obligates one to a course of action: a debt security (as a mortgage or corporate bond): a commitment (as by a government) to pay a particular sum of money; also: an amount owed under such an obligation

**Occupancy Standard:** The establishment of the maximum number of occupants allowable in a given rental dwelling, intended to help promote an adequate and safely occupied inventory of housing.

**Offeree:** One to whom an offer is made.

**Offeror:** One who makes an offer.

**Offers:** To present for acceptance or rejection; A promise by one party to act or perform in a specified manner, provided the other party acts or performs in the manner requested. An offer demonstrates an intention to enter into a contract, as opposed to merely inviting offers from others, as with a listing contract. The sales contract transmits to the seller a prospective buyer's offer to purchase the seller's property.

**Open Listing:** An authorization given by a property owner to a real estate agent wherein said agent is given the non-exclusive rights to secure a purchaser; open listings may be given to any number of agents without liability to compensate any except the one who first secures a buyer ready, willing and able to meet the terms of the listing, or secures the acceptance by the seller of a satisfactory offer.

**Option:** A right given for a consideration to purchase or lease a property upon specified terms within a specified time.

**Optionee:** The person who is given an option by the owner of property.

**Order of Eviction:** A court ordered directive to a public officer (often the sheriff or marshal) to seize the property to regain possession for the owner.

**Origination:** The process of making or initiating a new loan.

**Origination Fee:** The finance fee charged by a lender for making a mortgage. An origination fee covers initial costs, such as preparation of documents and credit, inspection, and appraisal fees. It is generally computed as a percentage of the face amount on the loan.

**Overage Rent:** Added rent; in retail store leases, the lessee often sets a minimum base rent, with a percentage of the volume of business the store does over a certain amount constituting additional rent. This overage should be treated as excess income by the lessee.

**Owner-occupied:** Property owner who physically occupies the property; the opposite of an absentee landlord or owner. An owner/occupant can usually get preferred mortgage rates over an investor/owner.

**Owner's Policy:** A title insurance policy, the proceeds of which are payable to the property owner. The coverage is usually less extensive than the lender's policy. If there is a lender's policy, the owner can obtain a combined owner/lender policy for minimal added expense.

**Ownership in Severalty:** Ownership by a single individual.

**Package Mortgage:** A type of mortgage used in home financing covering real property, improvements, and movable equipment/appliances.

**Parcel:** A lot or piece of real estate, particularly a specified part of a larger tract.

**Parol Evidence:** Evidence concerning negotiations or oral agreements that were not included in a written contract, often altering or contradicting the terms of the written contract.

**Partial Performance:** A potential remedy to breach of contract where the injured party agrees to accept less than the full terms of the original contract.

**Partnership:** An association of two or more persons who carry on a business for profit as co-owners. Under this act, a partnership can hold title to real property in the name of the partnership, holding by tenancy in partnership. Before the act, many partnerships vested the title to property in a trustee of a land trust so as to avoid problems with the spouses of the partners claiming a marital interest in the partnership property.

**Patent Defect:** A visible, apparent defect that can be seen in a reasonably thorough inspection of property.

**Payment Cap:** With regard to an adjustable rate mortgage, this limits the amount of increase in the borrower's monthly principal and interest at the payment adjustment date, if the principal and interest increase called for by the interest rate increase exceeds the payment cap percentage. This limitation is often at the borrower's option and may result in negative amortization.

**Percentage Lease:** Lease on the property, the rental for which is determined by amount of business done by the lessee; usually a percentage of gross receipts from the business with provision for a minimum rental.

**Periodic Tenancy:** Tenancy for specified periods, such as month to month, which can be terminated at any time by either party on proper notice.

**Permits:** Official government documents that acknowledge work a person wants to do on a property and allow it to be done.

**Personal Property:** Things that are tangible and movable; property that is not classified as real property, such as chattels. Title to personal property is transferred by way of a bill of sale, as contrasted with a deed for real property. A tree is real property while it is rooted in the ground, but when severed it is transformed into personal property.

**Pertinent:** Having a clear decisive relevance to the matter in hand

**Pitch:** The slope of a roof measured as the vertical distance in inches (rise) divided by the horizontal distance in feet (span).

**PITI:** Abbreviation for principal, interest, taxes and insurance, as commonly found in an all-inclusive mortgage payment.

**Plat:** A detailed survey map of a subdivision, recorded in the county where the land is located. Subdivided property is often called platted property.

**Platform Framing:** A technique of framing where a platform is built over the basement or crawl space, and then studs are extended up to the next level, where another platform is built; finally, studs are extended to the roof line.

