A/C Air-Conditioning.

Abandonment To release a claim, occurs when someone voluntarily surrenders or relinquishes possession of real property without vesting this interest in any other person.

Abandonment of homestead A recorded document terminating an existing declaration of homestead.

Abatement A reduction in amount or intensity.

Example*:* Tenants may ask for an abatement in rent over a period when their use of the property has been interrupted or inhibited by actions of the landlord, such as renovation of the structure.

Abatement Of Nuisance Extinction or termination of a nuisance.

Absentee Owner An owner who does not personally manage or reside at property owned.

Example: Chen, living in Los Angeles, purchases an apartment building in Las Vegas. Chen is an absentee owner for his apartment.

Absolute Auction An auction in which the subject property is sold to the highest bidder regardless of the amount of the winning bid.

Example*:* Although Jones was disappointed by the amount bid for his house, he had no choice but to sell since the property was sold in an absolute auction.

Absolute net Lease A lease in which the tenant pays all operating expenses usually with the exception of management fees.

Absolute Ownership *See* Fee Simple Estate.

Absolute Title Title that grants exclusive rights to its owner and gives no one else claim, interest, or rights to the same property.

"ABSTRACTION"

Absorption Period An estimate of the total time period over which a property can be successfully sold, leased, put into use or traded in its market area at prevailing prices or rentals.

Absorption Rate An estimate of the expected annual sales or new occupancy of a particular type of land use.

Example: The demand for new homes in a market area is estimated to be 500 per year. Developer *Chen's* new subdivision, when completed, is expected to capture 10% of the market. Therefore Chen's subdivision has an expected absorption rate of 50 homes per year (10% of 500 = 50).

Absorption Trench *See Leaching Field*.

Abstract A summary; an abridgement. Before the use of photostatic copying, public records were kept by abstracts of recorded documents.

Abstract Of Judgment A condensation of the essential provisions of a court judgment.

Abstract Of Title A full summary or digest of all consecutive grants, conveyances, wills, transfers, records and any other facts relied on as evidence of title, together with any other elements of record which may impair the title.

Abstract Update Making current an existing, but old, abstract of title by adding to it copies of all relevant documents recorded since the presentation or most recent update of the existing abstract.

Example*:* A building that was sold on April 1, 2001, was sold again July 10, 2001. An abstract of title was provided for the April 1 sale, though an abstract update was considered adequate for the second sale.

Abstracter's Certificate A certificate contained in an abstract which shows the time period and scope of the search of public records done by the abstracter.

Abstraction A method of valuing land. The indicated value of the improvement is deducted from the sale price.

Abut Adjoining or meeting. *See* also Adjacent.

Abutment The portion of a wall or column that bears the pressure of an arch or pier, e.g., the supports at the ends of a bridge.

Abutting Land Adjacent properties with a common border.

Accelerated Cost Recovery System (ACRS) A method of depreciation introduced by the Economic Recovery Tax Act of 1981 and modified by the Tax Reform Acts of 1984 and 1986. As ACRS applies to real estate, depreciable lives for buildings depend on when they are placed in service.

***Example**:* If an apartment building were purchased in January 1993 for $1,000,000 exclusive of land, $34,800 (3.4%) could be claimed as depreciation in 1993, and $36,400 each year for the following 26 years.

Accelerated Depreciation Depreciation methods, chosen for income tax or accounting purpose, that offer greater deductions in early years. *See Accelerated Cost Recovery System, Double Declining Balance, Sum-Of-Years-Digits Depreciation*.

Acceleration Clause A loan provision giving the lender the right to declare the entire amount immediately due and payable upon the violation of a specific loan provision, such as failure to make payments on time.

***Example**:* Chu sells her house to Lee, who assumes the existing 8% interest rate mortgage. They do not notify the lender of the sale. Clause 17 in the mortgage states that the full principal accelerates unless the lender approves of the sale. Chu must now pay the balance of the principal.

Acceptance When the seller or agent's principal agrees to the terms of the agreement of sale and approves the negotiation on the part of the agent and acknowledges receipt of the deposit in subscribing to the agreement of sale, that act is termed acceptance.

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

"ACCORD"

Access A path of entry to a property or the physical and legal means of entrance. Most property owners have a right to access to their property from a public street that includes the right to unimpeded flow of light and air. Landlords also have rights to access a rented property under reasonable conditions.

Access Right The right of an owner to have ingress and egress to and from his property.

Accessibility The location of a site in terms of how easily it may be reached by customers, employees, carriers, and others necessary to the intended use of the property.

Accession Acquiring title by having property added to your property.

Accessory Apartment A separate living unit created within a single-family home and occupied by either a family member or a non-family tenant. Generally, such units are out-lawed by local zoning and housing codes, although some cities conduct special programs to encourage such units for specific purposes.

***Example**:* Mrs. Lee was left with a large home when her husband died. Through a special program conducted by the city, she was able to create an accessory apartment in her home and rent it to another widow. This provided low-cost housing for the tenant and additional income and companionship to Mrs. Lee.

Accommodation Party One who has signed an agreement without receiving value for it, for the purpose of lending his or her name so that another person can secure a necessary loan or other arrangement.

***Example**:* The young developer asked an experienced friend to act as an accommodation party. The experienced developer signed the loan agreement even though there was no monetary benefit to him.

Accord An agreement by which one accepts something different (usually less) from what is owed as full satisfaction. The amount owed may be in dispute or simply accepted as full satisfaction by the creditor or claimant.

The agreement and acceptance is called **"**Accord and Satisfaction.**"**

Accounts Payable Money owed by a business. They are considered *liabilities*.

Accounts Receivable Money owed to a business. They are considered *assets*.

Accredited Resident Manager (ARM) A designation conferred by the Institute of Real Estate Management to those qualified as resident on-site managers.

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

Accrual Method A method of accounting that requires income or expense to be entered when the amount is earned or the obligation is payable. Distinguished from cash method in which amounts are posted when paid or received.

Example*:* The home buyer bought a d paid for 3-year hazard insurance policy at closing. On the accrual method, only the current year's expense is indicated.

Example*:* Interest on a loan is 3 months delinquent. The expense, though unpaid, appears in the current year's financial statement under the accrual method. Under the cash method it would appear on the financial statements when paid.

Accrued Accumulated up to his point in time. Accrued interest, accrued depreciation.

Accrued Depreciation The difference between the cost of replacement new as of the date of the appraisal and the present appraised value.

Accrued Interest Interest that has been earned but not paid.

Example*:* If 6% interest is earned on a $100 deposit, then $6 of interest has accrued to the depositor.

Accrued Items of Expense Those incurred expenses which are not yet payable. The seller's accrued expenses are credited to the purchaser in a closing statement.

Accumulated Depreciation In accounting, the amount of depreciation expense that has been claimed to date. Same as accrued depreciation. *See* Adjusted Tax Basis.

***Example**:* A building was bought for $100,000. The annual straight-line depreciation expense is $2,500. The accumulated depreciation in 3 years is $7,500.

Acknowledgment A formal declaration before a duly authorized officer by a person who has executed an instrument that such execution is his act and deed.

Acoustic Tile Blocks of fiber, mineral or metal, with small holes or rough textured surface to absorb sound, used as covering for interior walls and ceilings.

Acoustical Material Materials such as tile, cork and fiberglass that are installed in walls to absorb sound.

Acoustical Tile Blocks of fiber, mineral or metal, with small holes or rough-textured surface to absorb sound, used as covering for interior walls and ceilings.

Acquisition The act or process by which a person procures property.

Acquisition Appraisal An appraisal made to estimate market value to establish correct compensation for the owner of a property that is to be taken for public use by a public authority.

Acquisition Cost The price and all fees required to obtain a property.

***Example**:* Chen purchases property for $90,000 plus $5,000 in closing costs (attorney's fees, loan fees, appraisal costs, title insurance, and loan discount points). Chen's acquisition cost is $95,000.

Acquisition Loan Money borrowed for the purpose of purchasing a property.

***Example**:* The developer negotiated an acquisition loan for the purchase of land and a construction loan to improve the land for homesites.

Acre A 2-dimensional measure of land equaling 160 square rods, 10 square chains, 4,840 square yards, or 43,560 square feet.

Acre, Commercial Used in appraisal field. It is an acre minus streets, sidewalks, and alleys;

so commercial acre unit is less than a normal acre.

Acre-Foot (Foot Acre) The volume of water equal to an acre covered to a depth of one foot (43,560 cubic feet of water).

Acre-Inch The volume of water equal to an acre covered to the depth of one inch (3,630 cubic feet of water.

ACRS *See Accelerated Cost Recovery System*.

Act Of God An unpreventable destructive occurrence of the natural world.

***Example**:* A contract has a provision that allows the buyer to default if the property is damaged by an act of God.

Example: Examples of an act of God are: earthquake, flood, hurricane, lightning, tornado.

Action A court proceeding to enforce a right.

Action To Quiet Title *See Quiet Title (Action).*

Active Participation Type of investor position which determines how rental income is taxed. Requirements for active participation are less stringent than for material participation. An investor may have a manager for rental real estate and still be considered an active participant. Indicators of active participation in real estate are:

- Approving new tenants,
- Deciding on rental terms,
- Approving capital or repair expenditures

Active participation *excludes*:

- Owners of a 10% interest or less,
- Limited partners. An active participant with adjusted gross income under $100,000 without regard to passive losses, may deduct up to $25,000 of passive losses against other income. This allowance is

phased out on a 50% ratio as adjusted gross income increases from $100,000 to $150,000.

***Example**:* Anna earns $40,000 from her job as an attorney, and is an active investor in an apartment complex. If the apartments generate a tax loss, she may offset up to $25,000 of her salary with the loss.

Active Solar Heating A system that uses energy from sunlight to heat a structure and/or provide hot water. Contrasted with passive solar heating by the use of pumps or fans to move the energy-transporting medium through the system. Installation of active solar heating equipment is eligible for certain income tax credits.

Actual Age In appraisal, the chronological age of an improvement, as contrasted with its effective age.

***Example**:* Although the actual age of the building was only 5 years, excessively heavy use made it appear much older.

Actual Authority The authority an agent has or believes that he/she has either expressly given by the principal or given by the law and not denied by the principal.

Actual Cash Value The market value of a property. It is the cost new, plus appreciation less all forms of depreciation and the price a property will bring if offered in a normal market under normal conditions.

Actual Eviction *See Eviction, Actual.*

Actual Fraud An act intended to deceive another, e.g., making a false statement, making a promise without intending to perform it, suppressing the truth.

Actual Notice Actual notice is knowledge a person actually has about a particular fact, it is different than constructive notice.

Actual Possession *See Possession.*

Ad Valorem According to value.

Ad Valorem A Latin term which means **"**according to value.**"**

Ad Valorem Tax A tax based on the value of the thing being taxed.

***Example**:* If the ad valorem tax rate is 1%, the tax would be $1 per $100 of assessed value.

ADC Loan Acquisition, Development, and Construction loan.

***Example**:* A real estate developer wishes to create a shopping center on a tract of land that he has an option to buy. His first step is to arrange leases with tenants for much of the proposed space. The next step is to secure a commitment for takeout financing. Then, he may secure an ADC loan.

See Construction Loan.

Add-On Interest Interest that is added to the principal of a loan. The amount of interest for all years is computed on the original amount borrowed.

***Example**:* Chen borrows $1,000 at 8% add-on interest for 4 years. Total interest is $320 (8% of $1,000 for 4 years). Chen will repay the $1,320 total in equal monthly installments.

Addendum Something added, as an attachment to a contract. (plural: ADDENDA).

***Example**:* An addendum to the contract of sale described the type of financing that the buyer must secure to be required to purchase the property.

***Example**:* Commonly added addenda in real estate purchase agreements are for financing terms and property inspection requirements.

Additional First-Year Depreciation (Tax) Under the 1986 tax act, up to $10,000 of depreciable personal property purchased each year may be expensed, rather than depreciated, provided not more than $200,000 is purchased in a year. The $10,000 is phased out, dollar for dollar, when purchases exceed $200,000 in a year.

***Example**:* Barbara is a real estate broker. She bought a $4,000 computer to assist with her business; she may expense the cost in the year purchased, rather than depreciate the equipment.

Adjacent Nearby but not necessarily adjoining.

Adjoining Contiguous; attaching; sharing a common border.

Adjustable Mortage Loans (AML'S) Mortgage loans under which the interest rate is periodically adjusted to more closely coincide with current rates. The amounts and times of adjustment are agreed to at the inception of the loan. Also called: Adjustable Rate Loans, Adjustable Rate Mortgages (ARM'S), Flexible Rate Loans, Variable Rate Loans.

Adjustable-Rate Mortgage (ARM) A mortgage loan that allows the interest rate to be changed at specific intervals over the maturity of the loan. ARM may include a limit on the amount that the interest rate can rise or fall in a given year as well as a limit on the total amount the rate can rise or fall over the life of the loan. ARM often have an initial interest rate that is lower than fixed rate mortgages because the risk of interest rate change is partially borne by the borrower with an adjustable rate loan.

Example*:* A person obtains an adjustable-rate mortgage to finance the purchase of a home. after 2-year period, the lender may adjust the rate of interest on the loan in accordance with an established index

Adjusted Basis The cost basis after the application of certain additions for improvements, etc., and deductions for depreciation, etc. Adjusted basis can be calculated as the original cost plus any additional capital investment in the property minus accumulated depreciation or cost recovery. Also called *basis*.

Example: Chu purchases land for $10,000 and erects a store for $80,000. Her tax basis is $90,000. If she then sells the property for $95,000, she has a $5,000 gain. If she instead depreciates the property, the $80,000 cost basis of improvements is depreciable; the $10,000 basis of the land remains because land is not depreciable.

Adjusted Book Value Cost of acquisition minus depreciation plus capital improvements. Used when figuring profit for income tax.

Adjusted Gross Income Total rents received from income property, after an allowance for vacancies and bad debts.

Adjusted Internal Rate of Return (AIRR) An internal rate of return analysis in which different reinvestment and discount rates for both positive and negative cash flows have been specified. The adjusted internal rate applies a **"**safe rate**"** to all negative cash flows, discounts them to time period zero, and adds them to the initial investment. The safe rate is the rate that could be earned on the funds until needed to cover negative cash flows. A market rate is applied to all positive cash flows, which are carried forward to the end of the investment holding period. The market rate is the rate that can be earned by investing the positive cash flows in other investments. The AIRR equals the internal rate of return (IRR) that equates the present value figure to the future value figure. The AIRR is usually less than the IRR for the same property because funds are assumed to be reinvested at a lower rate. Also called the modified internal rate of return.

Adjusted Sales Price 1. In appraisal, the indicated price of a comparable property after adjustments have been made to account for differences between comparable and subject properties.

Example*:* The comparable property is identical to the subject property except that the comparable has an additional half bath. The sales price of $70,000 is adjusted by subtracting $3,000 for the extra bath. The adjusted sales price is $67,000.

2. In income taxation, the selling price of a home less expenses of sale, less fixing-up expenses. When the purchase price of a new principal residence equals or exceeds the adjusted sales price of a former residence, any gain on the sale of the former residence will be deferred. See section 1034.

Example*:* A principal residence sold for $90,000. Just prior to the sale the seller had a contractor paint at a cost of $80,000 or more, there will be no income tax due on the sale of the former home.

"ADMINISTRATOR"

Adjusted Selling Price Selling price minus expenses of sale. Used when figuring profit for income tax.

Adjusted Tax Basis The original cost or other basis of property, reduced by depreciation deductions and increased by capital expenditures.

***Example**:* Chu buys a lot for $10,000. She erects a retail facility for $60,000, then depreciates the improvements for tax purposes at the rate of $4,000 per year. After 3 years her adjusted tax basis is $58,000 {$10,000 + $60,000-(3x$4,000)}.

Adjustments (In Appraisal) Dollar value or percentage amounts that, when added to or subtracted from the sales price of a comparable, provide an indication of the value of a subject property. Adjustments are necessary to compensate for variation in the features of the comparable relative to the subject.

***Example**:* An appraisal is to be made of a four-bedroom house. One comparable is similar in all salient characteristics, including total size, except that it has 3 bedrooms. This comparable sold for $100,000. The appraiser makes an adjustment of $1,000 to the comparable to account for the difference of bedrooms. The adjusted sales price of the comparable is $101,000.

Administrative Expenses The expenses incurred in directing or conducting a business (including the construction process), as distinguished from the expense of manufacturing, selling and financing. The items included depend upon the nature of the business, but usually encompass items such as salaries of officers, rent of offices, or office and general expenses. Also called general and administrative expenses or overhead expenses.

Administrative Regulations Rules promulgated by an administrative branch of government, such as the real estate department, which have the force and effect of law.

Administrator A person appointed by the probate court to administer the state of a deceased person who left no will.

***Example**:* The administrator of the estate called a meeting of the de-

ceased's relatives for the purpose of dividing the property.

Administrator's Deed A deed conveying the property of one who died without a will (intestate).

Example: At the hearing called by the administrator, the heir received an administrator's deed to her father's home.

Admixture Materials added to cement to increase its plasticity and workability and to help it withstand frost and breakage.

Adobe A heavy clay type soil, prevents surface water from seeping into the earth and is difficult to cultivate.

Adobe Brick A kind of brick made originally by American Indians in the Southwest out of straw and adobe soil baked and hardened in the sun.

ADR Ad Valorem Tax Asset depreciation range.

A tax based on a fixed percentage of a property's value. The value is usually determined by an assessor who is a community official.

Advance Transfer of funds from a lender to a borrower in advance on a loan.

Advance Commitment The institutional investor's prior agreement to provide long term financing upon completion of construction; also known as a **"**take-out**"** loan commitment.

Advance Fees A fee paid in advance of any services rendered. Sometimes unlawfully charged in connection with that illegal practice of obtaining a fee in advance for the advertising of property or business for sale, with no intent to obtain a buyer, by persons representing themselves as real estate licensees.

Adverse Possession The open and notorious possession and occupancy under an evident claim or right, in denial or opposition to the title of another claimant.

Aeolian Soil Soil composed of material transported and deposited by the wind.

Affiant A person who makes a sworn or affirmed statement.

Affidavit A statement or declaration reduced to writing, sworn to or affirmed before some officer who has authority to administer an oath or affirmation.

Affidavit of Title A statement, in writing, made under oath by seller or grantor, acknowledged before a Notary Public in which the affiant identifies himself or herself and affiant's marital status certifying that since the examination of title on the contract date there are no judgments, bankruptcies or divorces, no unrecorded deeds, contracts, unpaid repairs or improvements or defects of title known to affiant and that affiant is in possession of the property.

Affirm To confirm, to aver, to ratify, to verify.

Affirmation A solemn declaration made by a person who objects to taking an oath.

AFLB Accredited Farm and Land Broker.

After Acquired Title Any title that the grantor attempts to acquire after the execution of the deed. The deed will become effective only at the time such after-acquired title is actually received by the grantor. The grant-deed is the only form of deed that will convey after-acquired title.

After-Tax Cash Flow (ATCF) Cash flow from income-producing property, less income taxes, if any, attributable to the property's income. If there is a tax loss which can provide a tax saving from the shelter of income earned outside the property, that savings is added to the cash flow that is earned by the property.

***Example**:* A property generates $1,000 per year of cash flow. In the first year of ownership, depreciation and interest deductions provide tax loss of $3,000. The loss saves $900 of income taxes that the investor would otherwise pay on salary earned as a teacher. The after-tax cash flow is $1,900.

After-Tax Equity Yield Rate The rate of return on an equity interest in real estate, taking into account financing costs and income tax implications of the investor.

***Example**:* An investor pays $100,000 for an equity interest in a property

that is subject to a $900,000 mortgage loan. The investor receives $8,000 of cash flow each year, then must pay $2,000 for income taxes. The after-tax cash flow is $6,000. Upon resale of the property, the investor receives $120,000 after a 5-year holding period, net of taxes on the sale. The $5,000 annual cash flow is combined with the $20,000 gain on resale to provide a 9.3% after-tax equity yield rate. *See* internal rate of return for computations.

After-Tax Income Same as after-tax cash flow.

After-Tax Internal Rate of Return (ATIRR) The annualized rate of return, after income taxes, on capital that is generated by an investment.

After-Tax Net Cash Proceeds of Resale The after-tax proceeds from the sale of a property less commissions, taxes paid by the owner, and the payment of all outstanding debts.

After-Tax Proceeds From Resale The amount of money left for the investor after all obligations of the transaction and after personal income taxes on the transaction.

Age (Of Structure) See Actual Age and Effective Age.

Age-Life Method A method of estimating the amount of depreciation a property has suffered by calculating the number of years of typical economic life the property is estimated to have divided by the property's estimated effective age.

Agency The legal relationship between a principal and his agent arising from a contract in which the principal engages the agent to perform certain acts on the principal's behalf.

***Example**:* Under the law of agency, agents must be loyal to their employers. Therefore broker Roberts submits to employer Davis all offers on property.

Agent One who undertakes to transact some business or to manage some affair

for another, with the authority of the latter.

***Example**:* An owner engages a broker to act as agent in selling real property; the broker in turn engages salespersons to act as agents to sell the same property.

Aggregate Mixture of sand, gravel, or stone that makes up about 75 percent of final composition of concrete.

Agreed Boundaries A method of adjusting boundary lines by acquiescence to limits not in conformity with recorded legal descriptions.

Agreement An exchange of promises, a mutual understanding or arrangement; a contract.

Agreement Of Sale A written agreement between seller and purchaser in which the purchaser agrees to buy certain real estate and the seller agrees to sell upon terms of the agreement. Also called offer and acceptance, contract of sale, earnest money contract.

***Example**:* Chen's broker prepared an agreement of sale to sell a home to Lee. Both principals signed it. It states that the price to $50,000 is to be paid in cash at closing, subject to Lee's ability to arrange a $40,000 loan at a 12% interest rate.

