

GLOSSARY of REAL ESTATE TERMS

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DEFINITIONS

- ABATEMENT:** A reduction in amount; a termination. A cancellation or refund of taxes would be an ABATEMENT OF TAXES.
- ABEYANCE:** A temporary stoppage or suspension; for example, an action may be held in abeyance.
- ABROGATION:** The act of abolishing or annulling a rule or law.
- ABSOLUTE FEE SIMPLE TITLE:** The most comprehensive ownership of real property known to law. It is the best title one can have; possessing the entire "bundle of rights"
- ABSTRACT OF TITLE:** A condensed history of the title to land, consisting of a summary of the various instruments or transactions which affect title, together with a statement of any liens or claims against it.
- ABUTTING:** Touching; Sharing a common boundary.
- ACCELERATION CLAUSE:** A clause in a mortgage which provides that upon the occurrence of a certain condition or event (default or sale of the property) the entire balance will become due and payable immediately at the option of the mortgagee.
- ACCEPTANCE:** Agreement by the seller to the terms of the agreement of sale.
- ACCESS:** A means of approach; the right or power of ingress or egress to a parcel of real estate over property which is held by another.
- ACCRETION:** A gradual deposit of soil by water onto adjoining property.
- ACCRUE:** To grow or increase gradually.
- ACCRUED DEPRECIATION:** The difference between the cost of replacement new as of the date of the appraisal and the present appraised value.
- ACKNOWLEDGMENT:** A declaration made by a person to a notary public, or other public official authorized to take acknowledgments, that the instrument was executed by him and that it is his free and voluntary act.
- ACQUISITION:** The process by which property is procured through purchase, inheritance, or other means.
- ACRE:** A measure of land equal to 160 square rods, or 4840 square yards, or 43,560 square feet.
- ACTION TO QUIET TITLE:** An action to clarify one's title to property by removing any interests or claims of others, such as encumbrances, clouds or defects.
- ACTUAL NOTICE:** Notice given directly to someone; notice of possession of land given by actual occupancy.
- ADJACENT:** Lying near or close by, may or may not be touching. Not abutting, which is always touching.
- ADJOINING:** Touching or contiguous.
- ADJUSTMENTS:** Charges which are apportioned between buyer and seller at the closing in a real estate sale, such as taxes, rents, interests, fuel, insurance, etc.
- ADMINISTRATOR:** A person appointed by a Court to manage and settle the estate of a deceased person who has left no will. ADMINISTRATRIX is a female administrator.
- ADMINISTRATOR'S DEED:** A written legal document used by an administrator to transfer the title of property of a person who died leaving no will or executor.
- AD VALOREM:** An assessment of taxes against property according to its value.
- ADVERSE POSSESSION:** The acquisition of title to real property through open, notorious possession and occupancy under an evident claim or right, in denial or opposition to the title of another claimant.
- AFFIANT:** One who has made a sworn statement or affidavit.
- AFFIDAVIT:** A statement or declaration in writing, sworn to or verified before an authorized person.
- AFFIRMATION:** A solemn declaration by a person whose religious beliefs forbid the taking of an oath.
- AGENCY:** The relationship of trust in which one person (the agent) is authorized by another (the principal) to represent him in dealing with third parties. (See also FIDUCIARY.)
- AGENT:** One who represents another from whom he has derived authority.
- AGREEMENT OF SALE:** A written agreement or contract between seller and buyer in which they reach a meeting of minds on the terms and condition of a sale.
- AIR RIGHT:** The right to use, control, or occupy the air space above a property.

ALIENATE: To transfer the title to real property from one person to another.

ALIENATION CLAUSE: An acceleration clause requiring payment of the entire loan balance upon sale or other transfer of the title. Also called **NON-ALIENATION CLAUSE**.

ALLODIAL SYSTEM: Pertaining to allodium freehold. The system of ownership in the United States in which land is owned absolutely, without obligation to sovereigns or superiors.

ALLUVION (ALLUVIUM): Soil deposited by accretion. Increase of earth on shore or bank of a river.

AMENITIES: The benefits that make a parcel of real estate more desirable to own, such as the pleasure derived from a beautiful view, location access to parks, etc.

AMORTIZATION: The payment of a financial obligation by periodic installments that include both interest and partial repayment of principal.

ANNUITY: Money paid annually or in other agreed periods.

APPORTIONMENT: Method of equitably dividing charges and expenses at the closing. Also called **PRORATION**.

APPRAISAL: An estimate and opinion, usually in written form, of the value of a property as of a specified date, and is supported by the presentation and analysis of factual and relevant data.

APPRAISAL PROCESS: An orderly program for estimating the value of real estate by defining the problem, planning the work necessary to solve the problem, acquiring the data involved, and interpreting an estimate of value from the data.

APPRAISED VALUE: The present estimated worth of a property.

APPRECIATION: Increase in the value of something.

APPURTENANT: Belonging to. An **APPURTENANT EASEMENT** attaches to a parcel of land.

ASSESSED VALUATION: A valuation placed upon property by a public officer or board as a basis for taxation.

ASSESSMENT: An official valuation of taxable property.

ASSIGNMENT: A transfer to another of the whole of any property, real or personal. Assignments can be made of contracts, leases, mortgages, rents, insurance, etc.

ASSIGNOR: One who assigns or transfers property.

ASSIGNEE: One to whom an assignment is made.

ASSUMED MORTGAGE: Buyer takes title to property and agrees to personally obligate himself to repay an existing mortgage as a condition of the sale.

ATTACHMENT: The seizure of property by court order, usually in anticipation of a judgment in a pending suit.

ATTORNEY-AT-LAW: A licensed practitioner of law. A lawyer.

ATTORNEY-IN-FACT: A person to whom a **POWER OF ATTORNEY** is given, authorizing him to act for another. Must be in writing and notarized. Terminates upon the death of the giver of the power.

ATTEST: To affirm to be true or genuine; an official act establishing authenticity.

AVULSION: The tearing away of soil by the action of water.

BALLOON MORTGAGE: A mortgage in which the final payment is larger than the preceding payments, and usually pays the note in full.

BALLOON PAYMENT: A payment on a loan which is at least twice the smallest installment payment.

BARGAIN AND SALE DEED: A deed of title without any warranties whatever.

BANK COMMITMENT: A verbal or written statement by a lending institution as to the terms of a mortgage loan it will give.

BENCH MARK: A permanent marker placed by surveyors as a basis for local surveys.

BENEFICIARY: (1) One entitled to the benefit of a trust. (2) One who receives a profit from an estate, the title of which is vested in a trustee. (3) The lender on the security of a note and mortgage or deed of trust.

BEQUEATH: To leave property by will.

BETTERMENT: An improvement to property which increases its value and is considered as a capital asset, as distinguished from repairs or replacements which do not change the original character or value. Ex: Sewers, sidewalks, streets, etc.

BEFORE AND AFTER METHOD: A method of appraising property when only a portion of the land is taken under condemnation proceedings.

BINDER: In real estate, the agreement to cover the deposit on the purchase of realty. In insurance, the memorandum of an agreement of insurance.

BLANKET MORTGAGE: One mortgage covering more than one parcel of land.

BLIND ADVERTISING: Real estate advertising of any type in which the licensee fails to indicate license status.

BLOCKBUSTING: Prohibited. Inducing an owner of real estate to sell his property because of the threat of the prospective entry into the neighborhood of persons of another race, religion, ethnic background, etc.

BONA FIDE: In good faith, without fraud.

BOND: An obligation under seal. A **SURETY BOND**, such as a Real Estate Broker's License Bond, is a guarantee by a surety company that it will make good any loss, up to a given amount, incurred by the broker.

BREACH: The failure to fulfill an obligation or perform a duty.