**Platted Property:** Land that has been subdivided into blocks and lots.

**Plottage:** An increase in value, over the cost of acquiring the separate parcels, by successful assemblage, usually due to a change in use.

**Points:** Each point is one percent of the loan. They are charged by lenders to make the loan more attractive. For buyers they are treated as prepaid interest.

**Police Power:** The right of the State to enact laws and regulations and enforce them for the order, safety, health, morals, and general welfare of the public.

**Portfolio Loan:** A loan originated and maintained by the lending institution and not sold in the secondary mortgage market. The lender is not restricted by the qualification requirements set by the secondary mortgage market. These loans eventually are sold after becoming "seasoned".

**Possession:** The act of either actually or constructively possessing or occupying property. Possession imparts constructive notice that the party in possession may have certain rights. Therefore, when someone is in possession of property under a claim of ownership and a buyer purchases the property from the owner of record, the purchaser for value is not protected under the recording laws, in that possession imparts constructive notice in much the same way as does the recording of a deed.

**Power and Authority:** Power is the ability, whether personal or social, to get things done — either to enforce one's own will or to enforce the collective will of some group over others. Authority, however, is where power is granted by consent; and when an individual or committee is said to have authority, the reason that justifies this authority is known as legitimacy.

**Power of Sale Clause:** As used in a will, authorizes the executor to sell estate property without the necessity of publishing a notice of sale.

**Practicable:** Capable of being put into practice or of being done or accomplished

**Pre-Approval:** An act or instance of approving prior to

**Predatory Lending:** Loan tactics that take advantage of ill-informed consumers through excessively high fees, misrepresented loan terms, or frequent refinancing that does not benefit the borrower.

**Prepaid Expenses:** Prorations of prepaid items of expense which are credited to the seller in the closing escrow statement.

**Prepayment Clause:** Provision made for loan payments to be larger than those specified in the note.

**Prepayment Penalty:** Penalty for the payment of a mortgage or trust deed note before it actually becomes due if the note does not provide for prepayment.

**Prequalified Loan:** A pending loan in which a loan officer opines that, based on a preliminary interview and a credit report, the borrower will be able to meet the loan requirements — assuming the borrower is telling the truth about his or her financial situation and income status.

**Price:** The quantity of one thing that is exchanged for another. The amount of money paid for an item; the consideration; the purchase price. There is a distinction between market price and market value.

**Price Fixing:** The practice of conspiring to establish fixed fees or prices for services rendered or goods sold. In recent years, the setting of attorney fees by local bar associations and commission percentages and management fees by local realty associations has been successfully attached as price fixing and thus a violation of the Sherman Antitrust Act.

**Primary Money Market:** A market where loans are made directly to borrowers by a lender who retains the loan in his portfolio rather than sell it to an investor.

**Prime Rate:** The minimum interest rate charged by a commercial bank on short-term loans to its largest and strongest clients (those with the highest credit standings). Prime rate is often used as a base rate for other business and personal loans. Prime rates are determined in part by the rates banks have to pay for the money they lend to their prime rate borrowers.

**Principal Meridian:** The prime meridian intersecting the reference marker of a survey that is used as a reference line for numbering ranges.

**Principals:** One of the main parties to a transaction. For example, the buyer and seller are principals in the purchase of real property. Do not confuse principal and principle. Principles are rules like codes of behavior or ethics.

**Private Mortgage Insurance (PMI):** A policy of Private Mortgage Insurance usually required for a conventional loan where the down payment is less than 20 percent.

**Private Restriction:** A restriction imposed on property by a previous owner or the subdivision developer; a restrictive covenant or a condition in a deed.

**Probate:** A judicial proceeding in which the validity of a will is established and the executor is authorized to distribute the estate property; or, when there is no valid will, an administrator is appointed to distribute the estate to the heirs.

**Procuring Cause:** That cause originating from series of events that, without break in continuity, results in the prime object of an agent's employment producing a final buyer.

**Professionals:** Characterized by or conforming to the technical or ethical standards of a profession

**Progression, Principle of:** The worth of a lesser valued residence tends to be enhanced by association with many higher valued residences in the same area.

**Promissory Note:** An unconditional written promise of one person to pay a certain sum of money to another, or order, or bearer, at a future specified time. The words or order or or bearer are important to make the instrument negotiable, because these words enable the instrument to be endorsed and transferred.

**Promotional:** The act of furthering the growth or development of something; especially: the furtherance of the acceptance and sale of merchandise through advertising, publicity, or discounting.

**Property Management:** That aspect of the real estate profession devoted to the leasing, managing, marketing and overall maintenance of the property of others. The property manager strives to maintain the investment and income in the property and to maintain the physical features of the building.