Agreements To Agree Failing to reach accord on all material terms of a contract, leaving some to later determination. A court cannot create a valid contract if all material terms have not been reduced to agreement.

Air Rights The right to use, control, or occupy the space above a designated property. Air rights can be leased, sold, or donated to another party.

AIREA *See* American Institute of Real Estate Appraisers.

AITD All-inclusive trust deed. A single trust deed which encompasses one or more prior trust deeds on the same property.

Akerson Format An alternative way of writing the Ellwood formula; a series of calculations used to find an overall rate that is based on the mortgage equity analysis concept that allows for cash flow forecasts including the impact

of financing. The process allows for a direct solution for value even though the loan amount is entered as a percentage of value, and any change in value (either appreciation or depreciation) may be entered as a percentage of value.

Alienate To convey or transfer title to property.

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 Clause in a loan document providing for full payment if the property is sold.

Alley Influence The effect an alley has on neighboring properties.

Allocation The division of the value of a property between land and improvements; an appraisal method in which the land value is found by deducting the value of improvements from the overall sales price of the property. The value of the improvements may be established by developing a typical ratio of site value to total property value and applying this ratio to the property to be appraised. Allocation is most frequently used in appraisals of vacant lots in which comparable sales of vacant lots cannot be found and improved sites must be used as comparables, e.g., in urban areas where few vacant lots exist or in rural areas where few sales exist. Also called abstraction or extraction method.

Allodial System A legal system that allocates full property ownership rights to individuals. The allodial system is the basis for property rights in the United States.

Example*:* Under the allodial system, an individual may obtain fee simple ownership of a parcel of real estate. This allows the individual to enjoy the full set of rights entailed in property ownership, subject to restriction only by governmental powers of taxation, police power, and eminent domain.

Allodial Tenure A real property ownership system where ownership may be complete except for those rights held by government. Allodial is in contrast to

feudal tenure.

Allowance for Replacements A noncash expense item included in many forecasted income and expense statements to compensate for the future replacement of building components that may wear out in the future, such as a new root or replacement of heating, ventilation and air-conditioning (HVAC) equipment. The annual allowance for reserves should reflect the amount that must be set aside each year to have the funds required to replace the item at the time it must be replaced. Also called an allowance for reserves or a reserve for replacement.

Alluvion (Alluvium) Soil deposited by accretion. Increase of earth on a shore or bank of a river.

ALTA *See* American Land Title Association.

ALTA Lender's Title Policy A broad form of title insurance policy which includes unusual risks such as factors that could be disclosed by inspection of the land or by a survey.

ALTA Owner's Policy An owner's extended coverage policy that provides buyers and owners the same protection the ALTA policy gives to lenders.

ALTA Title Policy A type of title insurance policy issued by title insurance companies which expands the risks normally insured against under the standard type policy to include unrecorded mechanic's liens; unrecorded physical easements; facts a physical survey would show; water and mineral rights; and rights of parties in possession, such as tenants and buyers under unrecorded instruments. It is a lender's policy.

Alterations Changes made in the interior or exterior of a building that do not change the exterior dimensions of the building.

Alternative Dispute Resolution (ADR) Methods of resolving disputes without resorting to the court system, such as mediation and arbitration.

Alternative Minimum Tax (AMT) A type of flat-rate tax that applies to individual taxpayers who have certain types of income. A 21% rate applies to broadly based income. If

this tax exceeds the regular income tax, then the alternative minimum tax is to be paid instead of the regular income tax. *See* tax preference items.

Alternative Mortgage Instrument (AMI) Any mortgage other than a fixed interest rate, level payment amortizing loan.

Examples: Various types of AMI's: ◆ variable rate mortgages, ◆ rollover loans, ◆ graduated payment mortgages, ◆ shared appreciation mortgages, ◆ adjustable rate mortgages, ◆ growing equity mortgages.

Amenities Satisfaction of enjoyable living to be derived from a home; conditions of a agreeable living or a beneficial influence arising from the location or improvements not measured in monetary considerations but rather as tangible and intangible benefits attributable to the property, often causing greater pride in ownership.

Amenity Something other than the construction materials which increases the enjoyment derived from a property such as good design, superior view, etc.

Amenity Value The extra value that a property has because of its amenities.

American Bankers Association A trade organization for officers of commercial banks. Publishes the monthly ABA Banking Journal and several other specialized banking periodicals. Address: American Bankers Association, 1120 Connecticut Avenue NW, Washington, DC 20006.

American Institute Of Architects A professional organization of architects, designers, and developers. Publishes the monthly AIA Journal and other periodicals. Address: American Institute of Architects, 1735 New York Avenue NW, Washington, DC 20006.

American Institute Of Real Estate Appraisers (AIREA) An organization of real estate appraisers that merged with the Society of Real Estate Appraisers to form the Appraisal Institute in 1991.

American Land A national association of title companies, abstractors, and attorneys es-

Title Association (ALTA) tablished to promote uniformity and quality in title abstract and insurance policies.

***Example**:* The title company employed in the purchase of the property is a member of the American Land Title Association and, therefore, used standard ALTA forms when underwriting the title policy.

American Mansard Of Second Empire Style A nineteenth-century-style house whose main and distinguishing characteristic is the roof design. The mansard roof slopes gently back from the wall line and then is topped with an invisible (from the street) section resembling a conventional hip roof. Multiple dormers protrude through the roof.

American Planning Association (APA) A professional organization of regional and urban planners for the purpose of promoting professional standards, research, and education. APA was formed by the merger of the American Institute of Planners (AIP) and the American Society of Planning Officials (ASPO). APA publishes a monthly magazine, Planning, and a quarterly journal, Journal of the APA. Address: American Planning Association, 1313 East 60th Street, Chicago, IL 60637.

American Real Estate and Urban Economics Association (AREUEA) An organization of scholars, researchers, and practitioners concerned with economic analysis of real estate related problems. Publishes the AREUEA Journal quarterly. Address: College of Business Administration, Indiana University, Bloomington, IN 47401.

American Real Estate Society (ARES) An organization of scholars, researchers, and practitioners who are mainly concerned with solving business problems related to real estate. Publishes the Journal of Real Estate Research and Journal of Real Estate Literature. Address: James B. Webb, Dept. of Finance, Cleveland State University, Cleveland, OH 44115.

American Society Of Appraisers (ASA) A professional organization of appraisers (not restricted to real estate). Also, a senior professional designation offered by the American Society of Appraisers. The ASA designation is awarded upon meeting rigorous requirements that include extensive experience, education, and approved demonstration reports. Designations offered include urban and

rural real estate, and non-real estate disciplines such as business valuation, machinery and equipment, fine arts, appraisal education, and administration. ASA publishes the biannual journal Valuation. It offers the professional designations FASA and ASA. Address: American Society of Appraisers, International Headquarters, PO Box 17265, Washington, DC 20041

American Society Of Real Estate Counselors(ASREC) A professional organization of real estate investment counselors and consultants. Affiliated with the National Association of Realtors. Awards the designation of Counselor of Real Estate (CRE). Publishes the biannual journal Real Estate Issues. Address: American Society of Real Estate Counselors, 430 North Michigan Avenue, Chicago, IL 60611

Americans with Disabilities Act (ADA) Federal law that prohibits discrimination against individuals with physical handicaps, including hiring practices and design of buildings intended to serve the public.

Example*:* There are three deadlines associated with the Act:
- January 26, 1992: Removal of barriers to disabled people. All future renovations must be in compliance.
- July 26, 1992: Companies with 25 or more employees must remove barriers that limit job opportunities of disabled persons.
- January 26, 1993: All new construction must be in compliance.

AMI *See* Alternative mortgage instrument.

AML *See* Adjustable mortgage loan (same as Adjustable rate mortgage).

AMO Accredited Management Organization.

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

The process of retiring a debt through repayment of principal. It occurs when the payment on the debt exceeds the required interest payment for a particular time period.

Annual deductions allowed in the calculation of federal income taxes. For example, points paid on a loan on income property are amortized over the loan term.

Amortization Rate The ratio of the amortization payment to the total debt to be amortized. See Amortization.

Amortization Schedule A table that shows the periodic payment, interest and principal requirements, and unpaid loan balance for each period of the life of a loan.

Amortization Term The time it takes to retire a debt through periodic payments. Also known as the full amortization term.

***Example**:* Many mortgage loans have an amortization term of 15, 20, 25, or 30 years. Some have an amortization schedule as a 30-year loan, but require a balloon payment in 5, 10, or 15 years.

Amortized Loan Any loan with at least some payments to principal. A loan to be repaid, interest and principal, by a series of regular payments that are equal or nearly equal, without any special balloon payment prior to maturity. Also called a Level Payments Loan.

***Example**:* A loan of $10,000 at 10% interest requires annual payments of $1,200. Because the payments exceed the interest required, the loan balance will be reduced, so it is an amortized loan. Contrast with interest-only loan.

Amount Of One Same as compound amount of one.

Amount Of One Per Period Same as compound amount of one per period.

Ampere A unit used to measure the flow of electricity through a wire.

Analogue Approach The process of finding existing, successful properties that are similar to the subject property. The comparison is made on the basis of physical, financial, locational features of the site and customer profiles.

Anchor Bolt A type of bolt that is set in a concrete foundation and which extends

through the sill and holds it down.

Anchor Tenant A major tenant in a shopping center that attracts other businesses to the center as well as consumers.

Annexation The process by which an incorporated city expands its boundaries to include a specified area. The rules of annexation are established by state law and generally require a public ballot within the city and the area to be annexed. Other incorporated areas are generally protected from annexation by an adjacent city.

***Example**:* Annexation is generally sought by a city to expand its boundaries by taking in an area to which it may already be providing services. Many unincorporated suburban areas, however, resist efforts to annex them into the city because of possibly higher tax rates and loss of local control over schools and other services.

Annual Cap A limit on the amount of adjustment in the interest rate on an adjustable rate mortgage over a twelve-month period. *See* Cap.

***Example**:* An adjustable rate mortgage has a current interest rate of 8% and an annual cap of 2 percentage points. After one year, the highest the interest rate can be is 10% and the lowest it can be is 6%, due to the cap.

Annual Debt Service Required annual principal and interest payments for a loan.

***Example**:* A loan of $100,000 calls for 300 equal monthly payments to fully amortize the principal. Interest is 15% annually. Monthly payments are $1,280.83. Annual debt service is the sum of 12 monthly payments, or $15,369.96.

Annual Mortgage Constant The amount of annual debt service compared to the principal; also expressed as a dollar amount.

***Example**:* A loan, at a 15% interest rate, is amortizing over 30 years with monthly payments. The annual mortgage constant is 15.1733%. Total principal and interest payments in a year are $15.18 per $100 borrowed. Note: The annual mortgage constant must exceed the interest

rate for amortization to occur.

Annual Percentage Rate The effective rate of interest for a loan per year, disclosure of which is required by the Truth-In-Lending Law. *See* Yield to Maturity.

***Example**:* Chen gets a loan for $50,000 at 10% interest plus 2 discount points, payable over 30 years. Because of the discount points $49,000 has been effectively borrowed but $50,000 must be repaid with 10% interest on $50,000. Considering the effective amount borrowed, the annual percentage rate is 10.25%. (6000 / 49000=12.25% (rounded)).

Annualizer A factor used in yield capitalization formulas to convert the total change in property value over a time period to an annual rate of change; the value of annualizer varies depending on the pattern of income flow.

Annuity A sum of money received at fixed intervals, such as a series of assured equal or nearly equal payments to be made over a period of time or it may be a lump sum payment to be made in the future. The installment payments due to the landlord under a lease is an annuity. So are the installment payments due to a lender.

Annuity Due Same as ordinary annuity.

Annuity Factor A mathematical figure that shows the present value of an income stream that generates one dollar of income each period for a specified number of periods.

***Example**:* Chu is to receive $1,000 each year for 10 years for rental of her land. To value this income, she used an annuity factor at a 10% rate that is 6.144. The estimated rent has a present value of $6,144 (6.144 x $1,000).

Annuity In Advance A series of equal or nearly equal payments, each payable at the beginning of the period. Also called ordinary annuity.

***Example**:* A landlord leases property for 5 years. The rent, payable at the beginning of each period, constitutes an annuity in advance.

Annuity In Arrears Same as ordinary annuity.

Annuity Method One of the methods used by real estate appraisers to capitalize an income stream into a value, used when the income stream is steady and of long duration.

Anticipation, Principle of In appraisal of real estate, the principle that the value of property today is the present value of the sum of anticipated future benefits. Affirms that value is created by anticipated benefits to be derived in the future.

Example*:* A commercial property is net-leased to a triple-A tenant for $10,000 per year for 30 years. At the end of that time the building will be worthless. The anticipated benefit of $10,000 per year for 30 years at a 10% discount rate is $94,269. This value is based on the principle of anticipation, because the income is expected to be received in the future.

Antitrust Laws Federal and state acts to protect trade and commerce from monopolies and restrictions.

Example*:* In the early 1960s several real estate boards required all members to charge the same rate of commission. Some boards were found to be in violation of antitrust laws. Now there are no boards that require specific commission rates.

APA *See* American Planning Association.

Apartment (Building) A dwelling unit within a multifamily structure, generally provided as rental housing. An apartment building is a structure with individual apartment units but a common entrance and hallway. *See* Multifamily Housing.

Example*:* Apartments may vary in size from small, 1-room efficiencies to large, multi-bedroom units. Apartment buildings may range from a 1-story, 4-unit building to a high-rise building with hundreds of units and retail and office space included.

Appea A request to a higher court to review a lower court's decision in a lawsuit.

Appeals Board A body empowered with the ability to overturn decisions of the local government permitting agency and code enforcement agency based on appeal by the aggrieved petitioner.

Example: When Ambler was turned down on her rezoning request, she petitioned the zoning appeals board, which unfortunately agreed with the zoning board and denied her request.

Appel Loan (Accelerating Payoff Progressive Equity Loan) A residential property loan which calls for a payment increase over the first 6 years. Level payments are made for the remaining years and the loan paid off during the 15th year. There is no prepayment penalty and P.M.I. is required.

Appellant A party appealing a court decision or ruling.

Apportionment 1. The prorating of property expenses, such as taxes and insurance, between buyer and seller.

Example: A house is sold on July 1. Property taxes, paid in arrears, are due on January 1 of the following year. At closing taxes are apportioned, so the seller pays the buyer one half of the estimated taxes as his share of the estimated tax payment due in January.

2. The partitioning of property into individual parcels by tenants in common.

Example: A sister and brother inherit a property and hold it as tenants in common. The brother wishes to sell. The property is apportioned into 2 separate parcels to allow for the sale.

Appraisal An opinion or estimate of the value of the property. A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described prop-

erty as of a specific date(s), supported by the presentation and analysis of relevant market information. According to the Uniform Standards of Professional Appraisal practice, (1) The act or process of estimating value; and estimate of value. (2) Pertains to appraising and related functions, e.g., appraisal practice, appraisal services.

Example: A property owner may have an appraisal made of a specific property to:

- determine a reasonable offering price in a sale,
- determine the value at death for estate tax purposes,
- allocate the purchase price to the land and improvements,
- determine the amount of hazard insurance to carry.

Appraisal Approach One of 3 methods to estimate the value of property: cost approach, income approach, and market comparison approach.

Example: An independent fee appraiser generally uses each of the 3 appraisal approaches when preparing an appraisal report.

Appraisal By Summation Same as cost approach.

Appraisal Date In an appraisal report, the date to which the value applies.

Example: Some property was condemned by the government for use as a park. The government and the former property owners hired appraisers to value the property as of March 13, 2001, because that was the condemnation date. The appraisers used that as the appraisal date for their reports, and estimated the value based on market conditions as of March 13, 2001, although they were hired several months later.

Appraisal Foundation An organization that was established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois, in an effort to encourage uniform requirements for appraisal qualifications and reporting standards.

Address: Appraisal Foundation, 1029 Vermont Avenue NW, Washington, DC 20005. www.appraisalFoundation.org

Appraisal Institute An organization of professional appraisers that was formed in 1991 by the merger of the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers. It offers MAI and SRA designations. The MAI is qualified to appraise any property, while the SRA is primarily qualified for residences. Both designations require high standards of education and experience for membership. It supports the SREA, SRPA, and RM designations, though no new ones will be offered. Address: Appraisal Institute, 875 North Michigan Avenue, Chicago, IL 60611.

Appraisal Method Generally, three major methods of appraisal: Cost Approach, Income Approach, Market Value (comparables) Approach.

Appraisal Principles Principles explaining the market behavior that affects value, including theories of anticipation, balance, change, supply and demand.

Appraisal Process The procedure a professional appraiser uses to estimate the value of a property consisting of the following steps:

Definition of the Problem.

Preliminary Survey and Appraisal Plan.

Data Collection and Analysis.

Application of the Three Approaches.

Reconciliation of Value Indications into a Final Estimate of Defined Value.

The Appraisal Report

Appraisal Report Describes the findings of an appraisal engagement. Reports may be presented in the following formats: oral, letter, form, or narrative.

See Uniform Standards of Professional Appraisal Practices.

Examples: A 150-page narrative appraisal report was prepared for a

neighborhood shopping center to fully explain each element that was considered in estimating its value.

Appraisal Subcommittee Means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Appraisal, Complex Residential Property Appriasal Means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

Appraised Value An estimation of the value of a property based on a systematic analysis of location, improvements, market conditions, etc.

Appraisement See appraisal.

Appraiser One qualified by education, training and experience who is hired to estimate the value of real property using formal appraisal processes.

Example: One may hire an appraiser to render an opinion of a property's market value. In a court of law, an appraiser may be called upon for expert testimony.

Appreciation An increase in the value of property.

Example: Chen sold for $100,000 land that he purchased 10 years ago for $60,000. During that time the amount of appreciation was $40,000. Appreciation gains from investment property are generally subject to favorable capital gains tax rates.

Appropriation Setting aside land for a public use.

Example: Chen plans to develop a subdivision. In order to obtain permission from the city council, Chen is required to appropriate 2 acres to the city for construction of an elementary school.

Appropriation of Water The taking, impounding or diversion of water flowing on the public domain from its natural course and the application of the water to some beneficial use personal and exclusive to the appropriator.

Appurtenance Something annexed to another thing which may be transferred incident

to it. That which belongs to another thing, as a barn, dwelling, garage, or orchard is incident to the land to which it is attached.

APR *See* Annual Percentage Rate.

Aquatic Rights Rights to use streams, lakes, rivers, seas, etc., and the soil beneath them.

Arable Land suited for cultivation.

Arbitrage 1. Buying in one market, selling simultaneously in another to make a profit.

Example*:* Graham bought gold in London for $500 per ounce; simultaneously she sold it in New York for $502. The arbitrage allowed $2 profit per once, less transaction costs.

2. Buying one type of security and selling an equivalent to make a profit.

Example*:* Lee bought bonds for $5,000 that could be converted into 500 shares of stock. Simultaneously, he sold 500 shares of stock at $11 per share. He earned $500 for this arbitrage, minus transaction costs.

Arbitration One method of alternate dispute resolution.

It uses a neutral third person to resolve a dispute instead of going to court. Unless the parties have agreed otherwise, the parties must follow the arbitrator's decision.

Architectural Styles A building's exterior design based on historical styles.

Architecture The manner in which a building is constructed, including, the layout, floor plan, style and appearance, materials used, and the building technology used.

Example*:* The architecture of the houses in the neighborhood is characteristic of the design common to the 1930s: small rooms, much attention to detail, an elaborate facade, high ceilings, and tick walls.

Area A 2-dimensional space defined by boundaries; such as floor area, area

of a lot, and market area.

***Example**:* A rectangular lot is 50 x 100 feet in dimension. Its area is 5,000 square feet or 0.11 acre.

Arithmetic Mean The most commonly used average, is found by dividing the sum of a series of values by the number of values in the group.

Arm's Length Transaction A transaction among parties, each of whom acts in his or her own best interest.

It came from the **"**arm's length bargaining**"** which means that both parties were in equal bargaining positions; i.e., that neither had an advantage over the other and neither owed any particular obligation to the other.

In appraisal, an arm's length transaction must satisfy following:

1. neither party is acting under duress;

2. the property has been on the market for a reasonable length of time;

3. both parties are acting with full knowledge of the property's assets and defects;

4. no unusual circumstances exist, such as a sale between related parties, nor creative financing involved.

***Example**:* Transactions between the following parties would, in most cases, *not* be considered arm's length: A husband and wife, A father and son, A corporation and one of its subsidiaries.

Armored Cable *See Adjustable rate mortgage.*

(Also known as BX. cable). A type of house wiring made of insulated wires covered in heavy paper and encased in a wound galvanized steel covering.

Arrears 1. At the end of a term.

***Example**:* Interest on mortgage loans is normally paid in arrears. This

means that interest is paid at the end of a month or other period. Generally, rent and insurance are paid in advance.

2. Sometimes used to signify default; overdue in payment.

***Example**:* Jones has not made his scheduled mortgage payments for three months; he is in arrears.

Arterial Highway A major highway with many branches.

Artesian Well A deep-drilled shaft that reaches water that rises because of natural underground pressure.

Articles of Incorporation An instrument setting forth the basic rules and purposes under which a private corporation is formed.

As Is Without guarantees as to condition, as in a sale.

***Example**:* Lee purchases a building from Chen with the understanding that the building is to be conveyed as is. When Lee discovers that the roof leaks, Chen is not legally responsible for repairs.

ASA *See* American Society of Appraisers.

Asbestos A non-flammable, heat-resistant fiber used in roofing and insulation.

Ash Dump In a fireplace, a desirable feature is an ash dump, which is a hole in the hearth floor into which ash can be conveniently swept and removed below.

Asked The amount a property owner sets as a selling price for his property.