BRIDGE MORTGAGE: A bank takes a mortgage (second or wrap around) on the equity of the house being sold to permit the customer to proceed with the purchase of the new home, before he sells the old.

BROKER: An agent or person who negotiates transactions for another for a fee in accordance with the provisions of the license law.

BUILDING CODE: Local ordinances regulating the construction of buildings.

BUILDING LINE: A line fixed at a certain distance from the front and/or sides of a lot, beyond which no building can project.

BUILDING PERMIT: An official authorization to build or remodel according to building regulations.

BUNDLE OF RIGHTS: All beneficial interests and legal rights; ownership and control of real property. The right to sell, mortgage, lease, will, retake possession at end of lease, build or remove improvements; limited by Police power, escheat, taxes, and eminent domain.

CAPITAL GAIN: The profit received on the sale of real or personal property, other than property sold as stock-in-trade.

CAPITALIZATION: In appraising, the determining of value of property by considering net income from it and a percentage of reasonable return on the investment.

CAPITALIZATION METHOD: Method of appraising income property.

CAPITALIZATION RATE: In real estate, capitalization rate can be defined as the relationship or ratio between the net income from an investment and the value of an investment. This ratio is usually expressed as a percentage. The rate of interest which is considered a reasonable return on an investment, used in the process of determining value based upon net income.

CASH FLOW: The spendable income from an investment, found by deducting all operating expenses, loan payments, and tax debts from the gross income.

CASH VALUE: The market value of an asset.

CASUALTY INSURANCE: Insurance coverage for loss because of any known damages, including an accident caused by an extraordinary natural force.

CAVEAT EMPTOR: "Let the buyer beware." The buyer must examine the goods or property and assumes conditions which are readily ascertainable upon view.

CERTIFICATE OF NO DEFENSE: An instrument, executed by the mortgagor, upon the sale of the mortgage, to the assignee, as to the validity of the full mortgage debt.

CERTIFICATE OF REASONABLE VALUE (C.R.V.): A certificate showing the Veterans Administration appraisal of a property.

CHAIN: Unit of land measurement - 66 feet.

CHAIN OF TITLE: A history of conveyances and encumbrances affecting the title as far back as records are available.

CHATEL: An item of personal property.

CHATEL MORTGAGE: A mortgage which involves material or things of a movable nature.

CLEAR TITLE: Title free of all encumbrances.

CLOSED MORTGAGE: A mortgage which requires a penalty if paid off before maturity.

CLOSING: The day on which title is conveyed.

CLOSING STATEMENT: An accounting or financial summary given to the buyer and seller at the closing accounting for funds involved in the sale.

CLOUD ON TITLE: An outstanding claim or encumbrance, which, if valid, would affect or impair the owner's title; a deed of trust or judgment.

COLLATERAL: In a loan, the debtor's property subject to the security interest of a creditor.

COLLATERAL SECURITY: A separate obligation attached to guarantee its performance: the transfer of property or other contracts or valuables to insure the performance of a principal agreement.

COLLUSION: A secret arrangement to defraud someone.

COLOR OF TITLE: A title which appears to be good but is not. Also known as an apparent title.

COMMINGLING: Combining, joining or mixing clients funds with broker's personal funds. Grounds for revocation or suspension of license

COMMISSION: An agent's earnings or fee in negotiating a real estate transaction.

COMMISSIONER'S REGULATIONS: Regulations having the force of law, adopted by a real estate commission to administer the real estate license law.

COMMISSION RATES: Rate of commission is not fixed by law or by any private association. It is a matter of agreement between the broker and his client. In the absence of any special agreement, in case of a dispute, the courts will recognize a usual or prevailing rate as a fair amount.

COMMITMENT: A pledge or a promise or a firm agreement. (See MORTGAGE COMMITMENT)

COMMON LAW: Body of law that grew up from custom and decided cases (English Law) and was brought to the American states by the colonists.

COMMUNITY PROPERTY: Property accumulated through joint efforts of husband and wife.

COMPETENT: Having legal capacity or power.

COMPOUND INTEREST: Earnings based on both the original investment and the previously earned interest from it.

CONCURRENT OWNERSHIP: Any of several types of ownership in which property is owned by two or more persons at the same time. Joint tenancy, tenancy in common, etc.

CONDEMNATION: The process by which property of a private owner is taken for public use, without his consent, but upon payment of just compensation.

CONDITIONAL COMMITMENT: A promise by the bank (usually an F.H.A. loan) of a definite loan amount for some future unknown purchaser of satisfactory credit standing.

CONDITIONAL SALES CONTRACT: A contract whereby the owner retains title to the property until the purchaser has met all of the terms and conditions of the contract.

See also **INSTALLMENT SALE** and **LAND SALES CONTRACT**.

CONDOMINIUM: A type of ownership in which the owner has fee title to the part actually occupied, with an undivided interest as tenant in common in areas used by all occupants.

COINSURANCE: Division of risk between the insured and the insurer.

CONSIDERATION: One of the essentials of a contract: a promise or an act of legal value bargained for and received in return for a promise.

CONSTRUCTION LOAN: A short-term loan made for the duration of construction and then replaced with permanent financing.

CONSTRUCTIVE EVICTION: Any act by a landlord that renders property temporarily unfit for its intended use.

CONSTRUCTIVE NOTICE: Knowledge of the existence of a fact or state of affairs, given by public records. Also known as **LEGAL NOTICE**.

CONTIGUOUS: Adjoining or touching.

CONTINGENT: Dependent upon something uncertain.

CONTRACT: A legally enforceable agreement, written or oral, to do or not to do certain things.

CONTRACT OF SALE: See **AGREEMENT OF SALE**.

CONVENTIONAL FINANCING: Any loan made without government participation.

CONVEY: To transfer title to property.

CONVEYANCE: The transfer of title by written legal document from seller to buyer.

COOPERATIVE APARTMENT: A building owned or leased by a corporation which in turn leases space to its shareholders.

CORPORATION: A group or body of persons, established and treated by law as an individual entity, with rights and liabilities, distinct and apart from those of the persons composing it.

CORPOREAL: Visible and tangible.

CORPOREAL HEREDITAMENT: Tangible property which can be inherited.

COST: What a buyer actually pays for property regardless of its value.

COST APPROACH: Property valuation based on land value plus current construction costs less depreciation.

COUNTEROFFER: One made in response to an offer; also rejects prior offer.

COVENANTS: Binding agreements written into deeds and other instruments.

COVENANT FOR QUIET ENJOYMENT: The right of an owner to the use of his property without interference of possession.

CREDIT: Money received or gained; the opposite of debit.

CURTESY: The right which a husband has in a wife's estate at her death.

DAMAGES: A monetary judgment ordered by a court to be paid to one whose personal or property rights have been violated.

DEBT SERVICE: a constant percentage of the original loan that is paid annually for principal and interest.

DEBIT: Money owed or lost; the opposite of credit.

DECEDENT: A person who has died.

DECEIT: The act of deceiving, lying, or misleading.

DECLARATION OF HOMESTEAD: A document recorded to declare a homestead under a state law in certain states, which protects the home against creditors up to certain amount.

DECLINING BALANCE: A method for computing depreciation for income tax purposes.

Starts with the largest deduction the first year of ownership and declines to lesser amounts each year thereafter until the end of the useful economic life of the improvements. Also known as **ACCELERATED DEPRECIATION** method, using 200, 150, or 125 percent of straight-line.

DECREE OF FORECLOSURE: A decree by a court in the completion of foreclosure of a mortgage, contract or lien.

DEDICATION: The voluntary conveyance of an individual's real property to the public.

DEED: A written instrument whereby title to real estate is transferred.

DEED RESTRICTIONS: Provisions in a deed controlling or limiting the use of the land.