**Property Manager:** A person hired by a property owner to administer, market, and maintain rental property.

**Proprietary Lease:** A written lease in a cooperative apartment building, between the owner/corporation and the tenant/stockholder, in which the tenant is given the right to occupy a particular unit. It differs from the typical landlord-tenant lease in that the tenant is also a stockholder in the corporation that owns the building.

**Prorations:** To divide or distribute proportionately expenses such as rent, insurance and the like and are paid in advance. Some expenses, however, such as real property taxes and interest on a mortgage, are paid in arrears. Upon closing a real estate transaction, these various expenses are prorated between the buyer and the seller to ensure that each is responsible for the operating expenses of the property during his or her ownership.

**Provision:** A measure taken beforehand to deal with a need or contingency

**Puffing:** Superlative statements about a property that shouldn't be considered assertions of fact. "The best buy in town," or "It's a fabulous location" are examples of puffing.

**Purchase Agreement:** A contract for the purchase and sale of real property in which the buyer agrees to purchase for a certain price and the seller agrees to convey title by way of a deed or an assignment of lease.

**Qualifying:** To invest with legal capacity. Meet the required standard. Qualification is the process of reviewing a prospective borrower's credit and payment capacity before approving a loan.

**Quantity Survey Method:** A highly technical process in arriving at cost estimate of new construction. It involves a detailed estimate of the quantities of raw material lumber, plaster, brick, cement, etc. used, as well as the current price of the material and installation costs.

**Quitclaim Deed:** A deed to relinquish any interest in property which the grantor may have, without claiming to have an interest.

**Radon:** A colorless, odorless, naturally occurring hazardous gas. Measured using a Spectrometer.

**Range:** A strip of land six miles wide determined by a government survey, running in a north-south direction.

**Real Estate:** Real property; land and things affixed to land or appurtenant to land.

**Real Estate Investment Trust (REIT):** A special arrangement under Federal and State law whereby investors may pool funds for investments in real estate and mortgages and yet escape corporation taxes.

**Real Estate Owned (REO):** A term used by lenders to describe real property involuntarily acquired by them through foreclosure. Lenders often use brokers to market their REO properties.

**Real Estate Settlement Procedures Act (RESPA):** A federal disclosure law effective June 20, 1975 requiring new procedures and forms for settlements (closing costs) involving federally related loans.

**Real Property:** The earth's surface, the air above and the ground below, as well as all appurtenances to the land including buildings, structures, fixtures, fences and improvements erected upon or affixed to the same. This excludes growing crops. The term real property includes the interests, benefits and rights inherent in the ownership of real estate.

**Realtors:** A registered trade name that may be used only by members of the state and local real estate boards affiliated with the National Association of Realtors.

**Reasonable Accommodation:** Any change or modification in the environment or the way things are customarily accomplished (e.g., rules, services, policies) that enables a qualified individual with a disability to enjoy equal opportunities.

**Rebate:** A reduction or kickback of a stipulated charge. A property manager may not accept any commission, rebate or profit on expenditures made in behalf of an owner without the owner's knowledge and consent.

**Reconciliation:** The act of bringing into harmony or agreement, such as reconciling an account, i.e., making it compatible or consistent.

**Recording:** The process of placing a document on file with a designated public official known as the County Recorder. He designates the fact that a document has been given to him by placing his stamp upon it indicating the time of day and the date when it was officially placed on file. Documents filed with the Recorder are considered to be placed on open notice to the general public of that county.

**Redlining:** A lending policy of denying real estate loans on properties in older, changing urban areas, usually with larger minority populations, because of alleged higher lending risks without due consideration being given by the lending institution to the creditworthiness of the individual loan applicant.

**Referral:** The act of recommending or referring; a sales lead. A client who has been obtained through the efforts or recommendation of another person.

**Referral Fee:** A fee paid to someone for producing either a buyer to purchase or a seller to list property; also called a finder's fee. A finder is a person who finds, interests, introduces or brings together parties in a deal, even though the finder has no part in negotiating the terms of the transaction.

**Refund:** To return (money) in restitution, repayment, or balancing of accounts

**Regression:** A principle of appraisal stating that, between dissimilar properties, the worth of the better property is adversely affected by the presence of the lesser-quality property. Thus in a neighborhood where the homes average in the \$50,000 range, a better-built structure, which in another neighborhood would be worth at least \$60,000, would tend to be valued closer to \$50,000.