***Example**:* Chen has asked $75,000 for 20 acres of land, even though its appraised value is only $60,000.

Asking Price The list price that an owner would like to receive.

***Example**:* Chen advertises a property for sale at a price of $100,000. The advertised price is Chen's asking price.

Aspect The direction that a building faces, described in terms of the points of the compass, such as a northern exposure.

Asphalt A thick, sticky substance used for paving that occurs both in nature and as a byproduct of petroleum refining.

Asphalt Tiles Tile made from limestone fillers, asbestos fibers, resinous asphaltic binders, and minerals pigment.

Assemblage The combining of two or more adjoining lots into one large tract.

Assemblage Cost The extra cost paid to acquire abutting properties in order to combine them into one larger parcel.

Assemblage Value The additional value that is developed by combining several abutting properties into one larger property.

Assess To make an official estimate of property value as a basis for taxation.

Assessed Valuation A valuation placed upon property by a public officer or board, as a basis for levying taxes on the property.

Assessment 1. The amount of tax or special payment due to a municipality or association.

Example: Chen owns a parcel of land assessed on the tax roll for $40,000. The tax rate is $1.00 per $100 of value. The tax assessment for Chen's land is $400.

2. An owner's or lessee's proportionate share of a common expense.

Example: Chen rents office space under a net lease. Chen pays an assessment each month for maintenance of the building lobby and elevators.

Assessment Ratio The ratio of assessed value to market value.

Example: A county requires a 40% assessment ratio on all property to be taxed. Property with a $10,000 market value is therefore assessed at $4,000 (40% of $100,000), and the tax rate is applied to $4,000.

Assessment Roll A public record of the assessed value of property in a taxing jurisdiction.

***Example**:* The assessment roll of George-town, USA, lists each individual tract of land within its taxing jurisdiction and shows the assessed value of each. The total assessed value of property is $10 million.

Assessor The official who has the responsibility of determining assessed values.

Asset Something of value.

Example: Land, houses, cars, furniture, cash, bank deposits, and securities owned are assets.

Asset Depreciation Range Generally applies to property purchased before 1981. Limitations on the period over which assets may be depreciated. Generally allows depreciable lives 20% longer or shorter than the guidelines provided by the Internal Revenue Service. Also provides maximum amounts that can be spent annually on assets and still be a deductible repair.

***Example**:* Farm buildings purchased before 1981 may be depreciated over 25 years or within a range of 20 to 30 years, according to the asset depreciation range. Up to 5% of the cost can be spent annually and be treated as repair, not as a capital improvement.

Assign/Assignment To transfer one's property rights or contract rights to another.

***Example**:* Jones has the right, under a contract of sale, to conclude the purchase of a house. Jones may assign this right to someone else.

Assignee The person to whom an agreement or contract is sold or transferred.

***Example**:* see assignor.

Assignment A transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein.

Assignment Of Lease The transfer of all title, right, and interest that a lessee possesses in certain real property. The document is used to convey a leasehold is called an assignment of lease rather than a deed.

Assignment Of Rents A provision in a deed of trust under which the beneficiary may, upon default by the trustor, take possession of the property, collect from the

property, and apply it to the loan balance and the costs incurred by the beneficiary.

Assignor One who assigns or transfer property.

Assigns, Assignees Those to whom property or interests therein shall have been transferred.

Associate Broker In some states, a licensed broker whose license is held by another broker.

In Alabama, a real estate licensee whose status is the same as that of a salesperson in other states.

Assumable Loan A mortgage loan which allows a new home purchaser to undertake the obligations of the loan with no change in loan terms. This is generally true of loans without due-on-sale clauses. Most FHA and VA mortgages are assumable.

Example: Chen sells a home with an assumable loan to Lee. Lee takes over the payments of the loan and accepts liability under the mortgage note.

Assumed Mortgage An established mortgage that is transferred to a new owner when he or she buys property and assumes the liability.

Assumption Agreement An undertaking or addition of a debt or obligation primarily resting upon another person.

Assumption Fee A lender's charge for charging over and processing new records for a new owner who is assuming an existing loan.

Assumption Of Mortgage The taking of title to a property by a grantee, wherein he assumes liability for payment of an existing note secured by a mortgage or deed of trust against the property; becoming a co-grantor for the payment of a mortgage or deed of trust note.

Assumption Of The Risk One defense to a negligence action claiming the plaintiff was aware of the dangers in the activity causing injury or death.

Assumptions Specifications in an appraisal report that restrict the value estimate to be

true only under certain conditions, e.g., no hazardous waste on the property.

At-Risk Rules Tax laws that limit the amount of tax losses an investor (particularly a limited partner) can claim. At-risk rules were extended to real estate by the 1986 tax act, and apply to property placed in service after 1986. This means that losses on real estate investments will be deductible only to the extent of money the equity investor stands to lose.

Example*:* If an investor has $10,000 at risk in a real estate investment that generates $3,333 per year in tax losses, the losses may be used for only three years. Thereafter, the losses may be used if the investor contributes more money or property (net of withdrawals) or becomes liable to repay borrowed money. Amount at-risk include:

- cash contributed to the activity,
- borrowed money for which the investor is personally liable,
- property pledged as security for the real estate activity, provided the property is not used in the activity. An exception is made for qualified third-party non-recourse financing.

These loans may be treated as amounts at-risk provided:

- a third-party, unrelated to the investor, provides the loan,
- the third-party lender is neither the seller of the property nor related to the seller,
- the lender is not paid a fee with respect to the equity investor's investment in the property. Related parties. Non-recourse loans from related parties qualify as amounts at-risk only if the terms are **"**commercially reasonable**"** and on substantially the same terms as loans involving unrelated persons. Partnerships. A partnership's non-recourse financing may increase a general or limited partner's amount at risk provided the financing is qualified non-recourse for both the partner and the partnership. However, the amount treated at risk cannot be more

than the total qualified non-recourse financing at the partnership level.

Atrium An internal area with a translucent ceiling to allow sunlight in for the growth of interior plants.

Attachment Seizure of property by court order, usually done to have it available in event a judgment is obtained in a pending suit.

Attest To affirm to be true or genuine, an official act establishing authenticity.

Attestation The act of witnessing and subscribing a written instrument, at the request of the person executing it, certifying that the instrument was executed in the presence of the witness.

Attorney-In-Fact One who is authorized to perform certain acts for another under a power of attorney; power of attorney may be limited to a specific act or acts, or be general.

Attornment A tenant's formal agreement to be a tenant of a new landlord.

Example*:* Chen defaulted on the mortgage against his shopping center, so the Happy Life Insurance Company foreclosed and became the landlord. Happy Life asked all tenants to sign an attornment recognizing the new landlord.

Attractive Nuisance An appealing but potentially hazardous feature or characteristic of a piece of real estate that may lure trespassers who could suffer harm; in law, the owner of an attractive nuisance must take extraordinary precautions to avoid liability for harm to trespassers.

Example*:* Glen installs a swimming pool in his backyard. It can lure children to trespass and use it, potentially causing an injury or drowning. To avoid liability, Glen must install unusually high, secure, and/or screening fences to keep them out.

Auction A way of marketing property to the highest bidder. Bids are taken verbally or simultaneously through mail or telegrams, and the property is sold to the highest bidder. Auctioning real estate may require both an auctioneer's license and a real estate license.

***Example**:* Land in Iowa, since it is relatively homogeneous, lends itself to auction sales where it is sold to the highest verbal bidder.

***Example**:* Fannie Mae agrees to buy mortgages once a week via an auction. Mortgage sellers state the price or yield they want, and Fannie Mae accepts the highest yields offered.

Auctioneer One who conducts an auction.

***Example**:* Prior to the auction, the auctioneer placed ads in local papers and made the properties available for inspection. In addition, the auctioneer ran the auction by taking bids and providing sales contracts to the winners.

Automatic Homestead A homestead created by operation of law.

Average A number that sums up and represents a mass of data. The three kinds of averages are: The mean, the median, and the mode.

Average Deviation A statistical term for the amount obtained by subtracting the arithmetic mean of all the items in a set of data from each item in the set, adding these differences without regard to their plus or minus signs and dividing by the number of items in the data set.

Avigation Easement An aviation easement over a property that permits aircraft to fly over at low heights and prohibits anything being constructed on the property that would interfere with this right.

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

Axial Growth Urban growth that follows the main transportation routes, making finger-like extensions.

Backfill The replacement of excavated earth into a hole or against a structure.

Backup Contract A contract to buy real estate that becomes effective if a prior contract

fails to be consummated.

***Example**:* Chen contracts with Lee to sell a property contingent on Lee's ability to obtain financing within 30 days. In the meantime, Chen arranges a backup contract to sell to Chu, should Lee fail to obtain financing.

Backup Offer An offer made in case the first offer to buy a property fails.

Balance, Principle of In real estate appraisal, there is an optimal mix of inputs that, when combined with land, will result in the greatest land value. Inputs, or factors of production, include labor, capital, and entrepreneurship.

Balance Sheet A financial statement in table form showing assets, liabilities, and equity, in which assets equal the sum of liabilities plus equity.

Balloon Framing A type of framing system where the studs extend unbroken from the sill to the roof, popular for multi-story brick veneer and masonry veneer structures.

Balloon Mortgage A mortgage with a balloon payment.

***Example**:* The balloon mortgage called for payments of $500 per month for 5 years, followed by a balloon payment of $50,000.

Balloon Note A note calling for periodic payments which are insufficient to fully amortize the face amount of the note prior to maturity, so that a principal sum known as a "balloon" is due at maturity.

Balloon Payment An Installment payment on a promissory note, usually the finally installment payment, which is significant greater than the preceding installment payments and pays the note in full. A balloon payment is necessary in mortgages in which the periodic payment does not fully amortize the principal balance over the life of the loan. Also called lump-sum payment.

Band Of Investment An income property appraisal technique where the overall capitalization rate is derived from an weighted average of two or more "investment" rates. The name comes from real estate market is made of different in-

vestors (equity investors on one hand the lenders on the other), they combine to create what is referred to as the **"**Band of Investment**"**.

It is one of the 3 methods used to estimate capitalization rate.

Bank The elevated portion of land on the side of a stream or river which holds the water in its natural channel. See also Commercial Bank

Bankrupt One who is adjudicated a bankrupt by a court having proper jurisdiction. The bankruptcy may be voluntary (petitioned by the bankrupt) or involuntary (petitioned by the creditors of the bankrupt).

Bankruptcy The financial inability to pay one's debts when due. The debtor seeks relief through court action that may work out or erase debts.

Example: Carter lost his job but continued to live extravagantly on credit. When accounts were overdue, Carter filed a bankruptcy petition. The court allowed him to pay creditors 10 cents per dollar of debt, payable over 3 years.

Bargain And Sale Deed Any deed that recites a consideration and purports to convey the real estate; One in which the grantor implies to have or have had an interest in the property but offers no warranties of title to the grantee. This type of deed is typically used in many states to transfer title. Contrast general warranty deed, quitclaim deed, special warranty deed.

Example*:* Chen gives Lee a bargain and sale deed which includes no warranty of title but states, **"**for $10 and other valuable consideration, the grantor does hereby grant and release to the grantee, the following property.**"**

Barge Board A type of molding, often carved or ornamented, that is attached to the projecting edge of a gabled roof.

Barter The exchange of the personal or real property of one person for the personal property, real property, or other things of value of another persons, usually without the use of money.

Base And Meridian Imaginary lines used by surveyors to find and describe the location of

private or public lands. In government surveys, base lines run due east and west, meridians run due north and south, and are used to establish township boundaries.

Base Period A point of time that serves as a benchmark for reflecting the change in an index. The base period is usually set equal to 1, 100%, or 100.

***Example**:* The Consumer Price Index set the period 1982-1984 as the base period, equal to 100. If the index is 150 in 1994, it will have risen 50% from the base period.

Base Plate A plate usually made of metal, at the bottom of a column used to distribute the weight more evenly over the supporting footing or surface.

Base Rent The minimum rent due under a lease that has a percentage or participation requirement.

***Example**:* Spinning Records leases retail space in Majestic Mall. Under the lease Spinning Records must pay a base rent of $2,000 per month plus 5% of all sales revenue over $50,000 per month.

Baseboard A piece of interior trim laid around the walls of a room next to the floor. It often consists of three pieces of molding called the base shoe, baseboard, and base molding.

Baseboard Convector A device used to distribute heat into a room.

Baseboard Heating A system of heating elements installed in the wall along the baseboard.

Baseboard Radiators A type of radiator used with a hot-water heating system which are long and narrow and fit along the bottom of the wall a few inches off the floor.

Baseline Part of the Rectangular Survey or Government Rectangular Survey method of land description. The baseline is the major east-west line to which all north-south measurements refer.

***Example**: See* Base And Meridian.

Basement The lowest story of a building, usually below ground.

Basic Activities Those economic activities in a community that bring in money from outside, such as industry, tourist attractions, and state and federal government operations.

Basic Crops Farm crops that are considered basic necessities by the government, such as corn, wheat, cotton, etc. which are price supported by the government.

Basic Employment Employment in those economic activities in a community that bring in money from outside the community.

Basic Income Income brought into a community be its basic economic activities.

Basic Industry Multiplier In economic base analysis, the ratio of total population in a local area to employment in basic industry. Basic industry is considered to be any concern which attracts income from outside the local area. The jobs added in basic industry may also contribute to the need for local service jobs (telephone operator, nurse, waitress, etc.); and, if the workers have families, additional new people may be brought to the area.

***Example**:* The Maintown economic base has a basic industry multiplier of 6. It is estimated that each new job added at Maintown's basic industries will increase the town's population by 6.

Basic Rate A term used in mortgage equity capitalization, not including any provision for depreciation or appreciation and referred to as ® to distinguish if from the overall rate (R).

Basis The original cost of a property plus the value of any improvements made by the seller and minus any depreciation taken. It is calculated as the amount subtracted from a sales price to determine how much of the sale is subject to capital gains tax.

Basis Point One 100th of 1%.

***Example**:* Mortgage loan interest rates are 12.75% this week. They were 12.25% last week. The increase was 50 basis points (1275 minus

1225 equals 50).

Basis, Cost; Adjusted. (Tax) The point from which gains, losses, and depreciation deductions are computed. Generally the cost or purchase price of an asset.

Basket Strainer A cover installed on the top of a leader to prevent leaves and other debris from clogging the system.

Batt Insulation A strip of insulation that fits closely between the studs of the wall.

Battlement A style of exterior wall copied from castles, towers, and fortresses.

Bay An open area between two walls or columns which creates a room-like space

Beaded Joints A type of masonry joint that has a bead cut into it; primarily used for decorative purposes.

Beam A horizontal or vertical load-bearing structure usually made of wood, steel or concrete.

Beam Pocket The space in a wall where the beam rests in place.

Bearer Instrument A security that does not indicate the owner; payable to whoever presents it.

Example*:* A bearer instrument is open to theft because it can be redeemed without proof of legitimate ownership.

Bearing 1. That portion of a structure, such as a beam or truss, which rests upon its support.

2. A direction from an object to a point on the compass.

Bearing Beam A large piece of wood, steel, stone, or other material used to support a structure. It usually runs from foundation wall to foundation wall and is supported with poles, columns, or pillars.

Bearing Wall A wall of partition supporting any vertical load in addition to its own weight.

Bedrock A sold rock layer, found beneath the topsoil that makes an excellent

foundation support.

Bedroom Community A residential community in the suburbs, often near an employment center, but itself providing few employment opportunities.

Example: Bedroom communities frequently offer uncrowded schools, uncongested streets, and less noise and air pollution than the nearby industrial city. However, property tax rates are generally higher than in the city.

Before And After Method An appraisal technique used to estimate the value of property taken by condemnation, calculated by estimating the value of the whole parcel prior the value of the whole parcel prior to the taking and then estimating the value of the remaining parcel after the taking. The difference between them is the value of the parcel that was taken.

Before-And-After-Rule In an eminent domain award, many jurisdictions appraise the property value before the taking, then the property value after the taking, considering enhancement or injury to the property that was the result of condemnation.

Example*:* Farmer Brown's 1,000-acre farm is in the path of a proposed superhighway. The state has condemned a tract that is 200 feet wide and 1,000 feet long from the middle of Brown's farm. The state will pay at the rate of $1,500 per acre for the land taken. In addition, Brown seeks damages because the farm, now cut in two, has lost value from reduced accessibility. The remaining land is appraised before and after the taking to determine damages to be awarded.

Before-Tax Cash Flow Cash flow prior to deducting income tax payments or adding income tax benefits.

See Cash Throw-Off.

Example*:* After deducting debt service of $500 from a net operating income of $1,000, Chen has a before-tax cash flow of $500.

Before-Tax Equity Same as after-tax proceeds from resale, except it does not consider in-

Reversion come taxes.

Before-Tax Equity Yield Rate The annualized rate of return that discounts all expected before-tax cash flows (either from operations or at resale) to a present value equal to the original equity investment in the property. It represents the internal rate of return on equity before taxes.

Below-Market Interest Rate (BMIR) In some government-subsidized housing, the owner is charged a low interest rate with the requirement that savings be passed on to tenants in the form of reduced rent.

Example*:* The market interest rate is 9% but a certain apartment complex pays only 1% interest because it is a below-market interest rate program. The savings must be passed on to tenants.

Belvedere A glass-enclosed, small room on the roof of a house used as a lookout, and often reached through a trap door.

Benchmark A permanently affixed mark that establishes the exact elevation of a place; used by surveyors in measuring site elevations, or as a starting point for surveys.

Example*:* The U.S. Coast and Geodetic Survey implants brass markers in the sidewalks of downtown areas to serve as benchmarks. The benchmark indicates the official elevation above sea level for the spot at which the marker is placed.

Beneficial An owner who has equitable title only to a property without holding legal ownership.

Beneficial Loan A loan that contains favorable terms for the borrower compared to a typical loan for a particular property type. A beneficial loan may have a below-market interest rate, longer amortization term, assumability at resale or a higher loan-to-value ratio than a typical loan.

Beneficiary One entitled to the benefit of a trust;

One who receives profit from an estate, the title which is vested in a trustee;

The lender on the security of a note and deed of trust.

Beneficiary Statement A report from the beneficiary of a mortgage or trust deed showing the current status of the loan; sometimes also called an "offset statement."

Benefits The increase in value of a property that results when only part of the property is taken by eminent domain and is created by the improvements made as a result of the project that caused the taking.

Bequeath To give or hand down personal property by will; to leave by will.

Bequest That personal property which is given by the terms of a will.

Berm A mound of earth or pavement used to control the flow of surface water.

Betterment An improvement upon property which increases the property value and is considered as a capital asset, as distinguished from repairs or replacements where the original character or cost is unchanged.

Bi-Level A house build on 2 levels in which the main entrance is situated above the lower level but below the upper level.

Biannual Occurring twice a year. Same as semiannual. Contrast with *biennial*.

Bid The amount someone offers to pay.

***Example**:* Chen places a property for sale at an asking price of $90,000. Lee makes a bid of $65,000 for the property, indicating he is willing to pay that amount for the property.

Biennial Occurring every 2 years.

Bilateral Contract A contract under which each party promises performance. *See* Unilateral Contract.

***Example**:* A sales contract is a bilateral contract, since the seller promises to convey a property and the buyer agrees to pay a specified sum, given certain conditions.

Bill Of Assurance The name given, in some states, to the total collection of restrictive covenants that apply to a group of contiguous lots.

Example: A subdivider gave a Bill of Assurance to purchasers of lots to provide comfort that the development had standards for high quality housing, such as minimum home sizes, architectural consistency, and the quality of exterior materials including garages, fences, and auxiliary buildings.

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

Binder Also called an Interim Binder is a written agreement by the title insurance company to issue a policy, but at a later date. It is an agreement to consider a downpayment for the purchase of real estate as evidence of good faith on the part of the purchaser. Also, a notation of coverage on an insurance policy, issued by an agent, and given to the insured prior to issuing of the policy.

Most Binders have a time limit of 24 months, but some may be extended for one more year for a total of 36 months.

Biweekly Loan A mortgage which requires principal and interest payments at two-week intervals. The payment is exactly half of what a monthly payment would be. Over a year's time, the 26 payments are equivalent to 13 monthly payments on a comparable mortgage loan. As a result, the loan will amortize much faster than loans with monthly payments.

Example*:* A 30-year mortgage for $70,000 at 12 percent interest requires monthly payments of $720. A biweekly loan for the same amount and interest rate requires a payment of $360 every two weeks. The biweekly mortgage will be fully amortized (paid off) after 19 years.

Blacktop (Bituminous Concrete) A paving material made of asphalt or coal.

Blanket Deed or Trust A deed of trust that covers more than one property.

Blanket Encumbrance An encumbrance which covers more than one parcel of property.

Blanket Mortgage A single mortgage which covers more than one piece of real estate.

Blanket, Batts A type of insulation, usually made of mineral wool, wood fiber, glass fiber, etc., 2-3 1/2" thick, 15-23" wide and nailed between the studs of an exterior wall.

Bleeding A Project In new construction, overstating expenses and fees so as to divert a larger than normal amount of the project costs to the developer's profit.

Managing an existing piece of real estate so as to obtain the highest possible current income from it, to the extent that many normal operating expenses are forgone. Usually this results in rapid deterioration and loss of property value.

Example: Maurice owns an apartment building. Instead of keeping it up, he bleeds the project by pocketing the money that would normally be used to pay for maintenance, etc.

Blended Rate An interest rate, applied to a refinanced loan, that is higher than the rate on the old loan but lower than the rate offered on new loans. Generally offered by the lender to induce home buyers to refinance existing, low-interest rate loans as an alternative to assuming the existing loan. Compare assumption of mortgage.

Example*:* Jones wishes to sell a home to Brown. Brown can assume the existing loan of $20,000 at an interest rate of 8%. Jones's lender offers the alternative of refinancing the loan for $40,000 at a blended rate of 10%.