DEED OF TRUST: A deed to real property held by a trustee to secure the performance by the grantor or another of an obligation owed to the beneficiary of the trust. Similar to a mortgage, except that the lending bank is the beneficiary and upon default the trustee sells the property to pay the bank for any deficiency.

DEED, VALID: For a deed legally sufficient and authorized by law, there must be competent grantor and grantee consideration, transfer of the title, legal description of the land, signature of the grantor, and delivery of the deed.

DEED, QUITCLAIM: See QUITCLAIM DEED.

DEED, WARRANTY: See WARRANTY DEED.

DEFAULT: The failure to perform a duty or keep a promise.

DEFEASANCE: A provision or condition in a deed or other instrument which, under specified conditions, renders the instrument void.

DEFEASANCE CLAUSE: The provision or condition in a deed or other instrument which, under specified conditions, renders the instrument void. A clause in a mortgage which renders the mortgage void when the promissory note is paid.

DEFEASIBLE: Ownership subject to restrictions which, if broken, can cause forfeiture of the title to the grantor or his heirs. Called a **DEFEASIBLE FEE**.

DEFENDANT: The party sued or called to answer in any suit, action, or proceeding.

DEFERRED MAINTENANCE: Existing but unfulfilled requirements for repairs.

DEFERRED PAYMENTS: Money payments to be made at some future date.

DEFERRED PURCHASE MONEY MORTGAGE: A mortgage given by the owner as part or all of purchase price for the sale of the property. See **PURCHASE MONEY MORTGAGE**.

DELIVERY: Formal transfer of a deed to the new owner.

DEMISE: To transfer an estate by lease.

DEPOSIT: Earnest money.

DEPOSIT RECEIPT: A form (binder) used to accept earnest money to bind an offer for the purchase of real estate.

DEPRECIATION: A loss of value in real or personal property brought about by age, physical deterioration, or functional or economic obsolescence.

DEPRECIATED VALUE: Value after deduction of depreciation.

DEVISE: A gift of real estate by will or last testament.

DEVISEE: One who receives a bequest of land by will.

DEVISOR: One who bequeaths by will.

DIRECT REDUCTION LOAN: An amortized mortgage which is repaid by a series of installment payments, with each payment credited first to interest, and then to principal.

DISCLOSURE STATEMENT: A statement required to be given by one who extends credit to the borrower showing all charges, costs, etc. and the rate of interest expressed as an "ANNUAL PERCENTAGE RATE".

DISCOUNT POINTS: A loan fee charged by a lender when accepting a F.H.A. or G.I. loan to offset the lower interest received in comparison with conventional loan interest.

DISCRIMINATION: Unfair treatment.

DISPOSSESS: To deprive one of the use of real estate.

DOCUMENTARY STAMP: State EXCISE stamps or deed stamps issued for the payment of a transfer tax on deeds.

DOMICILE: Legal residence.

DOMINANT TENEMENT: Property benefiting from an easement over adjoining land.

DOUBLE DECLINING BALANCE: See DECLINING BALANCE.

DOWER: A wife's right in her husband's real estate owned by him at his death.

DOWN PAYMENT: The deposit for purchasing real estate, given upon signing the contract.
Note: In some areas, the down payment refers to the cash over the mortgage.

DUPLEX: A two family house.

DURESS: Unlawful force used to compel a person to do something against his will.

EARNEST MONEY: A sum of money given to bind an agreement or offer; a deposit.

EASEMENT: The right, liberty, advantage or privilege which one individual has in lands of another, falling short of ownership or possession; a right of way.

EASEMENT IN GROSS: An easement held by a public utility company for pipelines, wires, railroads, etc. Can only be used for one specific purpose.

EASEMENT BY PRESCRIPTION: Acquisition of an easement through prolonged use.

ECONOMIC DEPRECIATION: Loss of value from causes beyond the property itself, such as increased traffic on adjacent streets.

ECONOMIC LIFE: The period over which a property may be profitably utilized.

ECONOMIC OBSOLESCENCE: Loss of value due to reduced desirability or usefulness from extraneous causes, such as a deteriorating neighborhood or zoning regulations. See SOCIAL OBSOLESCENCE.

ECONOMIC RENT: The rent a property should command on the open market if it is vacant and ready to be rented at the time of valuation. Amount of rent that comparable properties are bringing.

EGRESS: A means of leaving property without trespassing.

EJECTMENT: A form of legal action to regain possession of real property.

EMBLEMENTS: The fruits or crops produced by land.

EMINENT DOMAIN: The right of government to take privately held land for public purposes, provided fair compensation is paid.

ENCROACHMENT: Trespass. The building of a structure partly or wholly upon another's land.

ENCUMBRANCE: A claim, lien, charge, or liability attached to and binding upon real property, such as a judgment, unpaid taxes, easement, etc.

ENFORCEABLE: A contract or agreement in which the party or parties can be compelled to perform.

ENTIRETY: An estate in land held by husband and wife resulting in sole ownership by the survivor upon the death of one or the other.

ENVIRONMENTAL IMPACT STATEMENT: A report showing what effect a proposed building project will have on the environment.

EQUITY OF REDEMPTION: Borrower's right to redeem title after default, but before foreclosure sale. Foreclosure terminates the equity of redemption. A RIGHT OF

REDEMPTION is a statutory right permitting an owner to buy his property back after a tax sale or a sheriff's sale to satisfy a judgment by paying all costs etc.

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

ESCALATOR CLAUSE: A section in a lease providing for a proportionate increase or decrease in rent to cover a specific contingency, such as a tax increase.

ESCHEAT: The reversion of property to the state upon the death of an owner without heirs.

ESCROW: The depositing of papers and funds with a neutral third party instructed to carry out an agreement, such as the transfer of title to real estate.

ESTATE: A person's ownership interest in real property. The property left by a deceased person.

ESTATE AT SUFFERANCE: The retention of possession without the consent of the landlord after expiration of the tenancy. This is not a trespass, since original possession was gained lawfully.

ESTATE AT WILL: See TENANCY AT WILL.

ESTATE FOR LIFE: A freehold estate, not of inheritance, but which is held by the tenant for his own life or the life or lives of one or more other persons, after which it reverts to the original estate or passes to others (remainder-person).

ESTATE FOR YEARS: A lease for a definite period of time.

ESTATE IN FEE: See FEE SIMPLE ABSOLUTE.

ESTATE IN REMAINDER: An estate given by the grantor to take effect in a third person upon the termination of a life state.

ESTATE IN REVERSION: The residue of an estate remaining in the grantor after the termination of a life estate.

ESTATE IN SEVERALTY: An estate vested in one person only.

ESTATE OF FREEHOLD: See FREEHOLD ESTATE.

ESTATE OF INHERITANCE: An estate which may descend to heirs. See FREEHOLD ESTATE.

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

ESTOPPEL CERTIFICATE: See CERTIFICATE OF NO DEFENSE. A document in which a borrower verifies the amount he still owes upon assignment of the mortgage.

ESTOVERS: Wood which a tenant is allowed to take from the landlord's premises for the necessary fuel, implements, repairs, etc. for himself.

ET AL.: And others.

ETHICS: A code of morals.

ET UX.: And wife.

EVICTION: A legal process to recover possession of real estate. To remove a tenant from possession after required legal notice and court action.

EXCLUSIVE AGENCY LISTING: A listing agreement wherein an owner reserves the right to sell his property himself but agrees to list with no other broker during the listing period.

EXCLUSIVE RIGHT TO SELL LISTING: A listing that gives a broker the right to collect a commission if the property is sold by anyone during the listing period.

EXECUTED CONTRACT: A contract that has been fully performed. The delivery and acceptance of a deed is an executed contract since it is fully performed.

EXECUTOR: A person named in a will to carry out its provisions.