**Regulation Z:** The Federal Reserve Board's regulation that implements the Truth in Lending Act.

**Reject:** To refuse to accept, consider, submit to, take for some purpose, or use

**Reliction:** The addition to land by the permanent recession of water.

**Remainder:** A right to future possession after the expiration of a life estate.

**Remainderman:** The person who has an estate in remainder.

**Remediation:** The process of implementing a plan to clean up a site that has been identified as containing hazardous substances. The Phase III audit is the stage in which a remediation plan is developed and executed.

**Renunciation:** When someone who has been granted something or has accepted something later gives it up or rejects it; as when an agent withdraws from the agency relationship.

**Represent:** The action or fact of one person standing for another so as to have the rights and obligations of the person

**Representation:** The action or fact of one person standing for another so as to have the rights and obligations of the person

**Reproduction Costs:** The cost of replacing the subject improvement with one that is the exact replica, having the same quality of workmanship, design and layout.

**Rescission:** An action to cancel or annul the effect of executing a contract or other document, based on fraud, mistake, etc.

**Reserves:** In a common interest subdivision, an accumulation of funds collected from owners for future replacement and major maintenance of the common area and facilities. With regard to mortgage loans, an accumulation of funds, collected by the lender from the borrower as part of each monthly mortgage payment; an amount allocated to pay property taxes and insurance when they are due.

**Resident Manager:** A salaried agent of the owner employed to manage a single building. Generally, a resident manager need not be licensed under the state real estate license laws, if he or she merely acts as custodian or caretaker.

**Residential:** Restricted to or occupied by residences.

**Residential Lead-Based Paint Hazard Reduction Act:** The Residential Lead-Based Paint Hazard Reduction Act and enabling regulations require affirmative action on the part of the sellers, landlords and real estate agents and renovators disturbing more than two square feet of old paint in houses built before 1978, to ensure that lead-based paint hazards are addressed in the sale and leasing of homes and apartments constructed prior to 1978.

**Residual Income:** Deferred commissions; that is, commissions that are earned but payment of which is put off for a stated period.

**Respondents:** One who answers in various legal proceedings (as in equity cases)

**Responsibility:** Something for which one is responsible; moral, legal or mental accountability.

**Restitution:** Restoring something to a person that he or she was unjustly deprived of.

**Restrictive Covenant:** A promise to do or not do an act relating to real property; usually an owner's promise to not use property in a particular way. may or may not run with the land.

**Retainer:** Fee paid to a person or firm to secure the privilege of obtaining its services as and when required.

**Return on Investment (ROI):** The gain/profit an investor experiences from an investment relative to its cost to acquire.

**Reverse Mortgage:** Allows qualified homeowners age 62 or older to convert equity in the home into a lump sum, a monthly cash stream, or a line of credit; becomes due when the last surviving borrower dies, sells the home, or ceases to live in the home for 12 consecutive months.

**Reversion:** The right to future possession or enjoyment by the person, or his heirs, creating the preceding estate.

**Reversioner:** The person who has a future estate interest in reversion.

**Revocation:** The act of terminating, canceling or annulling, as when a seller revokes a broker's agency by canceling the listing. A broker or salesperson's license can be revoked for cause. It is important to distinguish between the power of an agent to revoke and the right to revoke an agency contract. Unless the agency is coupled with an interest, the principal always has the power to revoke; but if the principal has no justifiable grounds to revoke, the principal may be liable for money damages.

**Revoked:** To annul by recalling or taking back; revocation is the act of terminating, canceling or annulling, as when a seller revokes a broker's agency by canceling the listing. A broker or salesperson's license can be revoked for cause.

**Right of Preemption:** A right to have the first chance to buy or lease property if the owner decides to put it up for sale or make it available. Also called a right of first refusal.

**Right of Rescission:** The right of a consumer to rescind any credit transaction involving his or her principal residence as collateral (except first mortgages), lasting up to midnight of the third business day after the transaction.

**Right of Survivorship:** Right to acquire the interests of a deceased joint owner; distinguishing feature of a joint tenancy.

**Riparian Rights:** The right of a landowner to flowing water on, under, or adjacent to his land.

**Roundtable Closing:** A settlement procedure conducted with all parties present.

**Rule of Capture:** A legal principle that grants a landowner the right to all oil and gas produced from wells on his or her land, even if it migrated from underneath land belonging to someone else.

**Runs with the Land:** Binding or benefiting the successive owners of a piece of property, rather than terminating when a particular owner transfers his or her interest. Usually said in reference to an easement or a restrictive covenant.

**Sale-and-Leaseback:** A situation where the owner of a piece of property wishes to sell the property and retain occupancy by leasing it from the buyer.

**Sales Comparison Approach:** An appraisal method that estimates the value of real property by performing a market analysis of the area where the subject property is located. Data are collected and adjustments made for the differences in the properties.