Blight Brown could get a new loan at a rate of 12%.

The decay of physical appearance and condition of property within a neighborhood.

Blighted Area A declining area in which real property values are seriously affected by destructive economic forces, such as encroaching inharmonious prop-

erty usages, infiltration of lower social and economic classes of inhabitants, and/or rapidly depreciating buildings.

Blind Nailing A type of nailing done in such a way that nails are hammered deep into the surface and covered with putty so they cannot be seen.

Blind Pool An investment program in which moneys are invested into an association without investors knowing which properties will be purchased.

Example: Each of 100 investors contributes $5,000 into a joint venture. The syndicator has not located the property to be purchased, so the investment money is said to be a blind pool.

Blockbusting A racially discriminatory and illegal practice of coercing a party to sell a home to someone of a minority race of ethnic background, then using scare tactics to cause others in the neighborhood to sell at depressed prices. Also known as panic selling.

Example*:* A sales agent arranges a sale in which a minority family enters a previously all-white neighborhood. The agent then engages in blockbusting by contacting other owners in the neighborhood and informing them that their property's value will fall if they don't sell right away at a depressed offered price.

Blueprint A plan of a building that is detailed enough to allow workers to build from it.

Board Foot A unit of measurement of lumber; one foot wide, one foot long, one inch think; 144 cubic inches (12" x 12" x 1").

Board Of Equalization A government entity whose purpose is to assure uniform property tax assessments.

Example*:* A board of equalization at the local level may review assessments to be certain that the assessment for each parcel is fair; at the state level, the board will assure that each county is assessing property at the mandated proportion of market value.

Board Of Realtors A Local group of real estate licensees who are members of the State and

National Association of Realtors.

***Example**:* The Springfield Board of Realtors has 200 members. They meet monthly to discuss business matters, and form the multiple listing service in Springfield.

Board Of Zoning Appeals *See* Appeals Board.

Boeckh Building Valuation Manual A book, frequently updated, that offers estimates of the replacement cost or reproduction cost for different types of buildings. Address: Boeckh, 525 East Michigan, P.O. Box 664, Milwaukee, WI 53201-0664.

Boiler The part of a hot water or steam furnace that holds the water being heated by the ignited fuel.

Boiler Plate Standard language found in contracts, Preprinted material.

***Example**:* Chu decided to lease her property. At a stationery store she finds a preprinted boiler plate form. She fills in rental rates and dates in the blank places, then asks her tenant, Lee, to sign the lease.

Bolt A metallic screw pin or fastening having a head and an external thread.

Bona Fide In good faith; without fraud or deceit; authentic.

Bona Fide Purchaser A buyer who purchases without the knowledge of adverse claims against the property and protected against claims of third parties unless they are recorded prior to the sale being closed.

Bond A certificate that serves as evidence of a debt and of the terms under which it is undertaken. *See* Promissory Note.

Bond For Deed See Land Contract and Conditional Sales Contract.

Book Depreciation The depreciation shown on the accounting books of the owner. Used for income tax.

Book Value Value of the property as shown on the accounting books of the owner. It usually equals the original cost less reserves for depreciation plus any additions to capital.

Boot Profit gained in exchange of properties on which income tax is not deferred. May be anything of value, including mortgage relief.

Boring Test Holes drilled in the ground to obtain samples for a soil study.

Borough A part of a city, having authority over certain local matters. The best known boroughs are the five boroughs of New York City.

Bottomland Low land near a river, lake, stream, which is often flooded. *See* Flood Plain.

Boundary Same as property line.

Bounds Boundary in a metes and bounds description.

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

Breach Of Contract A violation of the terms of a legal agreement; default. Breach of contract allows the nonbreaching party to rescind the contract, sue for damages, or sue for performance of the contract.

Example: Lee contracts with owner Brown to purchase a property. When the closing date arrives, Brown refuses to convey title to the property. Brown's action is not supported by any special conditions in the sales contract and therefore constitutes a breach of contract. Lee may rescind the contract and recover his deposit, may sue Brown for any expenses and damages incurred, or may sue to force Brown to sell.

Breach Of Warranty In real property, the failure of the seller to pass title as either expressed or implied (by law) in the conveyancing document.

Break-Even Point The amount of rent or the occupancy level needed to pay operating expenses and debt service. Also called default point.

Example: Annual operating expenses for a 100-unit apartment complex are estimated at $200,000 per year. Debt service requirements are $250,000 per year. Therefore, total cash requirements are $450,000.

If all apartments are rented all year, the gross income would be $600,000. The break-even point is at 75% occupancy. At that level, gross income would exactly equal cash requirements.

Breakdown Method A method of estimating accrued depreciation by which each cause of depreciation is analyzed and measured separately. (The five causes measured include curable physical depreciation, incurable physical depreciation, curable functional obsolescence, incurable functional obsolescence, and external obsolescence). The different types of depreciation are then summed to find the total depreciation.

Breast-Height The height at which the diameter of a tree is measured. A height of 4 1/2 feet above the ground level . The abbreviation D.B.H. (diameter-breast-height) is usually used.

Brick A building unit of clay or shale shaped into rectangles and then fired in a kiln.

Brick Cavity Wall A wall with a space between the inner and outer layer of brick.

Brick Masonry Bond An arrangement of bricks on a wall where some are laid parallel and some perpendicular to give the wall additional strength. Some standard arrangements are common bond, English bond, English cross and Flemish bond.

Brick Row House A house style which shares one or more walls with its neighboring houses and often covers an entire block. Built in the 1800s, they were constructed of brick that was sometimes decorated with brown stone. See Brownstone.

Brick Veneer A decorative, non-supportive layer of brick attached as the facing of a wall but not structurally bonded to it.

Brick Veneer On Concrete Block Wall A type of wall construction consisting of one layer of concrete block and one layer of brick.

Brick Veneer On A popular wall type consisting of a frame covered on the outside with a

Frame Wall single layer of face brick.

Bridge Financing A type of short-term financing used to bridge the time gap between the end of one loan and the beginning of another loan. It is also used as an acquisition loan when a property will be improved and a larger permanent mortgage will be available when the improvements are completed.

Bridge Loan Mortgage financing between the termination of one loan and the beginning of another loan.

***Example**:* Chu, who is a developer, has a construction loan outstanding. She is in the process of negotiating better terms of permanent financing than the commitment previously arranged. She has arranged a bridge loan to pay off the construction loan when it is due. When new permanent financing is arranged, that loan will pay off the bridge loan.

Bridging Small strips of wood or metal nailed between joists or studs to give them lateral rigidity.

Broker A state-licensed agent who, for a fee, acts for property owners in real estate transactions, within the scope of state law.

***Example**:* A person wishing to sell or lease property often engages a broker to arrange the sale or locate tenants. A broker may also be engaged by a prospective buyer or tenant to locate acceptable property.

Broker-Salesperson Relationship Agreement A written agreement required by the regulations of the Real Estate Commmissioner setting forth the material aspects of the relationship between a real estate broker and each salesperson and broker performing licensed activities in the name of the supervising broker.

Brokerage The business of being a broker.

***Example**:* One may open a brokerage office, upon receiving a broker's license, for the purpose of engaging in brokerage.

The commission received by a broker for his services.

***Example**:* The brokerage was $6,000 on the sale of a $100,000 house.

Broom Clean An expression which means that the floors of a building are clean and swept and ready for a buyer or tenant.

Brown Coat The second of three coats of plaster that make up a plaster wall. It is the roughly finished plaster beneath the outer finished coat.

Brownstone A 19th-century American house style, also known as a brick row house or Eastern Townhouse, that become popular in the late 1800s in large Eastern cities.

BTU British Thermal Unit. The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

Budget Mortgage A mortgage that requires monthly payments for taxes and insurance in addition on to interest and principal.

***Example**:* Chen borrows $50,000 on a budget mortgage at 12% interest. His monthly mortgage payments is $700, which consists of $514 principal and interest, $150 taxes, and $36 insurance

Buffer Zone A strip of land used to separate two adjoining parcels of land that have incompatible uses, such as residential subdivision and an industrial park. Its purpose is to provide for the "blending" of the two incompatible uses with each other.

Build To Suit An arrangement whereby a landowner offers to pay to construct on his or her land a building specified by a potential tenant, and then to lease land and building to the tenant.

***Example**:* Beverly wants to open a restaurant. Rather than buy land and then pay to construct the needed facility, Beverly seeks a suitable site whose owner will build to suit and then lease to Beverly the land and building.

Build To Suit An arrangement where a landlord builds or alters a property to the specifications of the tenant and recovers the cost of the improvements as part of the rent.

Build-Up Roofing A roof made of layers of felt paper and asphalt and coated with fine gravel.

Builder Warranty A guarantee on the quality of construction offered by the developer or building contractor. *See* Homeowner Warranty Program.

***Example**:* Chen buys a newly built home. The home carries a builder warranty which guarantees that the home is free of structural defects for a period of time.

Builders And Sponsors Profit And Risk Allowance An amount above the cost of apartments that is allowed to be included in the project cost for purposes of determining the loan amount in certain government-sponsored programs.

Building And Loan Association An organization for the purpose of accumulating a fund by subscription and savings of its members, to assist them with loans for building or purchasing real estate.

Building Capitalization Rate (R_B) In appraisal, the capitalization rate is used to convert an income stream into one lump sum value. The rate for the building may differ from that for the land because the building is a wasting asset.

***Example**:* A discount rate of 10% is used as the land capitalization rate. The building, with a 50-year useful life, requires a 2% straight-line annual capital recovery rate. So the building capitalization rate is 12% (10% discount plus 2% capital recovery). If the building generates $15,000 annual income, its estimated value is $125,000 ($15,000 / 0.12 = $125,000). (However, straight-line capital recovery is applicable only when a declining income stream is expected.)

Building Codes Regulations established by local governments describing the minimum structural requirements for buildings; includes foundation, roofing, plumbing, electrical, and other specifications for safety and sanitation.

***Example**:* Chen is a developer who wishes to construct houses. He must

comply with the standards of the local building codes and submit to inspections by a building inspector.

Building Cost The estimated funds required to construct a building. Common methods of estimating building cost include the comparative unit-method, unit-in-place-method and quantity survey method.

Building Efficiency Ratio *See* Efficiency Ratio.

Building Line A line fixed at a certain distance from the front and/or sides of a lot, beyond which the building may not project.

Building Loan Agreement An agreement whereby the lender advances money to an owner at specified stages of construction, i.e., upon completion of the foundation, framing, etc. Same as construction loan agreement.

Building Owners And Managers Association (BOMA) An international organization of office building owners and managers that encourages professionalism with educational programs and publications. Address: Building Owners and Managers Association, 1221 Massachusetts Avenue NW, Washington, DC 20005

Building Paper A heavy, waterproofed paper used for insulation in roofs or walls.

Building Permit Permission granted by a local government to build a specific structure at a particular site.

Example*:* Chen desires to construct a small office building at the corner of First and Main. A building permit must be obtained from the city to allow the construction to proceed legally.

Building Residual A method of appraising. The value of the land is subtracted from the value of the property leaving the value of the building.

Building Residual Technique An appraisal technique whereby income to land is subtracted from net operating income to result in the building income. Building income is capitalized into building value. This appraisal method reflects buyer concerns and actions prior to the 1970s.

Building Restric- Provisions in building codes that affect the orientation, size, and appear-

tions ance of a building.

***Example**:* Because of local building restrictions, Bond could not put the building as close to the highway as he wished, nor could he construct as large a building as he had envisioned.

Building, Market Value of The sum of money which the presence of that structure adds to or subtracts from the value of the land it occupies. Land valued on the basis of highest and best use.

Buildup Method A method of developing a discount rate whereby a riskless rate is used and then increased to adjust for types of risk such as management, financial and non-liquidity risks that are inherent in the property being analyzed.

Built-Ins Appliances, machinery, and other equipment that are constructed as part of a building rather than left freestanding and moveable.

***Example**:* Upon the sale of real estate, there is often a dispute concerning whether or not a fixture is real property or personal property. Built-ins normally are considered real property.

Bulk Sale The sale of merchandise in bulk rather than in the ordinary course of business.

Bulkhead 1. A retaining wall along a waterfront.

2. A structure covering a stairway yet providing adequate head room.

Bullet Loan Typically a loan with a 5- to 10-year term and no amortization. At the end of the term the full amount is due.

***Example**:* Barry borrows $1 million for 5 years at 10% interest to buy commercial real estate. If he can't repay the loan or refinance it when due, he will lose the property.

Bundle Of Rights An ownership concept that describes real property by the legal rights associated with owning the property. It specifies rights such as the rights to sell, lease, use, occupy, mortgage, and trade the property, among others. These rights are typically purchased by the buyer in a

sales transaction unless specifically noted or limited in the sale.

Bundle Of Rights, Theory The theory that ownership of realty implies a group of rights such as occupancy, use and enjoyment, and the right to sell, bequeath, give, or lease all or part of these rights.

***Example**:* Under the bundle of rights concept, Chen may sell mineral rights, hunting rights, easements, and other partial interest, then give a life estate to his wife with the remainder to their daughter.

Bungalow A small, early-twentieth-century-style, 1-story house that usually has an open or enclosed front porch.

Bureau Of Land Management An agency of the U.S. Department of the Interior that oversees the management of much of the land owned by the U.S. government, particularly national forests and other relatively undeveloped land. Address: Bureau of Land Management, C Street, between 18th and 19th Streets NW, Washington, DC 20240

Bus A heavy-duty, rigid rod, tube, or bar that conducts electricity. It is often used in a heavy-duty commercial and industrial electrical situations.

Bus Duct A conduit that encloses a bus.

Business Day A standard day for conducting business. Excludes weekends and holidays.

Business Loan Means a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.

Business Opportunity The assets for an existing business enterprise including its goodwill. As used in the Real Estate Law, the term includes **"**the sale or lease of the business and goodwill of an existing business enterprise or opportunity.**"**

Business Value The value resulting from business organization including such things as management skills, assembled work force, working capital, trade names, franchises, patents, trademarks, contracts, leases, and operating agree-

ments. Business value is an intangible asset that is distinct from the real property and tangible personal property. It is also referred to as enterprise value or business enterprise value.

Butterfly Roof A roof with two sides that rise from the center to the eaves and has a valley so that they resemble a butterfly.

Buttress An external support for a wall. A projecting buttress that supports by lateral pressure is called a flying buttress.

Buy Down The action to pay additional discount points to a lender in exchange for a reduced rate of interest on a loan. The reduced rate may apply for all or a portion of the loan term.

A loan that has been bought down by the seller of the property for the benefit of the buyer.

***Example**:* In order to achieve a sale of a property, Jones arranged for a buy-down loan. If a seller agreed to Jones's price, Jones would buy down the interest rate for the first 3 years by paying the lender 5% of the loan amount at closing.

Buy-Back Agreement A provision in a contract under which the seller agrees to repurchase the property at a stated price upon the occurrence of a specified event within a certain period of time.

***Example**:* The buy-back agreement in the sales contract requires the builder-seller to buy the property back if Chu, the buyer-occupant, is transferred by her company within 6 months.

Buy-Sell Agreement A pact amount partners or stockholders under which some agree to buy the interests of others upon some event.

***Example**:* Chu and Lee are partners. In the event Lee dies, Chu has agreed to buy Lee's interest for $25,000. If Chu dies first, Lee will buy her interest for $25,000.

Buy-Sell Agreement An agreement among the owners of a business that allows owners who wish to remain in the business to buy the interests of owners who wish

to be bought out. Often the agreement contains agreed upon prices for the buy out and provisions that the estates of deceased owners must sell at an agreed upon price to surviving owners.

Buyer's Broker An agent hired by a prospective purchaser to find an acceptable property for purchase. The broker then represents the buyer and negotiates with the seller in the purchaser's best interest.

***Example**:* Chen wishes to purchase a small apartment complex. Chen hires Lee, a licensed real estate broker, to find such a property. Lee is acting as a buyer's broker and earns a commission from Chen when an acceptable property is found and the owner is willing to sell.

Buyer's Market A situation where buyers have a wide choice of properties and may negotiate lower prices. Often caused by overbuilding, local population decreases, or economic slump.

***Example**:* Chen can purchase properties below their appraised values because of the existence of a buyer's market.

By Laws The rules of an organization such as a corporation or partnership.

Cabinet Work Interior carpentry work of fine quality.

Cable Prefabricated electrical cable consisting of rubber-insulated wires surrounded in a steel strip and used mostly for wiring houses.

Caisson Foundation A foundation made by driving a tube into the ground down to bearing soil and then filling it with concrete.

Cal Vet Program A program administered by the State Department of Veterans Affairs for the direct financing of farm and home purchases by eligible California veterans of the armed forces.

Cal-Vet Loans Real estate loans available to armed forces veterans from California at low interest rates.

Calcareous Soil Soil that contains a significant amount of limestone (carbonate of calcium).

California Bungalow A 1-story, small, compact, early-twentieth-century house.

California Ranch A port-World War II style, 1-story, ground-hugging house with a low, pitched roof.

California Residential Mortgage Lending Act Effective January 1, 1996, a new law which created a new license which allows a person, acting as an agent or as a principal, to engage in the business of making residential loans or to service residential mortgage loans. Prior to this law, these activities could only be conducted by a licensed real estate broker or a regular bank, savings and loan, credit union, etc.

Call In a metes and bounds description, the angle and distance of a given line or arc. Each call is usually preceded by the word then or thence.

Call Provisions Clauses in a loan that give the lender the right to accelerate the debt upon the occurrence of a specific event or date. *See* Acceleration Clause.

***Example**:* Chen, the mortgage lender, notices that Lee, the homeowner, has begun to demolish the property. Call provisions in the loan allow Chen to claim that the full debt is now due.

Camber A slight, convex arching that is intentionally built into a beam, truss, girder, etc., to prevent it from sagging when under a load.

Canal 1. A groove or channel in Greek or Roman architecture such as those found on Ionic capitals.

2. A man-made waterway connecting two bodies of water.

3. A trench used to carry irrigation water.

Cancellation Clause A contract provision that gives the right to terminate obligations upon the occurrence of specified conditions or events.

***Example**:* A cancellation clause in a lease may allow the landlord to break the lease upon the sale of the building.

Cantilever Beam A truss, girder, bracket or other structural member that is supported at only one end and projects beyond the building part that supports it.

Cap In adjustable rate mortgages, a limit placed on adjustments to protect the borrower from large increases in the interest rate or the payment level. *See* Annual Cap, Life-Of-Loan Cap, Payment Cap.

Cap Plate A piece of wood that covers the tops of a series of vertical structures.

Cap Rate Same as capitalization rate.

Capacity Of Parties One of the requirements for a valid contract. Parties with less than full capacity include minors, the mentally insane, and those who are intoxicated.

***Example**:* Chu, at age 17, entered into a contract to buy a tract land. Chu can void that contract because it was entered into without fully legal capacity.

Cape Cod Colonial An early-American-style 1 1/2-story compact house that is small and symmetrical with a central entrance. The roof is the steep gable type covered with shingles. The authentic types have low central chimneys, but end chimneys are very common in the new versions. Bedrooms are on the first floor. The attic may be finished into additional bedrooms and a bath. A vine-covered picket fence is traditional.

Capital The seat of government.

Wealth that is accumulated for the purpose of future use.

The top of a pillar or column in Greek and Roman architecture.

Capital Expenditure An improvement (as distinguished from a repair) that will have a life of more than one year. Capital expenditures are generally depreciated over their useful life, as distinguished from repairs, which are subtracted from income of the current year.

***Example**:* Chu adds a new 25-room wing to her model, at a cost of $250,000. The new wing is a capital expenditure.

***Example**:* Lee, a rancher, has a fence that is in such poor condition it cannot be repaired. He makes a $50,000 capital expenditure to replace the fence.

Capital Asset An asset defined in Section 1221 of the Internal Revenue Code that once received favorable tax treatment upon sale. Excludes inventory, property held for resale, property used in a trade or business, copyrights in certain instances, and certain U.S. government obligations.

***Example**:* The dwelling that one owns and lives in, investment land, a limited partnership interest, or securities held for investment are capital assets.

Capital Calls Additional money to be invested by equity owners to fund deficits in construction costs or operating costs.

***Example**:* Chen's investors were asked for an additional $2 million as capital calls due to poor budgeting, cost estimation, cost controls, and project bleeding.

Capital Gain Gain on the sale of a capital asset. In 1991 and thereafter, the maximum individual tax rate on capital gains is 28%. There are limits on the deduction of capital losses against ordinary income.

***Example**:* Chu purchases land, for investment purposes, for $10,000. Thirteen months later she sells it for $14,000. She reports the $4,000 profit as a long-term capital gain on her income tax return.

Capital Gains Tax A tax applied to gain or profit realized on the sale or exchange of a capital asset.

Capital Improvement Same as capital expenditure.

Capital Loss Loss from the sale of a capital asset.

***Example**:* Chu, and investor, purchases land for $10,000. Two years later she sells it for $8,000. The $2,000 difference is a capital loss, since the land is a capital asset. Note: There are limitations on the amount of loss that can be used to offset ordinary income.

Capital Market The market in which long-term or intermediate-term money instruments are traded by buyers and sellers.

Capital Recovery *See* Recapture Rate.

Capital Recovery (Recapture) The return to an investor in real estate of the capital invested in the property over a period of time. It is intended to reimburses the investor for that portion of the investment that will be lost during the holding period because of the depreciation of the improvements and/or the decreases in value of the site and site improvements.

Capital Recovery (Recapture) Payments Annual payments needed to give an investor in real estate a return of his or her contemplated lost capital investment.

Capital Recovery (Recapture) Period A period of time forecasted to be the holding period of a real estate investment during which an investor should plan to recover his or her capital invested in the project.