EXECUTOR'S DEED: A written legal document used to convey the title by the executor.

EXECUTORY CONTRACT: A legally enforceable agreement that has not yet been performed.

EXECUTRIX: A female executor.

EXISTING MORTGAGE: A mortgage presently against property.

EXPRESS EASEMENT: An easement created by instrument or deed, recorded.

FANNIE MAE: See FEDERAL NATIONAL MORTGAGE ASSOCIATION:

FEDERAL FAIR HOUSING LAW: Civil Rights Act of 1866 and U.S. Supreme Court decision of Jones v. Mayer, 392 U.S. 409; the Civil Rights Act of 1968. Bars racial discrimination in any kind of housing sales or rentals. Bars discrimination on the basis of race, color, sex, religion, or national origin in certain housing sales or rentals.

FEDERAL HOME LOAN BANK SYSTEM: Created by Congress in 1932 as a regulatory agency to charter national savings and loan associations and to supervise their operations. It also provides reserve credit for member banks for home mortgage financing.

FEDERAL HOME LOAN MORTGAGE CORPORATION: FHLMC or FREDDIE MAC, a government agency es-

established in 1970 under the Federal Home Loan Bank Board to provide a secondary mortgage market for savings institutions. Freddie Mac buys low interest rate mortgages and works in tandem with GNMA. It raises money by selling stock to the 12 Federal Home Loan Banks and by selling guaranteed mortgage certificates ("The Answer") to institutional investors with an agreement to buy them back at par in 15 years. This makes a more attractive investment, since most mortgages are written for 30 years.

FEDERAL HOUSING ADMINISTRATION: FHA. A federal agency, now part of HUD, which administers and insures loans for home purchasers.

FEDERAL NATIONAL MORTGAGE ASSOCIATION: FNMA, FANNIE MAE, A government-sponsored privately owned corporation that supplements private mortgage market operations by buying and selling FHA, VA and conventional loans.

FEE SIMPLE (FEE SIMPLE ABSOLUTE): The largest and most complete estate one can hold in land. A freehold estate: one of inheritance. Contains the most complete bundle of legal rights.

FIDUCIARY: One in a position of trust and confidence, as a broker with respect to his principal.

FIRST MORTGAGE: A mortgage which has priority over all other mortgages.

FIXTURE: An object that has become attached to realty and cannot be removed as ordinary personal property.

FLEXIBLE RATE MORTGAGE: A fixed interest rate loan that calls for lower monthly payments to start and higher payments later.

FORECLOSURE: A procedure by the mortgagee (lender) to terminate the borrower's equity of redemption, after default, usually by public auction of the property.

FOUR UNITIES OF JOINT TENANCY: Time, title, interest and possession.

FRAUD: An intentional act to deceive, for the purpose of inducing another to part with something of value.

FREDDIE MAC: See FEDERAL HOME LOAN MORTGAGE CORPORATION.

FREEHOLD: An estate for life or in fee.

FRONT FOOT: A property measurement for valuation purposes based upon the width of the side of the lot facing the street.

FORFEITURE: Loss of money or anything of value due to failure to perform.

FUNCTIONAL DEPRECIATION: Loss of value due to outdated, poorly designed, or inadequate conditions, such as not enough baths, lack of closets, etc.

FUNCTIONAL OBSOLESCENCE: Loss in value due to outdated or poorly designed equipment.

FUNGIBLE: Freely substitutable. Real Estate in non-fungible.

GENERAL WARRANTY: A covenant in a deed whereby the grantor agrees to guarantee the title against the lawful claims of all persons.

G.I. LOAN: A Veteran's Administration guaranteed loan to a veteran for home purchase.

GINNIE MAE: See GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

G.N.M.A.: See above.

GOOD AND MARKETABLE TITLE: One which a court would compel the buyer to accept in fulfillment of his contract.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION: A government owned corporation of the Department of Housing and Urban Development (HUD) which assists federally aided housing programs and issues mortgage backed securities. Ginnie Mae works "IN TANDEM" with Fannie Mae by buying or supporting less than market interest rate mortgages and selling them to Fannie Mae at the current market rate. This allows banks to make low interest loans to lower income families for home purchases by subsidizing the bank for the difference in interest rates.

GRADUATED LEASE: A long term lease which provides for a variable rent, based upon periodic appraisals.

GRANT: Transfer of real property.

GRANTEE: One who receives title by deed.

GRANTING CLAUSE: Words, "grant to" or "I hereby grant".

GRANTOR: One who gives title by deed.

GROSS INCOME: Total income from property before deduction of expenses.

GROSS LEASE: A lease whereby the lessor (owner) pays all property charges regularly incurred through ownership. Opposite of NET LEASE.

GROSS MULTIPLIER: An approximate method of appraising income property in which the value is determined by multiplying the gross rent by a number or factor, which has been determined by market comparison. Also called GROSS RENT MULTIPLIER.

GROUND LEASE: An agreement for the use of land only.

GROUND RENT: Rent paid for use of the land only.

GUARDIAN: One legally charged with the care and management of the property or affairs of a minor. A GUARDIAN AD LITEM is appointed by a court in legal proceedings to protect the interest of an involved minor.

HABENDUM CLAUSE: The "To Have and To Hold" clause which defines or limits the quantity of the estate granted in the premises of the deed.

HOMEOWNER'S INSURANCE: Package policies that combine property damage and public liability insurance.

HOLDOVER TENANT: One who remains in possession of leased property after the expiration of the tenancy or lease.

HOMESTEAD: See DECLARATION OF HOMESTEAD.

HIGHEST AND BEST USE: In appraising, the use of land which at a particular time is most likely to produce the greatest net return over a given period of time

HOUSING AND URBAN DEVELOPMENT: A federal agency formed in 1965 which took over all programs of the FHA and other agencies. Its aim is to provide a long-range solution to urban and suburban problems, such as slums and pollution, by making loans and grants to communities.

H.U.D.: See HOUSING AND URBAN DEVELOPMENT.

HYPOTHECATE: To pledge property to secure a debt but without giving up possession.

ILLEGAL CONTRACT: An unlawful and therefore invalid or void contract.

ILLITERATE: A person unable to read or write. Such a person does not lack the capacity to enter into binding contracts.

ILLUVIUM: See ALLUVION.

IMPLIED CONTRACT: One that is apparent from the actions of the parties involved.

IMPROVEMENT: Something built on or attached to land which becomes a permanent part of the land, such as buildings, fences, pavements, etc.

INCHOATE RIGHT: A right, not fully formed. Such as INCHOATE DOWER right, which is an interest of a wife in her husband's estate while he is alive.

INCOME APPROACH: In appraising, a method using net income as an indication of value. See: CAPITALIZATION METHOD.

INCOMPETENT: A person who is incapable, by reason of weakness of mind, old age, minority, disease, or any other cause, of properly managing his affairs or property.

INCORPOREAL PROPERTY: Property which is not visible and tangible

INCREMENT: An increase. Unearned increment is an increase in value due to no effort of the owner as the result of public improvements, population growth, etc.

INCUMBRANCE: See ENCUMBRANCE.

INDENTURE: A written agreement made between two or more persons having different interests.

INSTALLMENT CONTRACT: See CONDITIONAL SALES CONTRACT.

INSTALLMENT LAND CONTRACT: An agreement to buy real estate upon an installment basis. The deed to the property is not given to the buyer until either all or a certain portion of the purchase price is paid. Also called LAND SALES CONTRACT.

INSTALLMENT SALE: For tax purposes, a sale in which, the seller spreads the receipt of the proceeds over two or more tax years and does not receive more than 30 percent in the first year of the sale.

INSTITUTIONAL LENDER: A bank, insurance company, or savings and loan association which deals in real estate loans.