**Salespersons:** A person who has a valid real estate license. A real estate licensee can generally be a salesperson or broker, active or inactive, or an individual, corporation or partnership.

**Satisfaction of Lien:** The payment of a debt or obligation such as a judgment. The time when the vendee pays in full under a contract for deed and the vendor transfers legal title is referred to as satisfaction or fulfillment.

**Scarcity:** In appraisal terminology, a lack of supply of some type of real property, the supply of which cannot readily be increased. Scarcity results in increased value when demand exceeds supply.

**Secondary Financing:** A loan secured by a second mortgage or trust deed on real property. These can be third, fourth, fifth, sixth – on and on ad infinitum.

**Secondary Market:** Buying and selling existing mortgage and trust deed loans. The primary market is the one in which lenders loan money to borrowers; the secondary market is the one in which the lenders sell their loans to the large secondary marketing agencies (FNMA, FHLMC, and GNMA) or to other investors.

**Section:** Section of land is established by government survey and contains 640 acres.

**Section 203(b) FHA Loan:** A program of home mortgage insurance offered by the Federal Housing Administration. This is one of the original programs, dating back to 1934, and its requirements have provided guidelines for many of the succeeding programs.

**Security Deposit:** A deposit of money or other thing of value made to assure performance of an obligation; frequently required of lessees or tenants.

**Seizin:** The possession of land under a claim of a freehold estate (also spelled seisen).

**Self-Dealing:** When a real estate agent buys the principal's property him or herself (or sells it to a relative, friend, or associate, or to a business he or she has an interest in), without disclosing that fact to the principal, and in violation of his or her fiduciary duties to the principal.

**Seller:** One that offers for sell. One who lists their home with a real estate broker is known as the seller.

**Seller's Agent:** A licensee representing the interests of the seller of a property.

**Seller's Market:** The market condition which exists when a seller is in a more commanding position as to price and terms because demand exceeds supply.

**Septic:** A sewage settling tank in which part of the sewage is converted into gas and liquids before the remaining waste is discharged by gravity into a leaching bed underground.

**Servient Tenant:** The owner of a servient tenant, that is, someone whose property is burdened by an easement.

**Servient Tenement:** The property that is burdened by an easement. It must "serve" the dominant tenement.

**Setback Ordinance:** An ordinance prohibiting the erection of a building or structure between the curb and the setback line.

**Severable:** When one provision in a law or a contract can be held unenforceable, without making the entire law or contract unenforceable.

**Severance:** Termination of a joint tenancy, turning it into a tenancy in common.

**Sheriff's Deed:** Deed given by court order in connection with sale of property to satisfy a judgment.

**Sheriff's Sale:** A foreclosure sale held after a judicial foreclosure. Sometimes called an execution sale.

**Short Sale:** Where a lender accepts less than what is owed in the loan.

**Site Valuation:** The value of land with the enhancements necessary to make it ready for building, such as water, sewer, electricity, etc.

**Situs:** The preference by people for a certain location. The place where something exists or originates; the place where something (as a right) is held to be located in law.

**Sole Proprietorship:** A method of owning a business in which one person owns the entire business and reports all profits and losses directly on his or her personal income tax return, as contrasted with corporate, joint or partnership ownership.

**Solicit:** To make petition to; entreat; to approach with a request or plea

**Special Agent:** One authorized by a principal to perform a particular act or transaction, without contemplation of continuity of service as with a general agent. The real estate broker is ordinarily a special agent appointed by the seller to find a ready, willing and able buyer for a particular property. An attorney-in-fact under a limited power of attorney is a special agent.

**Special Assessment:** Legal charge against real estate by a public authority to pay cost of public improvements such as: street lights, sidewalks, street improvements, etc.

**Specific Lien:** Liens which attach to only a certain specific parcel of land or piece of property.

**Specific Performance:** An action to compel performance of an agreement, e.g., sale of land.

**Spot Zoning:** A change in the local zoning ordinance permitting a particular use inconsistent with the zoning classification of the area; the reclassification of a small area of land in such a manner as to disturb the tenor of the surrounding neighborhood, such as a change to permit one multiunit structure in an area zoned for single-family residential use; also called a variance.

**Square Foot Method:** A method of estimating a building's construction, reproduction or replacement costs whereby the structure's square-foot floor area is multiplied by an appropriate construction cost per square foot.

**Stable Monthly Income:** Income that can reasonably be expected to continue in the future.

**Statute of Frauds:** State law which provides that certain contracts must be in writing in order to be enforceable at law. Example: real property lease for more than one year; agent's authorization to sell real estate.