Capital Recovery (Recapture) Rate The amount of money required annually to reimburse the investor for that portion of the investment that will be lost during the life of the investment. It is expressed as a ratio of the value of the whole real estate investment. See Capital Recovery (Recapture).

Capitalization In appraising, determining value of property by considering net income and percentage or reasonable return on the investment.

Capitalization in perpetuity A capitalization procedure used to determine the value of a project in which an endless time period is considered. It provides for a return on investment, but not a return of investment.

Capitalization Rate The rate which is considered a reasonable return on the investment, and used in the process of determining value based upon net income. It may

also be described as the yield rate that is necessary to attract the money of the average investor to a particular kind of investment. In appraisal, the term is typically preceded by a description that identifies the applicable interest. For example, the capitalization rate found by dividing first-year net operating income by the overall property value is called the overall capitalization rate.

Three methods to estimate cap. rate: 1. Direct comparison, 2. Band of investment, 3. Summation.

Capitalize To estimate the present lump sum value of an income stream. *See* Capitalization Rate.

***Example**:* An income stream of $1,000 per year expected for 20 years is capitalized to result in a value of $8,513, based on a 10% interest rate.

To set up the cost of an asset on financial records.

***Example**:* Chen acquires a building at a cost of $100,000. Since the cost cannot be deducted in the year paid, the $100,000 is capitalized as an asset and depreciates over its estimated useful life.

Capitalized Value The value estimated by converting an income stream into a lump sum amount.

***Example**:* A small parking lot generates $10,000 of income each year. If the appropriate capitalization rate is 8% for this type of property, considering the quality and duration of the expected income, the capitalized value is $125,000. This is computed by dividing the $10,000 income stream by 8% (.08).

Capture Rate The sales or leasing rate of a real estate development compared to the sales or leasing rate of all developments in the market area.

***Example**:* Two thousand condominium units are built in a rapidly growing metropolitan area, including one project of 500 units built by the Gibraltar Development Company. Sales in the area during

July are 200 units, of which half are sold by Gibraltar. Gibraltar's capture rate is 50%.

Caravan A viewing conducted of newly listed properties by sales personnel of a real estate company who travel together to gain knowledge about the listings their company has for sale.

Carport An open-sided, roofed shelter often made by extending the house roof to one side.

Carriage An important component of a staircase; an inclined beam that supports the steps.

Carrying Charges Expenses necessary for holding property, such as taxes and interest on idle property or property under construction.

***Example**:* The annual carrying charges on a $100,000 tract of land are: $2,000 for taxes and $12,000 for interest.

Carryover Basis In a tax-deferred exchange, the adjusted tax basis of the property surrendered that is used to determine the tax basis of the property acquired. *See* Basis(tax).

***Example**:* Chen exchanges land with Lee in a tax-deferred exchange. Chen's adjusted tax basis in the land given up was $100,000. The carryover basis will therefore be $10,000 and (in the absence of boot) that will be Chen's tax basis in the land acquired from Lee.

Carved Drop An ornamentation on the underside of the front overhang of a Garrison colonial house. Originally, the bottom end of the vertical timbers. Today, it is usually a foot high and shaped like an inverted pineapple or acorn.

Casement Window A type of window hinged to open at one of its vertical edges.

Cash Equivalency Adjustment An adjustment made to a comparable sale that was financed in a manner atypical of the market. The adjustment eliminates the amount of the premium paid for beneficial financing. Once the adjustment is made, the adjusted sales price should reflect the price that would have been paid

assuming financing typical of the market was used. The adjustment can be made through either the income capitalization approach or the direct sales comparison approach.

Cash Equivalent The conversion of the price of property that sold with either favorable or unfavorable financing into the price the property would have sold for had the seller accepted all cash in the transaction.

***Example**:* A tract of land sold for $100,000, with $25,000 cash and a $75,000 note to the seller at 6% interest with 20-year amortization. The market interest rate was 12% for such a mortgage. Although the mortgage carries a $75,000 face value, it is worth only $49,000. Therefore, the seller received a cash equivalent price of $74,000 ($25,000 cash plus a mortgage worth $49,000) in the transaction. This is much less than the $100,000 face amount.

Cash Flow Periodic amounts available to an equity investor after deducting all periodic cash payments from rental income. *See* Before-Tax Cash Flow, Cash Throw-Off, After-Tax Cash Flow.

Cash Method A method of accounting based on cash receipts and disbursements. Contrast accrual method.

***Example**:* Chen, a cash method taxpayer, has the carpets in his office building shampooed on December 20 and immediately gets a bill for the service. He pays the bill on January 1 so the tax deduction is taken in the next year.

Cash Rent 1. The amount of rent paid in cash to the landlord.

2. A farming term for a fixed amount of rent for a farm.

Cash Throw-Off Same as cash flow.

Cash-On-Cash Same as equity dividend rate.

Casing

Cast Iron A piece of trim material around the top and sides of doors and windows. Some common types are back band, butt, clamshell, colonial.

Cast Stone An iron alloy with high compressive strength.

Artificial stone; a mixture of stone chips embedded in mortar, cement, or plaster.

Cattle Guard A grill or grating used instead of gate placed in the ground over which cattle will not cross.

Catwalk A narrow, elevated walkway that provides access to an area (such as bridge) where repairs may be necessary.

Caulking A compound used to seal cracks and fill joints.

Caveat Emptor Let the buyer beware. The buyer must examine the goods or property and buy at his own risk.

Cavity Wall A wall, usually of brick or stone, which has an inner and outer layer separated buy an air space. The air space furnishes insulation.

CBD Central Business District.

CC&R's Covenants, Conditions and Restrictions affecting the use of a property.

CCIM Certified Commercial Investment Member, a professional designation of the Realtors National Market Institute (RNMI). *See* Certified Commercial Investment Member.

CD *See* Certificate Of Deposit.

Ceiling Covering that may be attached directly to the floor above or may be place in a suspension system. The covering may be made out of various materials, including fiber, wood, plaster, metal, etc.

Ceiling Height The total height from the finished surface of the floor to the lower surface of the bottom chord of the roof truss, or to the bottom of the main beam supporting the roof in the absence of roof trusses.

Ceiling Insulation Insulation installed in the ceiling often under the flooring of the attic. The most common types are batts and loose fill.

Ceiling Joists Small beams that carry the ceiling.

Cellar The portion of a building that is below the ground and usually used for storage.

Cement A material or mixture of materials which, when mixed with water, form a plastic and cohesive substance that dries and hardens in place.

Cement Block See Concrete Block.

Census Tract The smallest geographic area into which the Metropolitan Statistical Area (MSA) is divided for statistical purposes. Tract boundaries are established in cooperation with a local committee and the Bureau of the Census and allowances are made for subdividing a single tract into subtracts bearing the same numerical identification. Tracts are designed to be relatively uniform with respect to demographic and economic conditions and include approximately 4,000 people.

Center-To-Center See On Center.

Central Business District(CBD) The downtown section of a city, generally consisting of retail, office, hotel, entertainment, and governmental land uses with some high density housing.

***Example**:* Office markets of the CBD are distinguished from those in the suburbs by market analysts.

Ceramic Tile A flat, fired clay tile that comes in a variety of types, such as glazed, unglazed, non-vitrified, and vitreous.

Certificate 1. The portion of an appraisal that contains the limiting conditions, the appraiser's conclusion, and signature signifying that the report is, to the best of his or her knowledge, correct and true.

2. A written instrument that gives assurances of the existence of some fact(s).

Certificate Of Completion A document required for FHA-insured loans, signed by homeowners affirming their satisfaction with the labor and materials of their home and authorizing the lender to pay the builder.

Certificate Of Deposit(CD) A type of savings account that carries a specified minimum deposit and term and generally provides a higher yield than passbook-type savings accounts.

***Example**:* Lee purchased a 3-year certificate of deposit from Local Savings and Loan. Lee had to deposit at least $1,000 and could not withdraw the money for 3 years without forfeiting a portion of the interest earned. Lee received a yield of 8% annually.

Certificate Of Eligibility Issued by the Veterans Administration to those who qualify for a VA loan.

***Example**:* A person honorably discharged after serving a certain number of days on active duty in the armed forces is entitled to a certificate of eligibility. It indicates eligibility for a VA mortgage loan.

Certificate Of Estoppel *See* Estoppel Certificate.

Certificate Of Insurance A document issued by an insurance company to verify the coverage.

***Example**:* Under the net lease, the tenant had to keep adequate insurance and provide the landlord with a certificate of insurance as evidence.

Certificate Of No Defense Same as estoppel certificate.

Certificate Of Occupancy A document issued by a local government to a developer permitting the structure to be occupied by members of the public. Issuance of the certificate generally indicates that the building is in compliance with public health and building codes.

***Example**:* Upon obtaining zoning and subdivision approvals and passing inspection by code enforcement officials, the developer is issued a certificate of occupancy.

Certificate Of Reasonable Value The Federal Veterans Administrative appraisal commitment of property value.

(CRV)

Certificate Of Sale A certificate used to a buyer at a judicial sale, e.g. foreclosure of a mortgage.

Certificate of Taxes Due A written statement or guaranty of the conditions of the taxes on a certain property made by the County Treasurer of the county wherein the property is located. Any loss resulting to any person from an error in a tax certificate shall be paid by the county which such treasurer represents.

Certificate Of Title An option rendered by an attorney as to the status of title to a property, according to the public records. *See* Title Search.

***Example**:* Chen's attorney issues a certificate of title that indicates no public record of claims against Chen's ownership of the property.

Certification In an appraisal report, a certification of value that is signed, sealed and dated by the appraiser stating that the appraiser has personally conducted the appraisal in an unbiased and professional manner and that all assumptions and limiting conditions are set forth in the report.

Certified Appraiser As specified in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), an appraiser who has been certified by the appropriate state to value general property.

Certified Check A check that a bank has certified as good.

Certified Commercial Investment Member(CCIM) A designation awarded by the Realtors National Marketing Institute, which is affiliated with the National Association of Realtors. Address: Realtors National Marketing Institute, 430 North Michigan Avenue, Chicago, IL 60611

Certified General Appraiser One qualified to appraise any property, under the appraiser certification law recently adopted by most states. Usually requires at least two years of general appraisal experience, 165 hours of education, and passing a state examination.

***Example**:* Jim Weaver met the requirements to be a state certified

general appraiser and can appraise any property, including those with the involvement of federal government agencies such as the FDIC.

Certified Property Manager (CPM) A professional designation awarded to real estate managers who distinguish themselves in the areas of education, experience, and ethics by the Institute of Real Estate Management, an affiliate of the National Association of Realtors. Address: Institute of Real Estate Management, 430 North Michigan Avenue, Chicago, IL 60611.

Certified Residential Appraiser One qualified to appraise residences and up to 4 units of housing, under appraiser certification law. Standards call for less education, less experience, and less comprehensive exam than for General Certification.

***Example**:* Chen is a certified residential appraiser and does much of the appraisal work for houses that are VA and FHA financed.

Certified Residential Broker (CRB) A designation awarded by the Realtors National Marketing Institute, which is affiliated with the National Association of Realtors.

***Example**:* Upon completing the necessary requirements, Chen was awarded the title of Certified Residential Broker.

Certified Residential Specialist (CRS) A professional designation awarded by the Realtors National Marketing Institute, based on education and experience in residential sales. Candidates must hold the GRI designation.

Cesspool Part of a waste disposal system that functions similarly to a septic tank; a covered cistern of stone, brick, or concrete block.

A sewage system where the liquid seeps through the walls directly into the ground instead of into a leaching field.

Chain A linear unit of land measurement used in surveying: 66 feet in length. Each chain consists of 100 links.

***Example**:* A plot 66 ft. square measures 1 chain by 1 chain.

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 avail-

able.

Chains And Links Measurements. In real estate measurements (surveying) a chain is 66' long or 100 links, each link being 7.92." The measurement may change when used in fields other than surveying.

Chair Rail A type of molding installed around a room at chairback height to protect the walls from damage.

Chancery The Old English court which became known as a court of equity.

Change, Principle of An appraisal principle that recognizes the fact that a property and its environment are always in transition and are affected by economic and social forces that are constantly at work. Holds that it is the future, not the past, which is of prime importance in estimating value.

Channel 1. A duct.

2. In carpentry or masonry, a groove or gutter.

3. The deepest portion of a body of water that provides the best passageway for ships.

Chattel Mortgage A personal property mortgage. A claim on personal property (instead of real property) used to secure or guarantee a promissory note.

Chattels Personal property. Goods or very species of property movable or immovable which are not real property.

Chattels Real An estate related to real estate such as lease on real property.

Chimney A vertical structure, usually brick, that carries smoke and other products of combustion from the fireplace into the air above a building.

Chimney Cap The sloped metal, concrete, or stone "cap" that crowns a chimney.

Chimney Flashing Material placed over a chimney for drainage and to prevent water penetration.

Chimney Pot An extension at the top of the chimney made of tile or sheet metal and used to improve the draft.

Chose In Action A personal right to something not presently in the owner's possession, but recoverable by a legal action for possession.

Chronological Age See actual age.

Cinder Block A lightweight building block made of cinders and concrete.

Circuit Breaker A permanent safety device used as a substitute for a fuse which automatically turns off an electric circuit when it is overloaded.

Circulators In a hot-water system, circulators are devises that pump water through fingersize tubes into radiators and baseboards.

Cistern A tank used for the storage of rainwater.

Civil Action A court action involving civil law (as opposed to criminal law).

Claim Of Right One method of acquiring title by adverse possession.

Clapboard A long board used as siding, thicker on one side than the other. It is installed so that the thick side overlaps the thin side.

Class Used in the CTS system to denote the number of families the unit being described will accommodate and whether the units are detached or have a party wall.

Class Of Construction A system of classifying structures according to the degree of fire resistance of materials from which they are constructed.

Classified Property Tax Property tax which varies in rate depending on the use (zoning classification) of the property.

Clay A type of fine-grained soil composed mostly of hydrous aluminum silicates. It is plastic when wet but rigid when dried.

Clear Lumber Lumber free of knots and other defects.

Clear Span A large, open area that does not have posts or columns in it to support the roof.

Clear Title A marketable title; one free of clouds and disputed interests.

***Example**:* It is necessary to obtain clear title in order to convey a general warranty deed in a transaction.

Clerestory A wall or portion of a wall to which the roof attaches at a higher level than the other walls or portions of walls of a building, often with a window at the top of the wall.

Client The one who engages a broker, lawyer, accountant, appraiser, etc.

***Example**:* Unless otherwise specified in the sales contract, the client of the broker, most often the seller, pays the brokerage commission.

Closed-End Mortgage A mortgage loan whose principal amount cannot be increased during the payout period; contrast with open-end mortgage.

***Example**:* Most first mortgages on homes provide the full balance at origination of the loan. No additional debts are allowed under the mortgage because it is a closed-end mortgage.

Closing The act of transferring ownership of a property from seller to buyer in accordance with a sales contract. The process includes the signing and transfer of documents and distribution of funds.

Condition in description of real property by courses and distances at the boundary lines where the lines meet to include all the tract of land.

***Example**:* Chen agrees to purchase a property from Lee. A closing is set up for June 15, at which time Chen and Lee will sign all documents and pay all expenses necessary to transfer ownership and secure financing.

Closing Costs Various fees and expenses payable by the seller and buyer at the time of a real estate closing (also termed transaction costs).

***Examples**:* The following are some closing costs: ◆ brokerage commissions, ◆lender discount points/ other fees, ◆ title insurance premium, ◆ deed recording fees, ◆ loan prepayment penalty, ◆ inspection and appraisal fees, ◆ attorney's fees.

Closing Date The date on which the seller delivers the deed and the buyer pays for the property.

***Example**:* The sales contract generally establishes a closing date, at which time the parties will meet and settle all accounts necessary to transfer title to the property.

Closing Statement An accounting of funds from a real estate sale, made to both the seller and the buyer separately. Most states require the broker to furnish accurate closing statements to all parties to the transaction.

Cloud On Title Any conditions revealed by a title search which affect the title to property; usually relatively unimportant items which can be removed with a quitclaim deed or court action.

CLTA California Land Title Association.

CLTA Lender's Title Policy A form of title insurance issued to a lender in a real estate transaction.

Cluster Housing A subdivision technique in which detached dwelling units are grouped relatively close together, leaving open spaces as common areas.

CMO Collateralized Mortgage Obligation.

Co-Mortgagor One who signs a mortgage contract with another party or parties and is thereby jointly obligated to repay the loan. Generally a co-mortgagor provides some assistance in meeting the requirements of the loan and receives a share of ownership in the encumbered property.

***Example**:* Brown and Jones agree to purchase and share residence in a home. They jointly apply for and receive a mortgage loan to make the purchase and, thereby, become co-mortgagors.

***Example**:* Jessica wishes to assist her son to purchase a home. Jessica provides a portion of the down payment money and signs the loan contract as a co-mortgagor.

Co-Op 1. An arrangement between 2 real estate agents that generally results in

splitting the commission between them.

***Example**:* Chen obtains a listing contract on a piece of property. Lee agrees to find a buyer in exchange for a portion of the commission. Chen and Lee have arranged a co-op agreement.

2. A type of housing in which each tenant is a shareholder in a corporation that owns the building. Also termed cooperative.

***Example**:* Upon moving to New York, Chen obtains an apartment in co-op. This requires purchase of shares in the apartment corporation.

Co-Owners Two or more who posses simultaneous estates in the same property.

Co-Tenancy Any of a number of forms of multiple ownership such as tenancy in common and joint tenancy.

***Example**:* Chen and Lee decide to invest in a parcel of land. Both names are to be on the deed. Chen and Lee join together as co-tenants; each owns one half of the property.

Co-Tenancy A form of common ownership or possession.

Co-Terminous Two or more properties with a common boundary line.

Coastal An ordinance to limit coastal construction.

Code *See* Building Code, Code Of Ethics, Housing Code.

Code Of Ethics 1. A set of rules and principles expressing a standard of accepted conduct for a professional group and governing the relationship of members to each other and to the organization.

***Example**:* All Realtors are required to subscribe to a code of ethics that defines proper professional behavior and practices that are considered unbecoming

Codicil A writing, executed with the formalities of a will, modifying an existing will.

Coignes a professional real estate agent.

Stone used as the corner of a masonry wall.

Coinsurance A clause in an insurance policy that limits the liability of the insurance company to that proportion of the loss that the amount of insurance bears to a percentage of the value of the property.

***Example**:* Chen has a building worth $100,000. He figures that the maximum loss in the event of a disastrous fire will be $60,000, and insures it to $60,000. The policy has an 80% coinsurance clause. Since he did not insure it to 80% of its value, he will not receive the full amount of loss.

Cold Canvass The process of contacting homeowners in an area in order to solicit listings.

***Example**:* Chen discovers a growing demand for older homes that are close to the central business district. To increase the number of listings of such homes, Chen cold canvasses several older neighborhoods to determine owner's interest in selling.

Collapsible Corporation A term that applies to some corporations that are dissolved within 3 years. The IRS treats gain on the sale or liquidation of the corporation as ordinary income to the stockholder.

***Example**:* Chen forms a corporation and is the sole stock holder. The corporation builds 50 houses and estimates that each is worth $10,000 more than it costs. Chen liquidates the corporation and claims a $500,000 capital gain on the corporate stock. The Internal Revenue Service claims the gain is ordinary income because of the existence of a collapsible corporation.

Collar Beam A beam that unites and stiffens two opposite roof rafters.

Collateral Marketable real or personal property which a borrower pledges as security for a loan. This is the property subject to the security interest.

Collateral Assignment A transfer of a right made only to the extent of the transferee's interest for security purposes.

Collateral Estoppel A form of estoppel preventing an issue from a previous case from being litigated again in a subsequent action between the same parties.

Collateral Heirs Persons not lineally related to a decedent, e.g., an aunt or uncle.

Collateral Security A separate obligation attached to contract to guarantee its performance; the transfer of property or of other contracts, or valuables, to insure the performance of a principal agreement.

Collateralized Mortgage Obligation CMO. A security backed by a pool of mortgage loans that may be separated into various classes with varying maturities. Note that REMICs, introduced by the Tax Reform Act of 1986, are the standard vehicle for investing in mortgage instruments.

***Example**:* Fidelity Savings and Loan pools $2 million worth of home mortgages to create a collateralized mortgage obligation. Investors in the CMO receive periodic interest and principal payments as well as return of principal as the loans are repaid.

Collection Loss Income that is lost when payment is not collected from tenants.

Collusion An agreement between two or more persons to defraud another of his rights by the forms of law, or to obtain an object by law.

Colonnade A line of columns at regular intervals usually used to support an architrave.

Color Of Title That which appears to be good title but which is not. A claim of possession to real property based on a document erroneously appearing to convey title to the claimant.

***Example**:* Andy gives Jenny a deed to land that he has never actually owned. Jenny farms the land under a *color of title*.

Column A long, slender structure that serves as support or decoration.

Column Base Plate The small plate at the bottom of a column that helps to distribute the column load to the supporting structures below.

Column Cap Plate The plate at the top of a column that helps support a load.

Column Footing The base, usually made of reinforced concrete, that supports a load-bearing column.

Column Steel Steel placed inside columns for support and reinforcement.

Combination Door An outer door frame having an inside removable section for year-round utility. A screen panel is usually inserted in warm weather and a glass panel in winter.

Combination Sewer A system that handles storm water and sanitary sewage together.

Combination Windows A window that can hold interchangeable panels of screen or glass.

Commercial Acre An area remaining from an acre of newly subdivided land after deducting the area devoted to streets, sidewalks, curbs, etc.

Commercial Bank A financial institution authorized to provide a variety of financial services, including consumer and business loans (generally short-term), checking services, credit cards and savings accounts. Certain deposits at most commercial banks are insured by the Federal Deposit Insurance Corporation. Commercial banks may be members of the Federal Reserve System.