INSTRUMENT: A written legal document created to affect the rights of the parties.

INTEREST: Money paid for the use of money; the return on an investment.

INTESTATE: A person who dies without a valid will.

INVALID: Of no legal force; void.

INVERSE CONDEMNATION: A legal action in which an owner demands that a public agency buy his property from him.

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INVESTMENT: The outlay of money or something of value for income or profit; something in which money is invested for the purpose of making a profit, such as INVESTMENT PROPERTY.

INVOLUNTARY LIEN: A lien imposed against property without consent of an owner, such as tax liens, special assessments, etc.

IRREVOCABLE: Incapable of being recalled, revoked, or cancelled.

JOINT TENANCY: Equal ownership by two or more persons with the right of survivorship. See FOUR UNITIES OF JOINT OWNERSHIP.

JOINT VENTURE: An association of more than one person for a specific business project.

JUDGMENT: The final determination by a court upon the respective rights and claims of the parties to a law suit.

JUDGMENT LIEN: A charge upon the lands of a debtor resulting from the decree of court.

JUNIOR MORTGAGE: A mortgage second in lien to a previous mortgage

LACHES: Delay or negligence in asserting one's rights.

LAND: Real property. The solid crust of the earth. Sometimes used interchangeably with "real property", "realty", and "real estate".

LAND CONTRACT: See INSTALLMENT LAND CONTRACT.

LAND COURT: A court established for the purpose of hearing and deciding matters involving title to real estate. It also hears petitions for registration of title to land and issues certificates of title. See REGISTERED LAND, TORRENS SYSTEM.

LANDLORD: An owner, one who rents property to another.

LAND SALES CONTRACT: See INSTALLMENT LAND CONTRACT.

LATERAL SUPPORT: The right to have land supported by the adjoining land.

LEASE: A contract between owner and tenant, setting forth conditions upon which tenant may occupy and use the property, and the term of the occupancy.

FLAT, FIXED OR STRAIGHT: Level periodic rental payment throughout the term.

GRADUATED OR STEP-UP: See definition, this index.

GROUND: A lease giving use and occupancy of a vacant site or unimproved land.

INDEX OR ESCALATED: Rent based on changes in a neutral index.

NET: Tenant pays all property taxes, insurance, and maintenance costs. Opposite of GROSS LEASE.

PERCENTAGE: Rental payment is based on a percentage of sales or generated income.

PROPRIETARY: Cooperative apartment lease. Tenant has ownership rights.

GROSS LEASE: See definition this index.

SANDWICH: Lessee rerents the property to another party, putting himself in the middle or "sandwich" position.

LEASEHOLD: The interest or estate which a lessee has in real estate by virtue of his lease.

LEASED FEE: The interest or position of a landlord in a leased property, made up primarily of the rights to receive rental payments during the lease term and to ultimate repossession of the property at the end of the lease term.

LEGAL: Lawful.

LEGAL DESCRIPTION: A description of real estate recognized and approved by law.

LESSEE: A rentor.

LESSOR: An owner who leases his property.

LESS-THAN-FREEHOLD: An estate for years, tenancy at will or sufferance, or license.

LICENSE: A right to use another's land without exclusive control of entrances and exits.

LIEN: An encumbrance or hold or claim against property, making it liable for a debt.

LIFE ESTATE: The right to use property for one's lifetime only. See ESTATE FOR LIFE.

LIMITED PARTNERSHIP: A partnership with some partners whose contribution and liability are limited.

LINEAL: Pertaining to a direct line of descendants: linear.

LINEAR: Being of or in a line.

LIQUIDATED DAMAGES: An amount of money set forth in a contract and to be paid in the event of default.

LIS PENDENS: Notice of pending suit which effects the title to real estate.

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LISTING: An oral or written agreement between an owner and a broker employing the broker to sell or lease real estate. See separate definitions for the following: EXCLUSIVE AGENCY, EXCLUSIVE RIGHT TO SELL, MULTIPLE, NET, and OPEN.

LOAN COMMITMENT: See MORTGAGE COMMITMENT.

LOAN CORRESPONDENT: See MORTGAGE CORRESPONDENT.

LOAN VALUE: An estimation of worth set by a lender to aid in determining the amount of a new mortgage.

LOAN-TO-VALUE: The ratio of the appraised real property value to the total mortgage loan.

LONG-TERM CAPITAL GAIN: Profit on the sale of certain property that was held for more than a required period of time.

LOAN PROGRESS CHART: One that shows the balance remaining to be paid on an amortized loan.

LOAN SERVICING: The day-to-day handling of loan payments, impounds, delinquencies, payoffs, and releases.

MARKETABLE TITLE: A title free and clear of objectionable liens or encumbrances. See GOOD AND MARKETABLE TITLE.

MARKET DATA APPROACH: A method of appraising a property by comparing it to prices of recent sales of similar properties.

MARKET PRICE: The actual price paid for a property.

MARKET VALUE: The price at which a willing seller would sell and a willing buyer would buy, neither being compelled to do business.

MASTER DEED: A document that converts a parcel of land into a condominium project.

MECHANIC'S LIEN: A claim created by law which exists in favor of persons who have performed work or furnished materials in the erection or repair of a building.

MEETING OF THE MINDS: The agreement by all parties to a contract to the exact terms.

MESSUAGE: A dwelling house, together with the adjacent outbuildings.

METES and BOUNDS: A description of real estate in which the boundaries are defined by directions and distances.

MGIC: See MORTGAGE GUARANTY INSURANCE CORPORATION.

MILL: One-tenth of 1 cent. Property tax rates are often stated in mills per dollar of assessed valuation.

MINOR: A person less than the legal age. Under 18 in Mass. and most states.

MISREPRESENTATION: A false or misleading statement of a material fact which induces a party to contract.

MONUMENT: A fixed object used as a point from which to establish land locations.

MORTGAGE: An instrument used to convey conditional title to the lender as security for the repayment of a loan.

MORTGAGE ASSIGNMENT: A written transfer of ownership of a mortgage from one lender to another.

MORTGAGE ASSUMPTION: See ASSUMED MORTGAGE.

MORTGAGE BANKER: A person who makes mortgage loans with the expectation of reselling them to an institutional lender while retaining the right to service them for a fee.

MORTGAGE BROKER: A person who, for a fee, obtains mortgage money for a potential borrower or who finds a willing borrower for a potential lender.

MORTGAGE COMMITMENT: A formal indication by a lending institution that it will grant a mortgage loan on property on certain specified terms.

MORTGAGE CORRESPONDENT: One who represents a lender of money on the security of real property.

MORTGAGE COMPANY: Makes real estate loans and sells them to investors.

MORTGAGEE: The lender.

MORTGAGE GUARANTY INSURANCE CORPORATION (MGIC - "MAGIC") A private corporation which insures mortgage loans, similar to F.H.A. Insurance.

MORTGAGOR: The borrower.

MULTIPLE LISTING SERVICE: An organization of real estate brokers whose members exchange listing information and share listings.

MUNICIPAL LIEN CERTIFICATE: A certificate obtained from the Tax Collector of a municipality to ascertain status of real estate taxes and other municipal charges.

N.A.R.E.B.: National Association of Real Estate Boards.

NEGATIVE CASH FLOW: Cash paid out exceeds cash received; A loss.

NEGOTIABLE: Capable of being negotiated; assignable or transferable.

NEGOTIABLE INSTRUMENT: A written instrument signed by a maker or drawer containing an unconditional promise to pay a certain sum of money, which can be passed from one person to another.

NET INCOME: The balance remaining, after deducting from the gross income all operating expense, maintenance, taxes, and losses pertaining to operating properties excepting interest or other financial charges on borrowed capital.

NET LEASE: A lease where, in addition to the rental stipulated, the lessee assumes payment of all property charges such as taxes, insurance, and maintenance.