**Statutory Right of Redemption:** Allows a mortgagor (debtor) to redeem property for a set timeframe after a foreclosure sale, regardless of the timing of other events. Time frames vary by state; not available in all states.

**Steering:** Channeling prospective buyers or tenants to particular neighborhoods based on their race, religion, national origin, or ancestry.

**Straight Note:** A promissory note evidencing a loan in which payments of interest only are made periodically during the term of the note, with the principal payment due in one lump sum upon maturity. A straight note is usually a non-amortized note made for a short term, such as three to five years, and is renewable at the end of the term.

**Straw Buyer:** One who purchases property for another so as to conceal the identity of the real purchaser; a dummy purchaser; a nominee; a front.

**Subagent:** An agent of a person who is already acting as an agent for a principal. The original agent can delegate authority to a subagent where such delegation is either expressly authorized or customary in the trade. For example, it is customary for listing brokers to delegate certain functions of a ministerial nature to subagents, such as to show property and solicit buyers.

**Subject Property:** A reference to the real property under discussion, or the real property under appraisal.

**Subordination Clause:** Clause in a junior or a second lien permitting retention of priority for prior liens. A subordination clause may also be used in a first deed of trust permitting it to be subordinated to subsequent liens as, for example, the liens of construction loans.

**Subprime Loan:** A loan made to persons with lower credit ratings than acceptable in regular loans, based on the fact that lenders can negotiate the interest rate and discount in their efforts to make substantial profits. The risk is greater and requires careful underwriting to be successful.

**Substantial Performance:** When a promisor doesn't perform all of his or her contractual obligations, but does enough so that the promise is required to fulfill his or her side of the bargain.

**Substitution, Principle of:** Affirms that the maximum value of a property tends to be set by the cost of acquiring an equally desirable and valuable substitute property, assuming no costly delay is encountered in making the substitution.

**Subsurface Rights:** An easement permitting the use of below-ground space for such purposes as power lines, sewers, tunnels; also called a subsurface easement.

**Suit to Quiet Title:** A lawsuit to determine who has title to a piece of property, or to remove a cloud from the title.

**Supply and Demand:** Affirms that price or value varies directly, but not necessarily proportionally with demand, and inversely, but not necessarily proportionately with supply.

**Surety Bond:** A surety bond is purchased by an employer to cover his or her employees who are entrusted with sums of money or are responsible for valuable assets. Such bonded persons are required by the bonding or insurance company to carry out their duties and responsibilities effectively and honestly. Property managers and escrow companies often are required to post a fidelity bond.

**Survey:** The process by which a parcel of land is measured and its area is ascertained.

**Syndication:** A descriptive term for a group of two or more people united for the purpose of making and operating an investment. A syndication may operate in the form of a REIT, corporation, general partnership, limited partnership or even as tenancy in common.

**Tacking:** When successive periods of use or possession by more than one person are added together to make up the five years required for prescription or adverse possession.

**Tax Depreciation:** The expensing of the cost of business or investment property over a set number of years, determined by the IRS to be an asset's useful life (27 ½ years for residential property; 39 years for non-residential property).

**Tenancy at Sufferance:** A tenant who holds over beyond the expiration of the tenancy without landlord's permission.

**Tenancy at Will:** When a tenant is in possession with the owner's permission, but there's no definite lease term; as when a landlord allows a holdover tenant to remain on the premises until another tenant is found.

**Tenancy by Entirety:** A form of co-ownership of property by husband and wife (in states that don't use a community property system).

**Tenancy in Common:** Ownership by two or more persons who hold undivided interest, without right of survivorship; interests need not be equal.

**Tenant:** One who exclusively holds or possesses property, such as a life tenant or a tenant for years; commonly used to refer to a lessee under a lease. A tenant's occupancy, although exclusive, is always subordinate to the rights of the owner. Tenant refers to an occupant, not necessarily a renter.

**Tendering Performance:** An unconditional offer by one of parties to a contract to perform his or her part of the agreement; made when the offeror believes the other party is breaching, it establishes the offeror's right to sue if the other party doesn't accept it.

**Terminate:** To bring to an end; to form the conclusion of.

**Terminated:** To bring to an end; to form the conclusion of. Termination of listing is the cancellation of a broker-principal employment contract. If a listing contains no specific termination date, it is terminated after a reasonable time. The seller can revoke this type of listing at any time before the broker produces a ready, willing and able buyer on the listing terms.

**Termite:** Any of numerous pale-colored soft-bodied social insects that live in colonies consisting usually of winged sexual forms, wingless sterile workers, and soldiers, feed on wood, and include some which are very destructive to wooden structures and trees

**Testate:** Having made a will; as an adjective, "a person died testate."

**Tester:** A person working with a fair housing organization, who pretends to be interested in buying or renting property from someone suspected of unlawful discrimination.