***Example**:* Although commercial banks do make long-term mortgage loans, they have traditionally concentrated on short-term loans and are good sources for home-improvement loans and second loans secured by home equity.

Commercial Broker One who lists and sells commercial property, which may include shopping, office, industrial, and apartment projects. Contrast residential broker.

***Example**:* Chu sells apartment complexes to earn a brokerage fee. She is considered a commercial broker despite the fact that apartments are residences.

Commercial Loan A personal loan from a commercial bank, usually unsecured and short

term, for other than mortgage purposes.

Commercial Paper Negotiable instruments such as promissory notes, letters of credit and bills of lading. Instruments developed under the law of merchant.

Commercial Property Property designed for use by retail, wholesale, office, hotel, or service users.

Example: An investor is interested in purchasing commercial property for investment. A broker might show the investor shopping centers, office buildings, hotels and motels, resorts or restaurants.

Commingle To mingle or mix, such as the deposit of another's money in a broker's personal account.

Example: State Law prohibits the commingling of earnest money deposits with a broker's own money. Most states require a separate account for earnest money held by a broker.

Commingling Mixing client's money or property with the agent's. Also see Commingle.

Commission 1. An amount earned by a real estate broker for his services.

Example: Broker sells a $100,000 home for a client. At a 6% commission rate the client owes the broker a $6,000 commission.

2. The official body that enforces real estate license laws.

Example: The State Real Estate Commission administers the real estate licensing examination, collects license fees, hears testimony from those who claim misconduct on the part of a licensee, and may punish offenders.

Commission Split The arrangement of sharing commissions earned between a sales agent and sponsoring broker, or between the selling broker and listing broker. *See* Cooperating Broker.

Example: The seller of a $100,000 house paid a $6,000 commission at closing. The commission split was 50-50 between the listing and

selling brokers. Each broker than split the fee received with the sales agent responsible for the sale, in accordance with each firm's commission split schedule.

Commissioner The head administrator of the State Real Estate Commission.

Commitment A pledge or promise; a firm agreement.

Example: Chu obtains a commitment from a savings and loan association for a $100,000 loan on a house she wants to buy. She is then assured of the loan so business will proceed to closing.

Commitment Fee A charge required by a lender to lock in specific terms on a loan at the time of application.

Example: When Chu applied for a loan to finance the apartment building she wanted to buy, the mortgage banker agreed to make the loan, at an interest rate of 9% with 2 discount points and covering 90% of value, in exchange for a commitment fee of 1% of the loan amount.

Commitment Letter An official notification to a borrower from a lender indicating that the borrower's loan application has been approved and stating the terms of the prospective loan.

Example: When Standard Mortgage Company completed the loan approval process, they sent Chu a commitment letter to inform her of the results. The letter then became a binding promise of Standard's intention to grant Chu the loan at the terms stated.

Common Areas Areas of a property that are used by all owners or tenants mutually.

Examples: The following are examples of common areas: ◆ the clubhouse and pool of a condominium development, ◆ the hallways and stairs of an apartment building, ◆ the elevators in an office building, ◆ the mall area of a shopping center.

Common Brick A brick not specially treated for texture or color, used for general building purposes.

Common Elements In a condominium, those portions of the property not owned individually by unit owners but in which an indivisible interest is held by all unit owners. Generally includes the grounds, parking areas, recreational facilities, and external structure of the building. *See* Community Association.

***Example**:* In a condominium building, each resident unit owner owns the interior space within that unit. The remainder of the building and site are common elements enjoyed by each resident according to the condominium bylaws. The common elements are maintained by the owners' association, to which each owner pays a fee.

Common Interest Development It means a real property development which consists or will consists of separately owned lots, parcels, areas, or spaces with either or both of the following features:

One or more additional contiguous or noncontiguous lots, parcels, areas, or spaces owned in common by the owners of the separately owned lots, parcels, areas, or spaces.

Mutual, common, or reciprocal interests in, or restrictions upon, all or a portion of these separately owned lots, parcels, areas, or spaces, or both.

Common Interest Subdivision Subdivided lands which include a separate interest in real property combined with an interest in common with other owners. The interest in common may be through membership in an association.

Example: Examples are condominiums and stock cooperatives.

Common Law The body of law that has grown out of legal customs and practices that developed in England. Common law prevails unless superseded by other law.

***Example**:* In many disputes between neighboring landowners over damages from the activities of one or the other, the courts apply common law to reach a settlement.

Common Stock That class of corporate stock to which there is ordinarily attached no

preference with respect to the receipt of dividends or the distribution of assets on corporate dissolution.

Common Wall See Party Wall.

Community Association General name for any organization of property owners to oversee some common interest. In a condominium or planned unit development, the association has the responsibility of managing the common elements in the project. A homeowners' association may be established in a subdivision to enforce deed covenants.

***Example**:* The Community Associations Institute (CAI) is a not-for-profit organization to assist in the establishment and operation of community associations. Their materials are helpful in setting up the association, maintenance of common elements, enforcing bylaws, and collecting monthly fees.

Community Associations Institute A non-profit educational and research organization concerned with the problems of managing homeowners' associations and other community associations (such as condominium owners associations). CAI sponsors educational seminars and publishes various handbooks and brochures. Address: Community Association Institute, 1630 Duke Street, Alexandria, VA 22314.

Community Property Property accumulated through joint efforts of husband and wife during marriage when not acquired as separate property of either spouse. Each spouse has equal rights of management, alienation and testamentary disposition of community property. This doctrine of ownership now exists in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington State.

Community Reinvestment Act A federal law that requires federal regulators of lending institutions to encourage lending within the local area of the institution, particularly to low- and moderate-income residents and those residing in inner-city neighborhoods. *See* Redlining.

***Example**:* An auditor from the Office of Thrift Supervision made a

determination that the Federal Insured Savings Association of Small Town was raising money locally and investing in New York City, not following the Community Reinvestment Act.

Compaction Whenever extra soil is added to a lot to fill in low places or to raise the level of lot, the added soil is often too loose and soft to sustain the weight of the buildings. Therefore it is necessary to compact the added soil so that it will carry the weight of the buildings without the danger of their tilting, settling or cracking.

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

Comparables Properties that are similar to the one being sold or appraised. Comparable properties need not be identical to the subject but should be similar and relatively easy to adjust for differences in order to arrive at an indicated value for the subject after adjustment. *See* Market Approach.

***Example**:* A subject property is a detached, 3-bedroom house that is 30 years old and will be bought with an FHA loan. Comparables would be recently sold houses with similar styling, age, location, and financing. Slight variations in characteristics may be taken into account when making the analysis.

Comparative Sales Approach Same as comparison approach; market comparison approach.

Comparative Unit Method An appraisal technique to establish relevant units as a guide to appraising the subject property.

***Example**s:*

- Parking garages are compared per parking space.
- Bowling centers are compared per lane.
- Land may be sold per square foot or per front foot.

- The buidling cost is estimated by measures the total square footage or cubic footage and multiplies that total by the current cost per square or cubic foot.

Comparison Approach A means of appraising which compares a given property with recent sales prices of similar, surrounding properties.

Compensable Damages Certain types of damages caused by the taking of property, generally, only the reduction in value of the property. Sentimental value, inconvenience, and loss of business not related to the real estate are not compensable damages.

Compensation A sum of money paid to make amends for an injury. In condemnation, it is the amount paid when a property is taken without the owner's consent.

Competent Parties Persons legally capable of entering a contract. Must be of legal age, not be insane or a drunkard.

Example: If Chen is a minor he may generally void contracts he entered to buy or sell real estate because the law does not consider him to be a competent party.

Competition, Principe of Holds that profits tend to breed competition and excess profits tend to breed ruinous competition.

Competition, Principle of A principle which states that, when a situation in a free market produces excess or high profits, competition will soon develop for those profits.

Completion Bond A legal instrument used to guarantee the completion of a development according to specifications. More encompassing than a performance bond, which assures that one party will perform under a contract on condition that the other party performs. The completion bond assures production of the development without reference to any contract and without the requirement of payment to the contractor.

Example: A developer proposes to build a subdivision that necessitates a rezoning. The zoning commission requires the developer to post a

completion bond prior to granting a permit for the development.

Complex Appraisal See Appraisal, Complex residential appraisal.

Component An individual element of construction.

Component Depreciation Dividing real estate improvements into various parts such as the roof, plumbing, electrical system, and shell, then depreciating each component separately for tax purposes. Eliminated by the 1981 Tax Act, for acquisitions after 1980.

Composite Rate An overall rate used in appraising in the income approach, called **"**R**"** in the Ellwood capitalization formula.

Composition Shingles Shingles covered with a mixture of gravel or stones.

Composition Siding A type of siding material that is prefabricated, often in imitation brick.

Compound Amount Of One Per Period The amount that a series of deposits of $1.00 per period would grow to if left on deposit with interest allowed to compound.

Compound Interest Interest paid on the original principal and also on the unpaid interest that has accumulated. Contrast with simple interest.

Example*:* $100 deposited in a 5% savings account earns $5 interest the first year. Its second-year earnings are 5% of $105, or $5.25. Each year, interest is received on previously earned but undistributed interest, so interest compounds.

Compressed Buy-Down A buy-down loan for which the extent of rate reduction is changed in 6-month intervals. Many buy-downs feature a deep discount in the first year that is reduced gradually each year. The compressed buy-down is a variation of this type with accelerated gradations.

Compression Strength Test A test to measure the strength of concrete.

Comps Appraisal term, short for comparables.

Concealment Failure to disclose a material fact by one under a duty to make such a disclosure.

Concession A rental concession is a service or discount offered by the landlord of representative of the landlord such as the property manager, to a tenant to induce the tenant to sign a lease. Reasons for offering concessions might include the desire to rent up a certain amount of space prior to completion of the project or as an effort to retain existing tenants upon the expiration of their leases.

***Example**:* Chen is leasing out space in an office building. In order to get the Granite Insurance Co. to sign a lease, Chen offers a concession in the form of a $2,000 remodeling allowance.

***Example**:* Lee is converting apartments to condominium units. In order to induce tenants to purchase their units, Lee offers a concession of a 20% discount on the sales price, available only to tenants.

Conclusion The final estimate of value, realized from facts, data, experience and judgment, set out in an appraisal. Appraiser's certified conclusion.

Concrete A mixture of cement, water, admixtures, and aggregates which is an important building material because it is strong, durable, watertight, and workable its plastic state.

Concrete Block Masonry units, solid or hollow, made out of concrete composed of Portland cement, aggregates, admixtures, and water.

Concrete Block Wall A type of masonry wall consisting concrete blocks on a plaster coating.

Concrete Piers Concrete supports for a floor-framing system.

Concurrent Ownership Ownership where two or more persons possess simultaneous estates in the same property.

Condemnation The act of taking private property for public use by a political subdivi-

sion; declaration that a structure is unfit for use.

Condemnation Value The value of property taken by condemnation that must be paid to the owner whose property was condemned.

Condemnee The owner of property taken by condemnation (eminent domain).

Condemner The party taking property by condemnation (eminent domain).

Condition of Sale An element of comparison in the direct sales comparison approach that refers to the motivations of the buyer and seller in a sales transaction.

Example: Examples include the relationship between buyer and seller, financial needs of buyer and seller (a "quick" sale) and lack of exposure on the market.

Condition Precedent A condition or qualification of a contract or transfer or property, that must be fulfilled before the title can be transferred.

Condition Subsequent A condition attached to an already-vested estate or to a contract which provides that if the owner fails to do something, his title may be defeated and he may lose his property.

Condition(s) In contracts, a future and uncertain event which must happen to create an obligation or which extinguishes an existent obligation. In conveyances of real property conditions in the conveyance may cause an interest to be vested or defeated.

Provision(s) in a contract that some of all terms of the contract will be altered or cease to exist upon a certain event. *See* Cancellation Clause.

***Example**:* If a house is destroyed by fire before closing, the buyer is not obligated to complete the purchase.

***Example**:* If a loan that is described as a condition cannot be arranged, the buyer is not required to complete the transaction and may receive a refund of any earnest money.

Conditional Dependent upon the occurrence of certain terms or events.

Conditional Com- An agreement by a lender to provide a loan to a qualified borrower,

mitment within a specified time period, but without stating who the borrower will be.

***Example**:* The Solid Rock Development Company is completing a project with 200 condominiums. They arrange financing with the Trusty Mortgage Company to provide 90% loan-to-value financing at a 10% interest rate to qualified buyers. Trusty Mortgage issues a conditional commitment and will make such loans to qualified buyers.

Conditional Estate Usually called, in California, Fee Simple Defeasible. An estate that is granted subject to a condition subsequent. The estate is terminable on happening of the condition.

Conditional Fee See Fee Simple, Conditional.

Conditional Offer Purchase contract tendered to the seller that stipulates one or more requirements to be satisfied before the purchaser is obligated to buy.

***Example**:* Lee offers to buy Collin's farm, conditioned on its rezoning for use as a shopping center prior to purchase. If it is not rezoned, Lee can get the earnest money, tendered with the conditional offer, refunded.

Conditional Sales Contract A contract for the sale of property stating that the seller retains title until the conditions of the contract have been fulfilled.

***Example**:* A contract for deed or a land contract is a conditional sales contract. Until the buyer makes full payment, the seller retains title to the property.

Condominium A system of ownership of individual units in a multi-unit structure, combined with joint ownership of commonly used property (sidewalks, hallways, stairs, etc.) *See* Common Elements.

Condominium Conversion *See* Conversion. The changing of rental units to condominium units and common area.

Condominium A legal document used to create a condominium. Includes a description

Declaration of the property and the uses to which it is restricted, a description of individual ownership units, common elements, and procedures for amending the declaration.

Example: A developer constructs apartments and wishes to market them as a condominium. He prepares and records a declaration, which describes the division of individual and common ownership, a set of bylaws and a master deed for the project.

Condominium Owners Association An organization of all unit owners in a condominium to oversee the common elements and enforce the bylaws. *See* Community Association.

Example: When Vivian and Paul Wong purchase a unit in the condominium, they are automatically members of the owners association. As such, they are entitled to vote on decisions before the association regarding changes in bylaws, development and repair of common elements, and other matters. They are also required to pay a monthly fee to cover expenses of the association.

Conductor In electricity, a wire or path through which electric current flows.

Conduit Metal pipe in which electrical wiring is installed.

Conduit, Electrical A metal pipe through which electric wiring is installed and the best and safest method of electric wiring.

Confession of Judgment An entry of judgment upon the debtor's voluntary admission or confession.

Confirmation A contract, memorandum or deliberate act which validates a previous agreement that might otherwise have been void.

Confirmation of Sale A court approval of the sale of the property by an executor, administrator, guardian or conservator.

Confiscation The seizing of property without compensation.

Conforming Loan A mortgage loan that is eligible for purchase by FNMA or FHLMC.

Example: In 1992, the maximum size of a loan that could be purchased

by FNMA or FHLMC, or conforming loan, was $202,300 when secured by a single-family home ($303,450 in Alaska, Hawaii, and Guam.) The limit is revised each year according to the change in average sales price of conventionally financed single-family homes.

Conformity, Principle of An appraisal principle that holds that property tends to reach maximum value when the neighborhood is reasonably homogeneous in social and economic activity.

Example: Under the conformity principle, a house that cost $300,000 in a neighborhood of $100,000 homes is not worth as much as if it were in a neighborhood of $300,000 homes.

Consent Agreement. Mutual consent is one of four essential elements of a contract.

Consequential Damages Damages caused to a property by the taking of a nearby property of another owner or the construction of improvements on nearby properties. The right to receive compensation for this type of damage varies from state to state. See Severance Damage.

Conservatee The person who is the subject of a conservatorship proceeding; similar to a guardianship but without the necessity of alleging incompetency.

Conservation The process of utilizing resources in such a manner which minimizes their depletion.

Conservatorship A person appointed by a court to take legal charge of the person and property of a person who is incapable of managing his or her affairs.

Consideration Anything of value given to induce entering into a contract; it may be money, personal services, or even love and affection. It may be a benefit conferred upon one party or a detriment suffered by the other.

Consignment In real estate finance, the process in which the FSLIC replaces the management of an insolvent savings and loan association, but allows the association to continue operating.

Example: Under the Southwest Plan, many savings and loan

associations in Texas were placed under a consignment program, in which experienced managers from other S&Ls were recruited to run the associations under federal supervision.

Consistent Use Theory An appraisal theory which maintains that, when a property is evaluated, the land and the improvements must be evaluated on the assumption that they are both being used for the same purpose. For instance, it holds that the land should never be valued for a future use when the buildings are valued for their present use.

Constant A factor or percentage that expresses the relationship between the principal amount of a mortgage and the payments. See Mortgage Constant.

Constant Annual Percent Same as mortgage constant.

Constant Payment Loan A loan on which equal payments are made periodically so as to pay off the debt when the last payment is made. *See* Level Payment Mortgage, Variable Payment Plan.

***Example**:* Lee obtains a constant payment loan to purchase a home. The loan requires a payment of $450 per month (principal and interest) for 30 years. At the end of 30 years, the principal balance will be zero.

Constant Payment Mortgage A type of mortgage by which the borrower pays a fixed amount each month, with part to be applied to repayment of principal and part to payment of interest.

Construction Cost The total cost of constructing a building including the price of land, labor, materials and profit.

Construction Loan One that finances subdivision costs and/or improvements to real estate. Funds are usually dispersed in increments as the construction progresses. *See* Building Loan Agreements.

Construction Loan Mortgage A short-term mortgage often made by a commercial bank to a developer to provide funds during the construction of a real estate project. When

the project is completed, the construction mortgage is paid off and replaced with a permanent mortgage.

Constructive Eviction The legal term describing a situation in which a lessor's breach of a lease contract such as a condition making occupancy hazardous causes the lessee (tenant) to cancel the contract and vacate.

***Example**:* Evelyn's landlord keeps coming into her apartment unannounced, in violation of the lease, which requires 24-hour notice. Eventually Evelyn vacates and refuses to pay rent any further, claiming constructive eviction, in that the landlord's intrusions violated the lease and her right of quiet enjoyment.

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 of the condition of title to real property given by the official records of a government entity which does not require actual knowledge of the information. It is knowledge that the law assumes a person has about a particular fact, regardless of whether the person actually knows about the fact.

Constructive Receipt For tax purposes, the right to receive money that would be taxable and is taxable, even if receipt is postponed.

***Example**:* Charles received a dividend check on December 20, 2000, but didn't deposit it until January 2001. The money was constructively received in 2000 and becomes part of Charles's taxable income for that year.

In real estate exchanges, the receipt of cash or other non-like-kind property or the acquisition of the right to use or benefit from such cash or property during an exchange transaction.

***Example**:* Lee entered into a delayed-exchange transaction in which his property was relinquished for property to be delivered later. As part

of the transaction, a sum of money was deposited in Lee's bank account to be used for acquiring the replacement property. Though Lee never received this cash, the Internal Revenue Service denied nonrecognition of gain because of his constructive receipt of the money.

Constructive Trust A trust imposed as a matter of law to prevent a fraud or unjust enrichment.

Consumer Price Index (CPI) The most widely known of many such measures of price levels and inflation that are reported to the U.S. government. It measures and compares, from month to month, the total cost of a statistically determined "*typical market basket*" of goods and services consumed by U.S. households.

Example*:* The Consumer Price Index for May 1992 stood at 139.7. Compared to the base period of 1982-1984, prices were almost 40% higher.

Contigent Remainder An estate in land, the possession and enjoyment of which is delayed until the termination of a preceding estate and the occurrence of a condition.

Contiguous Actually touching; contiguous properties have a common boundary.

Contingencies Possible occurrences that are conditioned on the precipitation of a future event. A purchase agreement might be contingent upon a termite inspection or acquisition of adequate funds.

Contingency Clause *See* Condition.

Contingent Dependent upon an uncertain future event.

Contour The surface configuration of land.

Contour The surface configuration of land. Shown on maps as a line through points of equal elevation.

Contour Line A line on a map that connects points of equal elevation or outlines a wa-

ter body.

Contour Map A map that displays the topography of the site. A map with contour lines that indicate various elevations.

Contract An agreement to do or not to do a certain thing. It must have four essential elements: capable parities, mutual consent, a lawful object, and consideration. A contract of real estate must also be in writing and signed by the party or parties to be charged with performance.

Contract For Deed Same as land contract.

Contract For Sale Same as agreement of sale.

Contract Price (Tax) In an installment sale, for tax purposes, generally the selling price less existing mortgages assumed by the buyer. *See* also Installment Sale.

***Example**:* Chen sells land for $100,000 subject to an existing $60,000 first mortgage. Chen receives $5,000 cash in the year of sale and a $35,000 second mortgages from the buyer. the contract price is $40,000. Note, if Chen's adjusted tax basis in the land exceeds the first mortgage, such excess is a payment in the year and reduces the contract price.

Contract Rate Same as face interest rate.

Contract Rent The amount of rent that has been set forth in a contract. Contract rent may be greater than, less than or equal to economic rent (market rent). Contrast with economic rent.

***Example**:* Chen signs a lease requiring rent payments of $400 per month. The contract rent is $400 per month.

Contractor One who contracts to supply specific goods or services, generally in connection with development of a property.

***Example**:* Chen is developing a residential subdivision. In the course of the project, Chen secures the services of various contractors, such as landscapers, carpenters, plumbers, and architects.

Contractor's Profit The profit, above and beyond all construction costs, generally expressed as a percentage of direct construction costs, that is adequate to compensate a contractor for the time and effort required to construct an improvement; a component of direct costs in comparison to the developer's profit that is not part of direct costs.

Contribution, Principle of A principle of valuation that states that component part of a property is valued in proportion to its contribution to the value of the whole. Therefore, the property is considered a combination of features, each of which adds something to the total value based on its contribution to the property's usefulness. Holds that maximum values are achieved when the improvements on a site produce the highest net return, commensurate with the investment.