NET LISTING: One wherein the commission is the difference between the sales price and a minimum price set by the seller. Illegal or void in many states.

NONCONFORMING USE: A use of property before a zoning change, which does not conform to the current zone uses. Usually allowed to continue by law.

NOTARIZE: To acknowledge or certify a written legal document.

NOTARY PUBLIC: A person authorized by law to take acknowledgments and oaths.

NOTE: A signed instrument acknowledging a debt and promising payment.

NOVATION: Wherein a new contract and/or a new party are substituted for an existing one.

NOTICE TO QUIT: A notice to a tenant to vacate rented property.

OBLIGEE: The person to whom a debt or obligation is owed.

OBLIGOR: The person responsible for a debt or obligation.

OBSOLESCENCE: Impairment of desirability and usefulness brought about by economic or functional changes.

OBSOLETE: Being no longer useful or desirable though physically capable.

OFFER: A proposal to make a contract; capable of being accepted and becoming a binding contract. Revoked by a counter-offer.

OPEN-END MORTGAGE: A mortgage clause providing for subsequent advances from a lender, up to but not exceeding, the original amount of the loan before it is paid off.

OPEN LISTING: A non-exclusive right or agency to sell property.

OPEN MORTGAGE: A mortgage that can be paid off before maturity without a penalty.

OPTION: An agreement to buy or rent property at a certain price for a certain designated period, for which consideration is paid.

OPTIONEE: The person who receives an option. The Buyer.

OPTIONOR: The person who gives the option; the seller.

ORAL CONTRACT: A legal agreement that is verbal or spoken.

ORIGINATION FEE: A charge by lenders for services in connection with a loan.

ORDINARY INCOME: Income from wages, salaries, commissions, professional fees, interest, rents, royalties, and dividends (noncapital gains income) subject to federal taxation at regular rate.

PACKAGE MORTGAGE: A residential real estate mortgage covering personalty as well as real estate.

PARTIAL RELEASE CLAUSE: A clause in a mortgage providing for the removal of certain property from the mortgage upon payment of an agreed sum.

PARTICIPATION LOAN: One that requires interest plus a percentage of profits from the rentals. Not to be confused with a PARTICIPATION MORTGAGE. Law which permit banks to write participation loans are known as "BASKET" or "LEEWAY" provisions.

PARTICIPATION MORTGAGE: "Piggy-back mortgage". A single mortgage but with two lenders, usually a bank and a private lender. Used when the buyer is looking for a higher mortgage than the bank is willing to take. Eliminates the need to place a second mortgage.

PARTITION: A division of real property among those who own undivided shares.

PARTNERSHIP: An association of two or more persons to operate a business.

PARTY TO BE CHARGED: The party against whom an action on a contract is brought.

PARTY WALL: One erected along a property line for the mutual benefit of both owners. and serves as a common boundary between them.

PERCENTAGE LEASE: See LEASE, PERCENTAGE.

PERCOLATION TEST: a test of soil for its water absorption capacity.

PERSONAL PROPERTY: Anything movable in which one has a right or interest.

PERSONALTY: Personal property.

PHYSICAL DEPRECIATION: The loss of value from all causes of age and action of elements.

PIGGY-BACK MORTGAGE: See PARTICIPATION MORTGAGE.

PLAINTIFF: The party who commences a lawsuit.

PLANNING BOARD OR COMMISSION: A local government agency which determines the proper physical growth of a community and recommends zoning ordinances and other laws for that purpose.

PLAT: A map intended to show the division of land into lots or parcels.

PLEDGE: The making of personal property security for payment of a debt.

POINTS: 1 point is 1 percent of the amount of the loan. Origination fees or discount points are expressed in points.

POLICE POWER: The inherent right of government to enact such legislation as may be deemed necessary to protect and promote the health, safety, and general welfare of the public.

POWER OF ATTORNEY: A notarized authorization to another to act on one's behalf. It can be general or limited to a specific act. See ATTORNEY IN FACT.

PREPAYMENT CLAUSE: A clause giving the right to pay off a mortgage before maturity.

PREPAYMENT PENALTY: An extra charge for the prepayment of a mortgage.

PRESCRIPTION: The securing of an easement through prolonged use.

PRESCRIPTIVE EASEMENT: The securing of an easement or title through prolonged use.

PRIMA FACIE: From Latin meaning first view. Prima Facie evidence of fact is in law sufficient to establish the fact unless rebutted.

PRIMARY MORTGAGE MARKET: The market in which loans are made directly to borrowers.

PRINCIPAL: The employer of an agent; money or capital.

PRIORITY: Being first in rank, time, or place. In real estate, priority is established largely by the order in which instruments are recorded.

PROBATE COURT: A superior court which has authority over property of deceased persons, minors, and insane persons; divorce and adoption proceedings.

PROCURING CAUSE OF SALE: The broker who is the primary agent for the completion of a real estate transaction.

PRO FORMA STATEMENT: A projected annual operating statement that shows expected income, operating expenses and net operating income.

PROPERTY: Anything of which there may be ownership.

PROPRIETARY LEASE: See LEASE, PROPRIETARY.

PROMISSORY NOTE: A written contract containing a promise to pay a debt.

PRORATION: To divide or prorate closing expenses and adjustments.

PURCHASE AND LEASEBACK: See SALE AND LEASEBACK.

PURCHASE AND SALE AGREEMENT: A written agreement for the sale of real estate between seller and buyer.

PURCHASE MONEY MORTGAGE: See DEFERRED PURCHASE MONEY MORTGAGE.

QUANTITY SURVEY: In appraising, a technical process for estimating cost of new construction which involves detailed estimates of individual quantities of materials to be used.

QUIET ENJOYMENT: The right of an owner to the use of property without interference of possession.

QUIET TITLE, ACTION TO: A suit brought to establish clear title to real property or to remove a cloud on title.

QUITCLAIM DEED: One that conveys whatever title the grantor has with no warranties. See STATUTORY QUITCLAIM DEED and SPECIAL WARRANTY DEED.

READY, WILLING AND ABLE BUYER: One who is ready now, without reservation, on the owner's terms and has the financial ability to complete the deal.

REAL ESTATE: Land and its improvements in a physical sense as well as the rights to own or use them.

REAL ESTATE BOARD OR COMMISSION: An agency of government which licenses and regulates the conduct of real estate brokers and salespersons.

REAL ESTATE BROKER: See **BROKER**.

REAL ESTATE SALESPERSON: A licensed person employed by a broker to sell real estate.

REAL ESTATE TAX: See **TAX**, **REAL ESTATE**.

REAL ESTATE INVESTMENT TRUST, REIT: Under federal law, a special arrangement whereby investors may pool funds for investments in real estate and mortgages and yet escape corporation taxes.

REAL ESTATE TRUST: In Massachusetts, and other states, a form of ownership in which title is taken in the name of a trustee and the true owner is entitled to the benefits and income of the property. Also known as a Mass. Business Trust with Transferable Shares. On a state level, income is taxed at a lower rate than if a corporation. For federal tax purposes, income is taxed as a corporation.

REAL PROPERTY: Ownership of **RIGHTS** in land and its improvements.

REALTOR: A copyrighted title used by a real estate broker who holds active membership in a real estate board affiliated with the National Association of Realtors. (Formerly, National Association of Real Estate Boards.)

REALTY: Land and all appurtenances and improvements. **REAL ESTATE**.

REBATE: A return of part of money paid, such as a tax rebate.

REDEMPTION: The act of buying back one's property after a tax sale or foreclosure sale.

REDLINING: The practice of refusing to make loans in certain neighborhoods.

REGISTERED LAND: In Massachusetts, title which has been certified by the Land Court and is recorded in the Land Court section of the Registry of Deeds. Known as the **TORRENS SYSTEM**.