**Time is of the Essence:** A clause in a contract that requires strict compliance with the stated time limitations (within which a contracting party may perform).

**Timeshare:** A modern approach to communal ownership and use of real estate that permits multiple purchasers to buy undivided interests in real property (usually in a resort condominium or hotel) with a right to use the facility for a fixed or variable time period.

**Title:** The right to or ownership of land.

**Title Insurance:** A comprehensive indemnity contract under which a title insurance company warrants to make good a loss arising through defects in title to real estate or any liens or encumbrances thereon.

**Title Report:** A report which discloses condition of the title, made by a title company preliminary to issuance of title insurance (Preliminary Title Report).

**Title Search:** An inspection of the public record to determine all rights and encumbrances affecting title to a property.

**Title Theory:** Mortgage arrangement whereby title to mortgaged real property vests in the lender.

**Township:** A division by government survey that is six miles long, six miles wide and containing 36 sections, each one mile square.

**Trade Fixtures:** Articles of personal property annexed to real property, but which are necessary to the carrying on of a trade and are removable by the owner of the fixtures.

**Transaction:** Agreement, contract, exchange, understanding, or transfer of cash or property that occurs between two or more parties and establishes a legal obligation. Also called booking or reservation.

**Transactional Broker:** A non-agency relationship allowed in states that have designed a category of service where the agent represents neither the buyer nor seller in the transaction, treating both as customers. Requires legislative change to be legal.

**Transfer Tax:** State tax imposed on the transfer or conveyance of realty or any realty interest by means of deed, lease, sublease, assignment, contract for deed or similar instrument.

**TRID Rule:** The TILA-RESPA Integrated Disclosure rule, issued by the Consumer Financial Protection Bureau to create standardized, consumer-friendly disclosure documents, including the Loan Estimate and the Closing Disclosure.

**Trigger Term:** A word or phrase that describes a loan, including the down payment, terms, and monthly payment. If an ad uses a trigger phrase, disclosures are needed to tell everything about the loan.

**Triple Net Lease:** A net-net-net lease where, in addition to the stipulated rent, the lessee assumes payment of all expenses associated with the operation of the property. This includes both fixed expenses, such as taxes and insurance, and all operating expenses, including costs of maintenance and repair.

**Trust:** An arrangement whereby legal title to property is transferred by the grantor (or trustor) to a person called a trustee, to be held and managed by that person for the benefit of another, called a beneficiary.

**Trust Funds:** Funds entrusted to the agent by the principal or others; also called earnest money. The trust fund for a brokerage firm account must designate the principal broker as trustee, and must provide for withdrawal of the funds upon demand.

**Trustee:** One who holds property in trust for another as a fiduciary and is charged with the duty to protect, preserve and enhance the value and the highest and best use of the trust property. One who holds property in trust for another to secure the performance of an obligation.

**Trustor:** One who deeds his property to a trustee to be held as security until he has performed his obligation to a lender under terms of a deed of trust.

**Truth in Lending Act (TILA):** The name given to the federal statutes and regulations (Regulation Z) which are designed primarily to insure that prospective borrowers and purchasers on credit receive credit cost information before entering into a transaction.

**Underground Storage Tank (UST):** As defined by the EPA, a tank and any underground piping connected to the tank having 10 percent or more of its volume beneath the surface of the ground. These tanks were made of steel to store petroleum and other hazardous materials.

**Underwater:** (Upside Down) A property owner owes more on their loan than their property's worth.

**Underwriter:** A person working for a lender who reviews a loan application and makes a recommendation to the loan committee.

**Underwriting:** The technical analysis by a lender to determine if a borrower should receive a loan.

**Undisclosed Dual Agency:** A situation where one licensee represents both buyer and seller in a single transaction without the informed consent of both parties; very often may be practiced unintentionally, possibly by implying to one party that he is represented when, in fact, there is no agency agreement.

**Undivided Interest:** Nature of each owner's interest in property when owned as tenants in common or in joint tenancy.

**Unenforceable Contract:** A contract that was valid when made but either cannot be proved or will not be enforced by a court. An unenforceable contract is not merely one that is void or illegal. A contract may be unenforceable because it is not in writing, as may be required under the state statutes of frauds, or because the statute of limitations period has elapsed.

**Unethical:** Lacking in moral principles; failing to conform to an accepted code of behavior. Real estate agents can lose their licenses for not abiding by a code of conduct as set forth in most state licensing laws.