***Example**:* The value of an improvement can be appraised based on the principle of contribution. If a swimming pool adds $25,000 to the value of a house in a prestigious San Diego neighborhood, then its contribution is $25,000 regardless of what it costs to build.

Contributory Negligence The negligence of a plaintiff that contributes to his or her own injuries; a defense to the tort of negligence.

Contributory Value of Improvements A term used in farm appraising to express the amount of value the buildings add to the value of the property.

Convection The transfer of heat by the heating of the air, which moves throughout the area to be heated either naturally or blown by fans.

Convector Radiator A type of heat distribution system consisting of pipes with many fins attached at short intervals. Hot water or steam flows through the pipes heating the fins, which in turn heat the surrounding air.

Convenience Outlets Electrical outlets which have two receptacles that accept three-pronged plugs.

Conventional Loan (mortgage) A loan made by investors without government backing, i.e., which is not FHA or VA guaranteed. The type customarily made by a bank or sav-

ings and loan association.

Conversion Change from one character or use to another, as converting an apartment building to condominium use.

The unlawful appropriation of another's property, as in the conversion of trust funds.

Convertible ARM An adjustable rate mortgage that offers to borrower the option to convert payments to a fixed-rate schedule at a specified period within the term of the loan. Conversion is made for a nominal fee, and the interest rate on the fixed-rate loan is determined by a rule specified in the ARM loan agreement.

***Example**:* Lee obtained a convertible ARM that allows him to convert the loan to a fixed-rate loan anytime between the second and tenth year of the loan term. Conversion will cost Lee $100, and the interest rate on the new loan will be 1 percentage point above the average contract rate on fixed-rate mortgage loans closed in the nation during the previous month. The amortization term of the new loan will be 25 years from the time of conversion.

Convertible Mortgage A mortgage in which the lender may convert his debt position into equity by decreasing or foregoing into equity by decreasing or foregoing cash amortization payments at some time during the life of the loan.

Convey To deed or transfer title to another.

***Example**:* At the closing, Chen will convey the property to Lee.

Conveyance The transfer of the title of land from one to anther. It denotes an instrument which carries from one person to another an interest in land.

Conveyance Tax See Transfer Tax.

Cooling Tower A water tower in which water is cooled by evaporation and is part of an air-conditioning system.

Cooperating Broker One who agrees to share the commission with another broker. *See* Commission Split.

***Example**:* The broker who secured the listing is a cooperating broker with the one who brought the purchaser. The broker agree to a commission split.

Cooperative A form of ownership in which each owner shares in a corporation that owns an entire property and has the exclusive right to occupy part of the property. The corporation is run by directors, who are elected by the corporation stockholders. See Stock Cooperative.

Cooperative, apartment A type of corporate ownership in which tenancy in an apartment unit is obtained by purchase of shares of the stock of the corporation and where the owner of such shares is entitled to occupy a specific apartment in the building. Special income tax laws allow the tenant stock holders to deduct interest and property taxes paid by the corporation. In California, this type of ownership is called a "stock cooperative".

***Example**:* Apartment buildings in Los Angeles are occasionally converted to cooperatives. In simple terms, this requires forming a corporation to own the building and selling shares to those who wish to live in the building.

Coping A protective top of a wall, chimney, pilaster, or parapet usually sloped to allow the run-off of water.

Cored Brick A brick that has up to and over 20 holes and still is classified as solid.

Cork Tile A type of tile made from cork. It is resilient and quiet but has low resistance to stains, burns and indentations.

Corner Bead A strip of iron with metal lath that is placed in corners before plastering to provide reinforcement.

Corner Boards The boards (trim) covering the external corners of a frame building.

Corner Braces Braces nailed diagonally to the studs as reinforcement at corners.

Corner Influence The added value of a corner lot.

Corner Influence A statistical table that may be used to estimate the added value of a cor-

Table	ner lot.
Corporation	A group or body of person established and treated by law as an individual or unit with rights and liabilities of both, distinct and apart from those of the persons composing it. A corporation is a creature of law having certain powers and duties of a natural person. Being created by law it may continue for any length of time the law prescribes.
Corporeal	Visible or tangible real or personal property. ***Example****:* Buildings, pavement, fences, and the like are corporeal. Easement are incorporeal.
Corporeal Rights	Possessory rights in real property.
Correction Lines	A system for compensating inaccuracies in the Government Rectangular Survey System due to the curvature of the earth. Every fourth township line, 24 mile intervals, is used as a correction line on which the intervals between the north and south range lines are remeasured and corrected to a full 6 miles.
Corrective maintenance	Ongoing repairs that are made to a building and its equipment to restore it to good operating condition.
Correlation	A step in the appraisal process involving the interpretation of data derived from the three approaches to value (market, cost and income) leading to a single determination of value. Also frequently referred to as "reconciliation."
Corrugated Siding	Siding composed of sheet metal or asbestos cement composition board.
Cosigner	Same as accommodation party. A second party who signs a promissory note together with the primary borrower.
Cost	The expenditure made to produce the improvements. In general use, it is often synonymous with price and value. See also Reproduction Cost and Replacement Cost.
Cost Approach	One of three traditional appraisal methods to estimating value. In this method, 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 Basis The price a buyer pays for a property or its value at time of acquisition. Used in computing profit for income tax. *See* Basis.

Cost Benefit Study An analysis of the cost of creating an improvement versus the benefits that will be created by the improvement, including nonmonetary issues. An cost benefit study is typically used by public agencies to make decisions concerning capital improvements.

Cost Estimating In construction, the act of predicting the total costs of labor, materials, capital, and professional fees required to construct a proposed project.

***Example**:* When cost estimating the new hospital, Superior Engineering Company took into account the current costs of building materials, the labor supply situation, and the short-term interest rates available from local construction lenders.

Cost Of Living Index An indicator of the current price level for goods and services related to some base year.

***Example**:* The Consumer Price Index (CPI), published by the Bureau of Labor Statistics, indicates that the price level for goods and services in April 1992 was 139.5. This means that, on average, prices were 39.5% higher in April 1992 than in 1982-84.

Cost To Cure The dollar amount needed to restore an item of deferred maintenance to a new or reasonably new condition. See also Curable Deterioration.

Cost-Benefit Ratio The ratio of the return from improvement to the cost of the improvements.

Cost-Plus-Percentage Contract An agreement on a construction project in which the contractor is provided a specified percentage profit over and above the actual costs of construction. These contracts are considered poor business practice because the contractor has little incentive to hold down costs. A cost-plus-

fixed-fee contract is a better approach.

***Example**:* Smith Construction Company entered into a cost-plus-percentage contract to build the new high school. Smith will get 10% above the costs of construction. If the project costs $10 million, Smith will receive $11 million to complete the project.

Cotenancy Ownership of an interest in a particular parcel of land by more than one person; e.g. tenancy in common, joint tenancy.

Counseling The act of advising clients on a variety of real estate investment or development matters.

***Example**:* Chen wishes to invest in an office building. Lee offers counseling by advising Chen on how to select a property, how to legally structure the investment and how to maximize after-tax returns from the investment.

Counselor of Real Estate A member of the American Society of Real Estate Counselors (ASREC). Membership is based on experience and professional conduct as a real estate counselor.

Counter Offer Rejection of an offer to buy or sell, with a simultaneous substitute offer.

***Example**:* A property is put on the market. An investor offers $75,000 in cash. The owner rejects the offer but submits a counteroffer to sell for $80,000. Offers and counteroffers may be negotiated on factors other than price, e.g., financing arrangements, apportionment of closing costs, inclusion of personal property.

Course 1. The path of a river or stream.

2. The direction of a line in relation to true north.

3. A continuous horizontal layer of tile, brick, shingles, etc.

Court 1. An covered area, entirely or partially surrounded by walls.

2. A blind alley.

3. A Courtroom.

Cove 1. A concave corner or molding.

2. A small bay.

Cove Lighting Lighting that is behind a concave molding near the ceiling.

Cove Molding A small, concave, faced molding used to cover a narrow gap or angle.

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

Example: Deed covenants are often used to:

- maintain a land parcel in a specified use, such as residential,
- enforce architectural and design standards,
- control the density of future development,
- prohibit certain practices, such as the sale of liquor.

Covenant Not To Compete A clause in an agreement where one party promises not to offer to sell or produce the same goods and services in proximity to the other party.

Example: Chen sells his realty firm to Lee. In the sales contract, Chen gives Lee a covenant not to compete. This bars Chen from opening a competing realty firm in the same immediate area as Lee.

Covenant Of Quiet Enjoyment A special clause in a deed or an agreement whereby the grantor guarantees that the grantee will have the right to a property free from the interference of other parties who may claim an interest in the property.

Covenant Running With The Land A covenant restricting or limiting property rights to land, or a deed restriction, in which it is specified that ownership of the land cannot be transferred unless the new owner agrees to continue to abide by the covenant.

Example: A group of owners of building lots agree in a contract (a) that each will use his or her lot only for a single-family dwelling and (b) that each will require that any purchaser of their land agree to the

same contract. This contract (covenant) then runs with the land, because all owners, present and future, must abide by it.

Covert Undiscovered or hidden (defects).

CPI Adjustment *See Consumer Price Index*. An adjustment used in leases in which the rent payment is periodically adjusted by a percentage of the increase in the consumer price index (CPI); it is used to help protect the lessor from unexpected increases in inflation.

CPM *See Certified Property Manager*. A member of the Institute of Real Estate Management (IREM) of the National Association of Realtors.

Cram Down In bankruptcy, the reduction of various classes of debt to a lower amount, with acceptance by the bankruptcy court.

***Example**:* The bankruptcy judge considered the $100,000 property value that was encumbered by a $90,000 first mortgage and $25,000 unsecured debt. He allowed $90,000 to the first mortgage holders, and crammed down the $25,000 unsecured debt to $10,000.

Crawl Hole Exterior or interior opening permitting access underneath building, as required by building codes.

Crawl Space An area or space between the ground and floor joists used as access to plumbing and electrical connections beneath the house. Minimum space is 18".

CRB Certified Real Estate Brokerage Manager, a professional designation of the Realtors National Marketing Institute (RNMI).

CRE *See* Counselor of Real Estate, or member of the American Society of Real Estate Counselors (ASREC).

Creative Financing Any financing arrangement other than a traditional mortgage from a third-party lending institution.

Examples: Creative financing devices include: ◆ loans from the seller, ◆ balloon payment loans, ◆ wraparound mortgages, ◆ assumption of mortgage, ◆ sale-leasebacks, ◆ land contracts, ◆ alternative

mortgage instruments.

Credit In finance, the availability of money.

Example: When money and credit are readily available, it is easier to buy real estate. Credit policy is determined to a large extent by the Federal Reserve System.

In accounting, a liability or equity entered on the right side of the ledger. 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.

Example: In closing statements, the credit column shows what is due and payable. The buyer is credited with amounts paid; the seller is credited with the price of the real property and prepaid items.

Credit Rating (Report) An evaluation of a person's capacity (or history) of debt repayment. Generally available for individuals from a local retail credit association.

Example: Global Savings Association received and studied the credit report on Chu before they issued her a mortgage loan. The report stated credit limits at various stores, current balances, and repayment terms in days. It would have noted defaults and slow repayments.

Credit Union A cooperative organization of workers created for the purpose of lending money to members. Loans made by the credit union are repaid from regular deductions made from the members' pay.

Creditor One who is owed money.

Cross Tie A lightweight brace used between rafters on opposite roof slopes.

Cross-Bridging ***Examples:*** Creditors include: bond holders, loan companies, mortgage lenders.

Diagonal bracing between joists that gives support and stops the joists from shifting laterally; usually made of strips or blocks of wood or metal strips.

CRS Certified Residential Specialist, a professional designation of the Real-

tors National Marketing Institute (RNMI).

Cruise A survey made to find and evaluate the standing timber in a given area.

CTS (Class, Type, Style) System A uniform method describing houses developed for the Realtors National Marketing Institute of the National Association of Realtors by Henry S. Harrison.

Cubic Foot Cost Cost per cubic foot for construction.

Cul-De-Sac A dead-end street that is enlarged at the end to allow cars to make a U turn.

Curable Depreciation Items of physical and functional obsolescence which are customarily repaired or replaced by a prudent property owner.

Curable Functional Obsolescence A loss in value due to a defect in design, in which the cost to cure the item is less than or the same as the anticipated increase in value after the item is cured, e.g., flaws in materials or design or materials and design that have become obsolete over time. An element of accrued depreciation. Includes deficiencies requiring additions, substitutions or modernization and superadequacies.

Curable Physical Depreciation Items of deferred maintenance or in need of repair in which the cost to repair is reasonable and economically feasible, measured as the cost to restore the item to new or reasonably new condition.

Curb The raised rim of concrete, stone, or wood that edges a sidewalk, street, floor, or well opening.

Curb Cut The portion of a curb that goes down to street level to make the apron of a driveway.

Current Index With regard to an adjustable rate mortgage, the current value of a recognized index as calculated and published nationally or regionally. The current index value changes periodically and is used in calculating the new note rate as of each rate adjustment date.

Current Yield A measurement of investment returns based on the percentage relationship of annual cash income to the investment cost.

***Example**:* Chen purchases a parking lot for $10,000. It provides $5,000 of parking revenues each year. Property taxes and insurance total $3,500, leaving $1,500 of annual before-income-tax cash flow. The current yield is 15%.

Curtail Schedule A listing of the amounts by which the principal sum of an obligation is to be reduced by partial payments and of the dates when each payment will become payable.

Curtain Wall A wall that encloses but does not support.

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

Curvilinear Bounded by curved lines.

Damages The amount recoverable by a person who has been injured in any manner, including physical harm, property damage, or violated rights, through act or default of another. Loss sustained or harm done to a person or property.

***Example**:* Chen forfeited his earnest money to the owner of property as damages for failing to purchase as agreed.

Damp-proofing See Waterproofing.

Data Plant An appraiser's file of information on real estate.

Date of Agreement Refers to the key dates in the negotiation of a lease. A key consideration in estimating the income to be collected under a lease. The key dates are the date of execution of the lease, the date the rental payments begin, the date the lease expires, the date of any renewal options and the date of notice.

Date of Appraisal The date to which an appraisal is applicable. It may or may not be the date when a property was inspected for appraisal purposes.

Date Of Closing *See* Closing Date.

DCR *See* Debt Coverage Ratio.

Dead End Street A street that is closed at one end and does not have an enlarged space for U turns as a Cul-De-Sac does.

Dead Load The permanent weight that structural parts of a building must support, such as the weight of the roof and upper floor of the bearing walls. See also Load, Live Load and Total Load.

Dealer (Tax) One who buys and sells for his or her own account. The merchandise is inventory, consequently any gain on the sale is ordinary income.

Example*:* Davis purchases mobile homes from several manufacturers, and sells them to her customers. Davis is a dealer and all gains from sales are ordinary income.

Dealer Property Property held for sale to customers. Profit is considered ordinary income for income tax.

Debenture An unsecured note or bond. Bonds issued without security, an obligation not secured by a specific lien on property.

Example*:* Chen invests in debentures of the XYZ Corporation; Lee invests in a first mortgage on a building owned by XYZ Corporation. The XYZ Corporation bankrupts. Ultimately Lee receives full payment for the mortgage upon the foreclosure sale. Chen is a general creditor and receives only 18 cents per dollar owed to him.

Debit In a closing statement (settlement), an item that is charged to a party. Contrast with credit.

Examples*:* The buyer is charged with these typical debits: ◆ purchase price, ◆ taxes prepaid by seller, ◆ deed recording fees.

The seller is charged with these typical debits: ◆ cost to retire existing mortgage principal, ◆ accrued interest on mortgage being relieved, ◆ termite inspection fee.

Debt An obligation to pay. That which is due from one person or another: obligation, liability.

***Example**:* Chen borrows $1,000 from Lee and thereby incurs a debt.

Debt Coverage Ratio (DCR) The relationship between net operating income (NOI) and annual debt service (ADS). Often used as an underwriting criterion for income property mortgage loans.

***Example**:* Annual debt service for a mortgage loan on a certain office building is $10,000. The property generates $25,000 in annual gross rent, and requires $7,000 for expenses of operation, leaving $18,000 net operating income. The debt coverage ratio is 1.80, calculated by the following formula:

Debt Financing The use of borrowed funds to acquire a capital investment, as opposed to investing one's own funds. In real estate, the property itself usually serves as the security for the debt.

Debt Service The periodic payment specified in a loan contract that covers the repayment needed to amortize the outstanding debt.

See Annual Debt Service.

Debt/Equity Ratio The relationship of these components of purchase capital.

***Example**:* Mortgage = $75,000, Equity = $25,000. The debt/equity ratio is 3:1. This is equivalent to a 75% loan-to-value ratio loan.

Debtor This is the party who **"**owns**"** the property which is subject to the security interest. Previously he was known as the mortgagor or the pledger. etc.

Deciduous Tress Trees that loose their leaves in the autumn and winter.

Decking Light-gauge sheets that are used in the construction of a floor or roof.

Declaration Formal pleadings by a plaintiff as to the facts and circumstances that gave rise to his cause of action. Also, a statement made out of court.

***Example**:* The unhappy land buyer offered a declaration explaining the claim that the property was misrepresented.

A legal document used to create a condominium. *See* Condominium Declaration.

Declaration Of Abandonment Document recorded to terminate a homestead.

Declaration Of Condominium A document required by state statute to be filed as part of the process of establishing a condominium form of ownership for a property. It usually contains a description of the property, a description of the common elements, and designators of the individually owned units.

Declaration Of Restrictions An instrument, other than a deed, containing restrictive covenants which is incorporated by reference and made part of a deed.

Declaration Of Trust A written statement by a trustee to acknowledge that the property is held for the benefit of another.

Example: A declaration of trust was signed by a trustee to state that certain valuable land was being held in trust for certain orphaned children.

Declared Homestead A homestead voluntarily claimed by the owner of the property.

Declining Balance Depreciation A method of accelerated depreciation allowed by the IRS in certain circumstances. Double Declining Balance Depreciation is its most common form and is computed by using double the rate used for straight line depreciation.

Decree An order issued by one in authority; a court order or decision.

Example: The court issued a decree stating that Chen owed $10,000 to Lee for failing to perform under a contract.

Decree of Foreclosure Decree by a court ordering the sale of mortgages property and the payment of the debt owing to the lender out of the proceeds.

Dedication The donation of property by an owner to a public authority. An appropriation of land by its owner for some public use accepted for such use

by authorized public officials on behalf of the public. Examples would include roads in a subdivision or land to be used as open space in a subdivision.

Deed Written instrument which, when properly executed and delivered, conveys title from one person (grantor) to another (grantee).

Deed Books The books, files, or record storage of the public records in which county governments keep the deeds and other real estate-related documents that have been filed.

Example: The county courthouse provides rooms full of deed books where interested parties, particularly attorneys and title companies, may research ownership records.

Deed Description A portion of a deed that describe the property being conveyed.

Deed In Lieu A deed of property given by the owner to the lender as an alternative to going through foreclosure.

Deed In Lieu Of Foreclosure A deed to real property accepted by a lender from a defaulting borrower to avoid the necessity of foreclosure proceedings by the lender.

Example: Chen, a builder, has a construction loan with a $100,000 balance against the house he is building. He offers the house for sale at $100,000 but no one buys it. He does not have the cash to continue to pay interest on the construction loan, and is in default. The lender asks for a deed in lieu of foreclosure.

Deed Of Release A document, in the form of a deed, in which one who has limited rights to a piece of real estate (usually a mortgage or lienholder) abandons those rights back to the owner of the real estate; often takes the form of a quitclaim deed.

Example: Lee holds the mortgage on Davis's land. Davis wishes to sell part of the land. In return for Davis paying down the mortgage loan by an agreed amount, Lee gives Davis a deed of release to the part to be sold, so that Davis can transfer clear title to the buyer.

Deed Of Trust Limitations in the deed to a property that dictate certain uses that may or may not be made of the property.

Deed Restriction A clause in a deed that limits the use of land. *See* Covenants.

***Example**:* A deed might stipulate that alcoholic beverages are not to be sold on the land for 20 years. This is a deed restriction.

Default Failure to fulfill a duty or promise or to discharge an obligation; omission or failure to perform any act.

Default Judgment A judgment made against a party who does not appear in court at the appropriate time.

Defeasance Clause The clause in a mortgage that gives the mortgagor the right to redeem his 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.

Defeasible Title Title which is not absolute but possibly may be annulled or voided at a later date. For example: Title conveyed to A with condition that if A marries before age 30, title will go to B. A's title may be good (doesn't marry) or may be defeated (marries before 30).

Defect In Title Any recorded instrument that would prevent a grantor from giving a clear title.

***Example**:* A mechanic's lien that was recorded against the property when it was remodeled was a defect in title. The grantor had to clear the lien by paying the amount due the electrician who filed the lien.

Defendant The party sued in an action at law.

***Example**:* Chen brings suit against a former landlord, Lee, for refusing to return a security deposit. In the suit, Lee is the defendant.

Deferred Charges Nontangible costs that are expected to provide value over a number of years. For accounting or tax purposes, these are to be amortized over the

life to which they are expected to provide value.

Examples:

- Commissions paid upon lease negotiation of a lengthy lease.
- Mortgage placement fee for a permanent mortgage.

Deferred Maintenance Repairs that need to be done to rehabilitate a property but which have not yet been done.

Deferred Maintenance In appraisal, a type of physical depreciation owing to lack of normal upkeep.

Examples: The appraiser found the following examples of deferred maintenance on the subject property: broken window glass, missing roof shingles, peeling paint, broken guttering.

Deferred Payments Payments to be made at some future date.

Example: On a graduated payment mortgage the principal payments and some interest payments are deferred for the first 3 to 5 years.