REGISTER OF DEEDS: Recording Office, usually by County.

REGULATION Z: One that requires lenders to show (by disclosure statement) borrowers how much they are paying for credit in terms of annual rates as well as total dollar costs and all charges or costs of incurring the loan.

RELEASE CLAUSE: An agreement to release a portion or all of a mortgage upon the payment of a specific sum of money.

REMAINDER ESTATE: An estate which is created after the termination of the prior estate, such as a life estate.

REMAINDERPERSON: The person who is to receive property after the death of the life tenant.

REMAINING ECONOMIC LIFE: The period of time from the date of an appraisal to the date when the improvements become valueless.

RENT: A consideration paid for the use and possession of a property.

RENT, CONTRACT: The amount of rent paid for the use of land by contract.

RENT, GROSS: The total amount of rent before deduction for expenses etc.

RENT, NET: See **NET INCOME**.

REPLACEMENT COST: The cost of constructing a substitute building, of comparable utility using modern materials and construction methods.

REPRODUCTION COST: The estimated cost, as of a certain date, of the exact duplication of a building or improvement, using the same materials, design and layout.

RESCISSION OF CONTRACT: To annul or repeal a contract by mutual consent.

RESERVATION: A right retained by a grantor out of property he has conveyed.

RESPA: Real Estate Settlement and Procedures Act. Federal law requiring lenders in mortgage transactions to give good faith estimates of costs to the buyer before closing.

RESPONDEAT SUPERIOR: In agency, the principal is responsible for the acts of his agent.

RESTRICTIVE COVENANTS: Clauses contained in deeds to control the way future owners may or may not use the property.

RETAINING WALL: A wall built to hold earth in place or keep water from flooding.

REVERSION, REVERSIONARY RIGHT. The right to recover complete and exclusive use and/or ownership of real estate, as at the end of a lease or the termination of a life estate.

REVOCATION: The nullification of an offer to contract.

RIGHT OF SURVIVORSHIP: The remaining co-owner's rights to the entire property when one co-owner dies.

RIGHT OF WAY: An easement, or right to cross the land of another.

RIPARIAN OWNER: One who owns land bounding upon a river or watercourse.

RIPARIAN RIGHTS: The rights of an owner of land bounding upon a river.

SALE AND LEASEBACK: A transaction in which the owner of a piece of property sells it^{C-15} but retains occupancy by leasing it from the buyer.

SALE CONTRACT: A written agreement concerning the transfer of ownership interests in realty, setting forth the price, the terms, and the rights and obligations of the parties, and signed by buyer and seller.

SANDWICH LEASE: See LEASE, SANDWICH.

SATISFACTION OF MORTGAGE: The discharge of a mortgage or trust deed lien from the records upon payment of the debt.

SATISFACTION PIECE: See SATISFACTION OF MORTGAGE.

SAVINGS AND LOAN ASSOCIATION: A federally chartered or state licensed association whose prime functions are to provide mortgage loans on real estate and to hold government-insured savings.

SEAL: An impression made to attest the execution of an instrument; the word "seal" or words "signed under seal" or the symbol (S) are sufficient to indicate a sealed document. Serves as proof of consideration and extends the time limit (statute of limitations) for suing after breach by one of the parties.

SEARCH OF TITLE: See TITLE SEARCH.

SECONDARY FINANCING: A loan secured by a second mortgage on realty.

SECOND MORTGAGE: Same as a first mortgage except that it is junior or subordinate to the prior rights of the first mortgage.

SECONDARY MORTGAGE MARKET: The market-place in which a lender can sell a mortgage loan to another investor. GNMA and FNMA provide secondary mortgage markets.

SECURITY AGREEMENT: An agreement which creates or provides for a security interest, and which gives the lender an interest in the personal property being used to secure the loan.

SECURITY INTEREST: The interest of a creditor in the property of the debtor in all types of credit transactions.

SEISIN: (SEIZIN) Possession of realty by the owner, who has the right to sell or convey same to another. At least a life estate.

SELLER'S POINTS: Those paid by a seller so that a buyer can obtain a loan.

SERVIENT TENEMENT: Land burdened by an easement. The easement benefits the dominant tenement.

SEVERALTY OWNERSHIP: Ownership by one person only.

SEVERANCE DAMAGES: The loss in market value of the remainder area after a partial taking due to the taking or the construction of the proposed improvements.

SHERIFF'S DEED: An instrument drawn under order of court to convey title to realty sold to satisfy a judgment.

SITE: A parcel of land including road improvements and public utilities that make it ready and available for use.

SITE ANALYSIS: The identification and study of characteristics, such as size and shape, topography, road improvements, etc., that affect the value and marketability of a site.

SPECIAL ASSESSMENT: The charge against real estate to cover the proportionate cost of an improvement, such as a street or sewer. Known as BETTERMENT ASSESSMENT.

SPECIAL WARRANTY DEED: A deed in which the grantor warrants or guarantees the title only against defects arising during his ownership of the property and not against defects existing before the time of his ownership. In Massachusetts, a Statutory Quitclaim Deed is a Special Warranty Deed.

SPECIFIC LIEN: An encumbrance affecting one particular property.

SPECIFIC PERFORMANCE: A court order requiring a person to carry out, or live up to, the terms of an agreement or contract.

SQUARE FOOT METHOD: In appraising, determining cost per square foot by comparing to a cost per square foot of a similar structure.

SQUATTER'S RIGHTS: The rights to occupancy of land created by prolonged use and occupancy. See ADVERSE POSSESSION.

STANDING MORTGAGE: A mortgage loan, in which only interest payments are made and the principal is paid at maturity.

STATUTE OF FRAUDS: State law which provides that certain contracts must be in writing in order to be enforceable at law.

STATUTE OF LIMITATIONS: Legislation setting the maximum time allowed to file a legal suit after a cause of action arises.

STATUTORY DEED: A short form deed, the wording of which has been determined by statute.

STRAIGHT LEASE: See LEASE, FLAT.

STRAIGHT LINE DEPRECIATION: A method of depreciation for income tax purposes which assumes an equal amount of deduction each year of the life of the improvement, until the original cost of the improvement less salvage value is exhausted.

STRAIGHT NOTE OR MORTGAGE: See STANDING MORTGAGE.

SUBDIVISION: A tract of land separated into lots suitable for residences, businesses, or industries.

SUBJECT TO A MORTGAGE: A sale of realty in which the buyer "takes over" or agrees to pay the seller's existing mortgage but does not take personal responsibility for the loan. Compare to an ASSUMED MORTGAGE in which the buyer becomes personally obligated on the loan indebtedness.

SUBLEASE: A lease given by a lessee.

SUBORDINATE: To voluntarily accept a lower mortgage priority.

SUBORDINATION CLAUSE: A provision in a junior mortgage which enables the first mortgage to keep its priority in cases of renewal or refinancing of the first.

SUBROGATION: The substitution of one party for another with regard to a lawful claim.

SUBSTITUTION: An appraisal principle holding that when two or more properties with substantially similar utility are available, the one with the lowest price receives the greatest demand.

SUBSURFACE RIGHT: The rights to use land below the earth's surface.

SUFFERANCE: See ESTATE AT SUFFERANCE.

SUMMATION APPROACH: See COST APPROACH.

SUM-OF-THE-DIGITS: An accelerated method for computing depreciation for income tax purposes; a form of declining balance method.

SUNDAY CONTRACT: In states having "blue laws", certain contracts executed on Sunday are void as being against public policy.

SUPPLY AND DEMAND: The principle that price varies directly with demand and inversely with supply.

SURETY, SURETY BOND: See BOND.

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

SURVIVORSHIP RIGHTS OR TENANCY: The right of one co-owner to acquire the interest of the deceased co-owner or joint tenant.