**Uniform Commercial Code (UCC):** Establishes a unified and comprehensive scheme for regulation of security transactions in personal property, superseding the existing statutes on chattel mortgages, conditional sales, trust receipts, assignment of accounts receivable and others in this field.

**Uniform Residential Appraisal Report (URAR):** An appraisal form, Federal Home Loan Mortgage Corporation Form 70/Federal National Mortgage Association Form 1004, dated October 1986.

**Uniform Standards of Professional Appraisal Practice (USPAP):** A set of ten standards developed in 1987, now updated annually, by an ad hoc committee composed of representatives of several appraisal associations in response to congressional criticism that the appraisal industry lacked uniform standards.

**Unilateral Contract:** A contract where one party makes a promise in exchange for an action on the part of the other contracting party; distinguished from a bilateral contract.

**Unit-in-Place Method:** The cost of erecting a building by estimating the cost of each component part, i.e. foundations, floors, walls, windows, ceilings, roofs, etc. (including labor and overhead).

**Units:** A part of the property intended for any type of independent use and with an exit to a public street or corridor. "Unit" commonly refers to the individual apartment units in a condominium, exclusive of the common areas. A unit normally consists of the walls and partitions, which are not load-bearing, within a condominium's perimeter walls; the inner decorated or furnished surfaces of all walls, floors and ceilings, doors, windows, or panels along the perimeters; and all original fixtures.

**Unity of Interest:** When each co-owner has an equal interest (equal share of ownership) in a piece of property.

**Unity of Possession:** When each co-owner is equally entitled to possession of the entire property, because the ownership interests are undivided.

**Unity of Time:** When each co-owner acquired title at the same time.

**Unity of Title:** When each co-owner acquired title through the same instrument (deed, will, or court order).

**Universal Agent:** A general agent; one authorized to act on behalf of another. For example, an attorney-in-fact under a general power of attorney.

**Urea-Formaldehyde:** A potentially toxic chemical used in manufacturing building materials such as particleboard, plywood paneling, carpeting, and insulation.

**Use Variance:** Permission obtained from governmental zoning authorities to build a structure or conduct a use that is expressly prohibited by the current zoning laws; an exception from the zoning laws.

**Usury:** On a loan, claiming a rate of interest greater than that permitted by law.

**VA:** Veterans Administration

**VA-Guaranty:** An undertaking by the federal government to guarantee the lender, subject to limitations, against loss arising from a default by the borrower under a GI loan.

**Valid:** Executed with the proper legal authority and formalities; legally sufficient or effective, such as a valid contract – a contract that must in all respects comply with the provisions of contract law. A valid contract should be executed with proper formalities, should satisfy legal requirements, should have sufficient legal force to stand against attack and should be for a legal purpose.

**Value:** The power of a good or service to command other goods in exchange for the present worth to typical users and investors of future benefits arising out of ownership of a property; the amount of money deemed to be the equivalent in worth of the subject property.

**Variable Expense:** Operating expense necessary to the property, but dependent on the property's occupancy level.

**Variance:** A departure from the general rule; an exception

**Vendee:** A purchaser; buyer under a contract of sale (land contract).

**Vendor:** A seller; one who disposes of a thing in consideration of money. Used in a land contract.

**Void:** Was valid when made but either cannot be proved or will not be enforced by a court. An unenforceable contract is not merely one that is void or illegal. A contract may be unenforceable because it is not in writing, as may be required under the state statutes of frauds, or because the statute of limitations period has elapsed.

**Void Contract:** An agreement that isn't an enforceable contract because it lacks a required element or is defensive in some other respect.

**Voidable Contract:** That which is capable of being adjudged void, but is not void unless action is taken to make it so.

**Voluntary Alienation:** When an owner voluntarily transfers an interest to someone else.

**Voluntary Lien:** Any lien placed on property with consent of, or as a result of, the voluntary act of the owner.

**Warranty Deed:** A deed used to convey real property which contains warranties of title and quiet possession, and the grantor thus agrees to defend the premises against the lawful claims of third persons. It is commonly used in many states, but in others, the grant deed has supplanted it due to the practice of securing title insurance policies which have reduced the importance of express and implied warranty in deeds.

**Waste:** The destruction, removal, material alteration of, or injury to premises by a tenant for life or years.

**Wetlands:** Land areas where groundwater is at or near the surface of the ground for enough of each year so as to produce a wetland plant community, such as swamps, floodplains and marshes.

**Willfully:** Done deliberately; intentional

**Zoning:** Act of city or county authorities specifying type of use to which property may be put in specific areas.

**Zoning Ordinance:** Local laws that divide a city or county into different areas or zones. These zones determine how land can be used, subdivided, or improved along with the specific requirements for compliance.