SYNDICATE: A combination of persons (a joint venture) organized to pursue a financial enterprise too large for any of them to undertake individually.

TAKE-OUT LOAN: A permanent loan arranged to replace a construction loan.

TANDEM PLAN: A subsidy program wherein the GNMA supports the price of residential mortgage loans, thus encouraging lower than market rate loans to low-income buyers.

TAX: A compulsory payment of a percentage of income, property value, or sales price for the support of government.

TAX DEED: A deed transferring title of real estate, when property is sold for non-payment of taxes.

TAX-FREE EXCHANGE: A method of deferring capital gains by exchanging real property for another like property.

TAX LIEN: A charge or hold that the government has against property to insure the payment of taxes.

TAX, REAL ESTATE: A levy or tax against real estate for support of government.

TAX SALE: A sale of property after a period of nonpayment of taxes.

TAX SHELTER: An income property or other investment that offers considerable tax savings.

TENANCY: The nature of a right to hold, possess, or use property as by lease or ownership.

JOINT: See JOINT TENANCY.

AT SUFFERANCE: See SUFFERANCE, ESTATE AT.

AT WILL: Occupying or using realty subject to termination at the will of either owner or tenant.

TENANCY, continued

BY THE ENTIRETY: See ENTIRETY.

FOR YEARS: A lease for a certain period of time.

IN COMMON: The ownership of realty by two or more persons, each of whom has an undivided interest, with right of inheritance upon his or her death.

IN SEVERALTY: Ownership by one person.

TENANT: A person who occupies or uses real estate at will or by lease.

TENEMENT: Property held by a tenant.

TENEMENT, DOMINANT: The benefiting property in an easement.

TENEMENT, SERVIENT: The property losing rights in an easement, as by giving a right of way to the dominant tenement.

TENEMENTS: Everything of a permanent nature; anything attached to the soil.

TERM LOAN: See STANDING LOAN.

TESTATE: Leaving a valid will at death.

TESTATOR: One who leaves a will at his death.

TIME IS OF THE ESSENCE: A phrase, if included in a contract, making failure to perform by a specified date a material breach or violation of the agreement.

TIME-SHARING: Part ownership of a property (Ownership in common) coupled with a right to exclusive use of it for a specified number of days each year.

TITLE: Evidence of ownership, such as a deed or bill of sale.

CERTIFICATE OF: Issued by the Land Court for Registered Land. Must be delivered with a deed when title to registered land is conveyed.

CHAIN OF: See CHAIN OF TITLE.

CLOUD ON: See CLOUD ON TITLE.

GOOD AND MARKETABLE: See GOOD AND MARKETABLE.

TITLE CLOSING: Final settlement in the exchange of purchase price for a deed.

TITLE COMPANY: A company organized to insure title.

TITLE EXAMINATION OR SEARCH: An inspection of publicly available records and documents to determine the current ownership and title condition for a property.

TITLE INSURANCE: A policy of insurance which indemnifies the holder for any loss sustained by reason of defects in the title.

TITLE SEARCH: See TITLE EXAMINATION.

TITLE THEORY: The legal position that a mortgage conveys title to the lender, as apposed to the "Lien Theory" in which the lender receives only a lien in the mortgaged property.

TORRENS SYSTEM: A state-sponsored method of registering land titles.

TRADE FIXTURE: Personal property installed by a tenant that is removable at the end of the lease or tenancy because the article is business or trade related.

TRANSFER TAX: See DOCUMENTARY STAMPS.

TRESPASS: To enter unlawfully upon the land or property of another.

TRUST: A right of property, real or personal, held by one for the benefit of another.

TRUST DEED: A document that conveys legal title to a neutral third party as security for a loan. Also, a deed to a grantee as a trustee.

TRUSTEE: One who holds property in trust for another.

TRUSTEE'S DEED: A deed given by a trustee.

TRUSTOR: One who creates a trust. The borrower who gives a deed of trust.

TRUTH-IN-LENDING LAW: The National Consumer Credit Protection Act of 1969. Requires lenders to make "A Meaningful DISCLOSURE" to the borrower of the costs of credit both in dollar amounts and in percentage terms. Implemented by Regulation Z of the Board of Governors of the Federal Reserve System.

UNDIVIDED INTEREST: Ownership by two or more persons, each having the right to use the entire property.

UNDUE INFLUENCE: Taking any fraudulent or unfair advantage of another's weakness of mind, distress, or necessity.

UNEARNED INCREMENT: An increase in value of real estate due to no effort on the part of the owner; often due to public improvements, or population increase etc.

UNENFORCEABLE: A contract which cannot be ordered to be completed by a court of law.

- UNIFORM COMMERCIAL CODE:** A statutory system of rules effective in some states which establishes a unified and comprehensive scheme for regulating security transactions in personal and real property.
- UNILATERAL CONTRACT:** A legally enforceable agreement which imposes an obligation on one party only; the exchange of a promise for an act.
- UNIMPROVED LAND:** Land in its natural state.
- U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:** See HUD.
- UNITIES, FOUR:** Items essential for a joint tenancy. Time, Title, interest and possession.
- UNIT-IN-PLACE METHOD:** A process for estimating the cost of erecting a building by estimating the cost of each component part, such as foundations, floors, etc.
- USURY:** The charging of more than the legal rate of interest.
- V.A. MORTGAGE:** See G.I. LOAN.
- VALID:** Legally sufficient and authorized by law.
- VALUABLE CONSIDERATION:** Something of value exchanged by the parties to a contract.
- VALUATION:** The estimated worth of something.
- VALUE:** The worth of a thing measured in goods, services, or money.
- APPRAISED:** The worth estimated by an appraiser.
- ASSESSED:** See ASSESSED VALUATION.
- BOOK:** An accounting record of the capital value of a thing.
- CAPITALIZED:** An estimate of value through capitalization process; the present worth of expected future benefits or income.
- MARKET:** See MARKET VALUE.
- PLOTTAGE:** In increased value created by combining two or more lots.
- VALUE AFTER THE TAKING:** Market value of the remaining lands in condemnation proceedings, assuming a partial taking.
- VALUE BEFORE THE TAKING:** Market value of an entire property before the taking in eminent domain or condemnation proceedings.
- VARIANCE:** See ZONING VARIANCE.
- VENDEE:** Buyer.
- VENDOR:** Seller
- VESTED:** Bestowed upon someone.
- VOID:** Without force or effect; to cancel or nullify. Illegal, immoral, against public policy.
- VOIDABLE:** That which is capable of being made void but is not nullified unless action is taken to make it so.
- VOLUNTARY LIEN:** Any lien placed on property with consent of the owner.
- WAIVER:** The renunciation of a right or claim.
- WARRANTY DEED:** See GENERAL WARRANTY.
- WASTE:** Abuse or destructive use of property.
- COMMISSIVE or VOLUNTARY:** A deliberate act of destruction by a tenant.
- PASSIVE or PERMISSIVE:** Failure to exercise due care to prevent waste.
- WILL:** A written, legally executed instrument by one who makes a disposition of property to take effect after his death.
- WRAP-AROUND MORTGAGE:** A method of refinancing by giving a second mortgage without discharging the first. Holder agrees to repay the first mortgage.
- YIELD:** The rate of return expected or earned on an investment.
- ZONING:** Government control of the use of land, intensity, and height, bulk of structures.
- ZONING EXCEPTION:** Provisions in the zoning law allowing the granting of a building permit, provided certain required conditions have been met.
- ZONING ORDINANCES:** The valid execution of the police power of a municipality in controlling and regulating character and use of property.
- ZONING VARIANCE:** A deviation from the zoning ordinance that is granted because strict enforcement would result in undue hardship on a property owner.