Deferred Payments Options The privilege of deferring income payments to take advantage of statutes affording tax benefits.

Deficiency In mortgage finance, the shortfall of funds recovered through the sale of property securing a foreclosed loan compared to the amount of debt, accrued interest, foreclosure expenses, and damages incurred by the lender. *See* Deficiency Judgment.

Example: A lender foreclosed a mortgage loan with outstanding principal balance of $100,000 and accrued interest of $2,000. At the foreclosure sale, the property brought $80,000. The lender claimed a deficiency of $22,000 plus expenses when filing for a judgment in the courts.

Deficiency Judgment A judgment given when the security pledge for a loan does not satisfy the debt upon its default.

Deficit A falling short in necessary funds.

Deflation A lessening in money supply; a price drop; the opposite of inflation.

Delayed (Tax-Free) Exchange A transaction in which a property is traded for the promise to provide a replacement like-kind property in the near future. The Tax Reform Act of 1984 allows investment real estate or real property used in a trade or business to be sold with the tax on the gain deferred, provided replacement property is identified within 45 days and closed within 180 days. Other strict requirements must be observed. *See* also Tax-Free Exchange.

Delegation of Powers The conferring by an agent upon another of all or certain of the powers that have been conferred upon the agent by the principal.

Delinquency Rate Statistically, the number of loans with delinquent payments divided by the number of loans held in a portfolio. Sometimes, the rate is based on the total dollar volume of the loans instead of number. Generally, delinquency is qualified to include only loans where payments are 3 or more months past due.

Example: In January, ABC Savings reported 15 loans with delinquent payments of 3 or more months. Its loan portfolio at the beginning of the month included 300 loans. Its delinquency rate at the end of January was 5%.

Delivery Transfer of the possession of a thing from one person to another.

Example: A man dies leaving no will. A search of his possessions uncovers a deed giving valuable land to his nephew. Since the deed has not been delivered, the court ruled that the land does not belong to the nephew.

Demand Desire for property. one of four elements which create value.

Demand Loan A loan that may be called by the lender at any time.

Example: Chen borrows $10,000 from a bank on a demand loan and uses the cash for the downpayment on a parcel of land. The bank may call in the loan and Chen may be forced to sell the property at a

distressed price to meet the demand loan.

Demand Mortgage A note that is repayable on the demand of the holder.

Demand Note A note having no date for repayment, but due on demand of the lender.

Deminimis PUD A term used by the Federal Home Loan Mortgage Corporation to describe a PUD in which the common property has a relatively insignificant influence upon the enjoyment of the premises or has little or no effect upon the value of the property. See also Planned Unit Development.

Demise Transfer to another of an estate for years, for life, or at will.

Demised Premises Property subject to lease.

Example: An apartment is rented under a written lease. In the lease, the apartment is referred to as the demised premises.

Demographic Date Pertaining to characteristics of the population, such as race, sex, age, household size, and to population growth and density.

Example: As a first step in estimating the demand for new housing units, a developer commissions a demographic study. The study describes the current population density and rate of growth, the age distribution of the population, and average size of households in the local market area.

Demolition Destruction and removal of an existing structure from a site; necessary to prepare a site for new construction.

Example: A block of old houses in the city is to be converted into a new shopping mall. This conversion will require demolition of the houses, site preparation and construction of the mall.

Demurrer A legal response that a tenant can file in an unlawful detainer lawsuit to test the legal sufficiency of the charges made in the landlord's complaint.

Density The intensity of a land use. *See* Also Land Use Intensity.

Example: A 10-acre subdivision contains 30 single-family houses. The

density is 3 dwelling units per acre.

Density Zoning Laws that restrict land use intensity.

Example: A zoning ordinance states that all zones designated "R-2" may contain no more than 4 detached housing units per acre. This is an example of density zoning.

Dentil Alternate square blocks and blank spaces and cornice that give the appearance of teeth.

Department of Fair Employment and Housing Department of Fair Employment and Housing - the state agency that investigates complaints of unlawful discrimination in housing and employment.

Depletion A tax deduction to account for reduced land value due to removing minerals.

Example: The $10,000 tax deduction for depletion was allowed because coal was being removed and the land would become virtually worthless when all of the coal was gone.

Depletion Rate A decrease in the value of an asset due to exhaustion of resources, such as the taking of oil from a well.

Deposit Money paid in good faith to assure performance of a contract. Deposits are commonly used with sales contracts and leases. If the person who put up the deposit fails to perform, the deposit is forfeited, unless conditions in the contract allow a refund. Brokers are to put deposits in a separate checking account pending completion of the contract. *See* Earnest Money.

Example: Chen presented a $1,000 check as an earnest money deposit on a home she would buy provided she could get a 10% rate, 30-year loan for 80% of the price. The broker deposited the check in an escrow account, and refunded it when Chen could not arrange said loan.

Deposit Account An arrangement whereby an individual or organization may place cash

under the safekeeping of a financial institution. It is understood that the institution may invest the cash and pay the depositor a specified amount of interest and that the depositor can reclaim the full value of the account according to the agreed upon procedures governing the account.

***Example**:* Town Savings maintains several types of deposit accounts for the benefit of its depositors. The accounts provide funds which are used to make mortgage loans.

Deposit Earnest Money See Deposit.

Deposit Receipt A term used by the real estate industry to describe the written offer to purchase real property upon stated terms and conditions, accompanied by a deposit toward the purchase price, which becomes the contract for the sale of the property upon acceptance by the owner.

Depository Institutions Deregulation And Monetary Control Act Federal law that represents significant decontrol of federally regulated banks and savings institutions, including gradual phase out of limits on interest rates paid on passbook accounts. (Regulation Q).

***Example**:* The Depository Institutions Deregulation and Monetary Control Act is a major effort to reform the nation's banking regulations. Among its effects are:

- standardized reserve requirements for banks and savings and loan associations,
- phase out of deposit interest rate limitations,
- authorization for interest-bearing checking accounts,
- increased ability for savings and loan associations to make consumer loans,
- reduced applicability of state usury laws.

Deprecation The difference between the reproduction cost of improvements and their value. It is the loss in value suffered by improvements to property and personal property caused by physical deterioration, functional obsoles-

cence, and economic obsolescence. Appraisers tend to use still different methods when they use the cost approach.

Depreciable Basis *See* Basis (Tax), Adjusted Tax Basis.

Depreciable Life For tax purposes, the number of years over which the cost of an asset may be spread. *See* Accelerated Cost Recovery.

***Example**:* Chen buys an apartment complex. For tax purposes the building has a 271/2-year depreciable life.

For appraisal purposes, the estimated useful life of an asset.

***Example**:* Lee buys an apartment complex. An appraiser estimates that the roof will last for 15 years, so it has a 15-year depreciable life.

Depreciable Property A real property which has a determinable lifespan that can be measured for depreciation.

Depreciable Real Estate (Tax) Realty that is subject to deductions for depreciation. It generally includes property used in a trade or business, or an investment, subject to an allowance for depreciation under Section 167 of the Internal Revenue Code.

***Example**:* Chen buys an apartment complex for $1 million. Of the purchase price, $100,000 is the value of the land, the remaining $900,000 is the value of depreciable real estate. Chen uses the straight-line depreciation method and a 271/2-year remaining depreciable life.

Depreciated Cost Same as book value or adjusted tax basis.

Depreciation Loss of value in real property brought about by age, physical deterioration or functional or economic obsolescence. The term is also used in accompanied by a deposit toward the purchase price, which becomes the contract for the sale of the property upon acceptance by the purposes.

Depreciation (Accounting) Allocating the cost of an asset over its estimated useful life.

***Example**:* Chu buys a warehouse for $550,000. Of the price, $50,000 is

for land, which is not subject to depreciation. Of the remaining $500,000, she claims accounting depreciation of $10,000 per year over a 50-year depreciable life, despite the fact that the property is expected to increase in value because of the location of the land.

Depreciation (Appraisal) A charge against the reproduction cost (new) of an asset for the estimated wear and obsolescence. Depreciation may be physical, functional, or economic.

***Example**:* The estimated reproduction cost (new) of a theater being appraised is $500,000. Wear and tear sustained during its life is estimated at $100,000. Functional obsolescence caused by lack of air-conditioning and high ceilings causes an estimated loss of $100,000. It is in a decaying area of the city estimated at causing $100,000 of economic obsolescence. Total depreciation is estimated at $300,000.

Depreciation Accrued The amount of depreciation in a specific property at a specific date.

Depreciation Methods Depreciation Rate Accounting technique of allocating the cost of an asset over its useful life.

The rate of percentage at which a property depreciates (is used up).

Depreciation Recapture When real property is sold at a gain and accelerated depreciation had been claimed, the owner may be required to pay a tax at ordinary rates to the extent of the excess accelerated depreciation. Excess depreciation on residential real estate after 1980 is recaptured; all depreciation on commercial property after 1980 is recaptured when an accelerated method had been used, under Section 1250 of the Internal Revenue Code.

Depreciation, Straight Line This method of depreciation is based on estimating the useful life of the asset being depreciated and determining the rate of depreciation by dividing the amount of depreciation to be taken into equal parts to be taken over the estimated useful life.

Depression The low point of a business and economic cycle where unemployment skyrockets and production, prices, and demand are low.

Depth Table A statistical table that may be used to estimate the value of the added depth of a lot.

Deraign To trace or prove ownership of land.

Descent Acquiring property by inheritance when the deceased dies intestate.

The acquisition of property by an heir when the deceased leaves no will.

Example: Chen dies without having prepared a will. His wife and son are awarded title to Chen's estate by the courts. They are said to acquire title by descent.

Description Formal depiction of the dimensions and location of a property; generally included in deeds, leases, sales contracts, and mortgage contracts for real property. *See* government rectangular survey, lot and block, metes and bounds, for specific methods of legal description. *See* also plat.

Example: A sales contract is executed. A portion of the contract contains a description of the property that simply states the street address of the house. In the deed conveyed at closing a more precise metes and bounds description is included based upon a survey of the property.

Descriptive Memorandum A term used to describe an offering circular of property or securities when a prospectus is not required.

Example: A syndicator prepared a descriptive memorandum about the property after receiving an exemption from registering the offering by the Securities and Exchange Commission (SEC).

Design A plan of a building showing all facets of the building's appearance and purpose.

Designated Real Estate Instructor DREI. A real estate teacher, typically of licensing preparation courses, who has been designated by the Real Estate Educators Association.

***Example**:* In order to qualify as a DREI, Don had to demonstrate classroom teaching techniques to a panel of teachers who judged his effectiveness. Don also offered experience and expertise in real estate law.

Desist And Refrain Order An order directing a person to desist and refrain from committing an act in violation of the law.

Desk Cost Broker's total monthly cost of operating the office including salaries divided by number of active sales people in office.

Detached Housing Residential buildings in which each dwelling unit is surrounded by free-standing walls and is generally sited on a separate lot. Contrast with duplex, row house, town house.

Deterioration Impairment of condition. One of the causes of depreciation and reflecting the loss in value brought by wear and tear, disintegration, use in service, and the action of the elements.

Determinable Fee An estate which may end on the happening of an event that may or may not occur.

Developer One who transforms raw land to improved property by use of labor, capital, and entrepreneur efforts.

***Example**:* Chen buys 25 acres of land for $10,000 per acre. After putting in streets and utilities, dividing it into 100 lots, and building homes on each lot, Chen sells the homes. Chen is a developer.

Development The process of adding improvements on or to a parcel of land. Such improvements may include drainage, utilities, subdividing, access, buildings, and any combination of these elements. Also the project where such improvements are being made.

***Example**:* Lee, a developer, acquired a large parcel of land and began the preparation of detailed plans and securing of government permits. Later, the site will be prepared and construction will commence. The development will be the first phase of a large multi-

use subdivision.

Development Cost See *Offsite Improvements*.

Development Loan Same as construction loan.

Development Method An appraisal technique for estimating the value of land. The value of the completely developed site is estimated first. Next, all the costs of development are estimated and subtracted from the value of the completed development. The result is the value of the land.

Devest (Divest) To take a right, estate, or interest away from somebody.

Devise A gift or disposal of real property by last will and testament.

Devisee One who receives a gift of real property by will.

Devisor One who disposes of real property by will.

Dicta Nonbinding but persuasive precedent.

Dike 1. A water channel,

2. A levee.

Diluvium A deposit of soil created by a flood or glacier.

Dimension Lumber Lumber cut to a specified size and stocked by lumberyards for the building industry. Sizes range form 2 to 6 inches thick and 5 to 12 inches wide.

Dining Room A room, separate from the kitchen, used primarily for the serving of meals.

Direct Capitalization Dividing the net operating income by an overall capitalization rate to estimate value. *See* Capitalized Value.

Direct Costs Costs that are readily identified in the construction of real estate, such as labor, materials, and contractor's overhead and profit. Contrast with indirect costs.

Example*:* Direct costs for an apartment building were $2 million;

indirect costs, such as architect's fees, interest during construction, and builder's overhead and profit allowance, totaled $500,000.

Direct Labor Labor costs related to a specific building project. This is not to be confused with indirect labor-overhead and management.

Direct Reduction Mortgage A loan that requires both interest and principal with each payment such that the level payment will be adequate for amortization over the loan's term. *See* Level Payment Mortgage.

***Example**:* Chu borrows $50,000 at 10% interest over a 30-year term, using a direct reduction mortgage. Her monthly principal and interest payment of $438.79 will fully amortize (pay off) the loan over 30 years.

Direct Sales Comparison Approach One of the three traditional appraisal approaches to estimating value. Value is estimated by comparing similar properties that have sold recently to the subject property. Formerly referred as market comparison approach.

Directional Growth The location or direction toward which the residential section of a city is destined or determined to grow.

Discharge In Bankruptcy The release of a bankrupt party from the obligation to repay debts that were, or might have been, proved in a bankruptcy proceeding.

***Example**:* A real estate resort developer filed for bankruptcy. He owned 2,000 unsold vacation lots, and owed $2 million on land acquisition loans. The court granted a discharge in bankruptcy for these loans and allowed the creditor to dispose of the lots.

Disclaimer A statement whereby responsibility is rejected.

***Example**:* Chen, a certified public accountant, is asked to write up the financial statements of Lee without testing (auditing) the validity of the statements. Chen's report provides a disclaimer in which the states that he did not examine the financial statements and does not accept responsibility for their accuracy.

Renunciation of ownership of property.

***Example**:* Because they were no longer profitable, Lee disclaimed apartments that had become dilapidated.

Disclosure Statement A statement required by law, in which sellers of particular kinds of property, or under certain circumstances, must reveal specified information to potential buyers.

***Example**:*

- Most states require sellers of real estate to disclose any **"**dangerous condition**"** to potential buyers.
- Many sellers of investment interests in real estate are required to disclose their own interest and even profit potential.
- Sellers of time-share interests must disclose which portions of the project will be retained by the developer, and the costs and conditions of use by time-share buyers.

Discount To sell a promissory note before maturity at a price less than the outstanding principal balance of the note at the time of sale. Also an amount deducted in advance by the lender from the nominal principal of a loan as part of the cost to the borrower of obtaining lender from the nominal principal of a loan as part of the cost to the borrower of obtaining the loan.

Discount Broker A licensed broker who provides brokerage services for a lower commission than the typical in the market. Generally, the services provided are less extensive than those of a full service broker. Many discount brokers charge a flat fee rather than a percentage of the selling price. *See* Flat Fee Broker.

***Example**:* Davis, a discount broker, offers to list a property for a 3% commission. Davis will refer prospective buyers to the seller and prepare a sales contract. The seller is expected to show the property and negotiate directly with the buyer.

Discount Cash Flow An appraisal technique that analyzes an income property by discounting the future each flow using a rate of return the appraiser estimates is required to attract an investor to the type of investment being appraised.

Discount Point A one-percent discount.

Discount Points Prepaid interest demanded by lender when loan is negotiated. A premium paid for the privilege of borrowing at the stated interest rate.

Discount Rate A compound interest rate used to convert expected future income into a present value. *See* Capitalization Rate, Present Value Of Annuity, Present Value Of One.

***Example**:* A discount rate of 10% applied to a $100 sum expected to be received in one year results in a present value of $90.90 (The present value of one for one year is 0.909.)

The rate charged to member banks who borrow from the Federal Reserve System. Same as rediscount rate.

***Example**:* See rediscount rate.

Discounted Cash Flow A method of investment analysis in which anticipated future cash income from the investment is estimated and converted into a rate of return on initial investment based on the time value of money. In addition, when a required rate of return is specified, a net present value of the investment can be estimated.

***Example**:* An asset may be purchased for $1,000. It is expected to generate $100 in income per year for 10 years, after which time it is expected to sell for $1,200. Discounted cash flow analysis shows that the internal rate of return on the investment is expected to be 11.2% per year.

Discounted Loan One that is offered or traded for less than its face value. *See* Discount, Discount Points.

***Example**:* When the Davis sold their house, they accepted a second mortgage as part of the purchase price. The Davis then sold the loan

to an investor for 75% of its face value. The purchaser of this discounted loan is entitled to all interest and principal payments stipulated in the mortgage contract.

Discounted Present Value *See* Discounted Cash Flow, Net Present Value.

Discounted Rate Of Return A rate of return (annual) that is required to attract investment capital to a particular investment. It varies with the risks, lack of liquidity, and amount of management required by the investment.

Discounting The process of estimating the present value of an income stream by reducing expected cash flow to reflect the time value of money. Discounting is the opposite of compounding. Mathematically they are reciprocals. *See* Discounted Cash Flow, Net Present Value.

Example*:* If the sale of land expected to be $1 million in the year 2000 was discounted to a present value in 1994 at a 15% risk rate, it would provide a value today of approximately $432,000.

Discounting 1. Selling a mortgage or note to a third party at less than its face value.

2. Giving a borrower less than the face value of the note or mortgage.

Discretionary Powers of Agency Those powers conferred upon an agent by the principal which empower the agent in certain circumstances to make decisions based on the agent's own judgment.

Discrimination Applying special treatment (generally unfavorable) to an individual solely on the basis of the person's race, religion, or sex.

Example*:* Chen is accused of discrimination under the Fair Housing Laws because he refused to rent apartments to non-white families.

Disintermediation Situation when deposits are removed from a financial intermediary, such as a savings and loan association, and invested in other assets, generally for the purpose of obtaining higher yields.

Dispersion The spread of building and other improvements from a central point on the property.

A statistical term expressing the degree of scatter of data, usually around the median or mean.

Disposable Income The after-tax income a household receives to spend on personal consumption.

Disposal Field A drainage area made of clay tiles and gravel used to filter and disperse waster from septic tanks.

Disposition A relinquishment or alienation of property.

Disposition Costs The costs associated with selling a property. Selling costs must be subtracted from sales proceeds to determine the resale price when using the discounted cash-flow analysis or the yield capitalization analysis.

Disposition Of Real Estate Statement A statement that the buyer will occupy the property being purchased even though the buyer owns other property. The buyer states that the other property will be sold or rented. Particulars must be given as to any loan on the property and the equity or rent to payment amounts.

Dispossess To deprive one of the use of real estate.

Dispossess Proceedings The legal process by a landlord to remove a tenant and regain possession of property. *See* Eviction.

***Example**:* After not having received rent for 3 months, the landlord began dispossess proceeding to eject the tenant.

Distraint The legal right of a landlord to seize a tenant's personal property to satisfy payment of back rent.

***Example**:* Chen is 6 months in arrears on rent. Landlord Lee obtains a court order to seize Chen's furniture to satisfy the rent due. Lee is exercising his right of distraint.

Distress Sale When a seller sells a property under great pressure to sell. Usually, the property is bought for less than market value.

Distressed Property Real estate that is under foreclosure or impending foreclosure because of insufficient income production. *See* Workout.

***Example**:* An apartment building is financed with mortgages that require $25,000 in annual debt service. Because of high vacancies and rising expenses, net operating income drops to $20,000. The owners have ceased making loan payments because their resources are insufficient to pay the negative cash flow. The property is considered distressed property.

Distributed Load A load that is evenly distributed and measured in tons (or pounds) per square foot.

Distribution Method A method used by appraisers to estimate the value of a property. Some system is used to divide the total price of the property between the land and the improvements. If the value of the land is to be abstracted, the value of the improvements is estimated and subtracted from the whole value to give the land value.

Distribution Panel Box In an electrical system, a metal box containing the fuses or circuit breakers. It is used to divide a supply line into branch circuits. In a septic system, an underground box that divides the waste flowing from the septic tank and distributes it to the disposal field.

Distribution Tile The concrete or clay tile used for drainage in a disposal field.

Diverter A device that keeps water from roofs from flowing onto uncovered steps or platforms.

Divided Agency An agent acting for more than one party in a transaction without knowledge or consent of all parties..

Divided Interest An interest in some part of a whole property.

Divided Rate *See Split Rate*.

Dividend A word synonymous in appraising with net operating income. See Net Operating Income.

Money divided among shareholders.

Dividend Yield The ratio of cash flow to cash invested expressed in a percentage.

Division Wall A wall that is shared by two buildings but which does not belong to either or a loadbearing interior wall.

Dock 1. A loading platform for ships, railroad cars, or trucks.

2. A landing pier for boats.

Documentary Evidence Evidence in the form of written or printed papers.

Example*:* During court proceedings, a sales contract was entered in the record as documentary evidence of the agreement made between the plaintiff and the defendant.

Documentary Transfer Tax A tax collected when a deed is recorded. Stamps are affixed to the deed.

Documents Legal instruments such as mortgages, contracts, deeds, options, wills, bills of sale, etc.

Dollar Adjustments An adjustment made to a comparable sale in the direct sales comparison approach of appraisal for a quantitative difference from the subject property. The adjustment is made in a lump-sum dollar figure, e.g., most of the ownership interests, cash equivalency, functional and economic obsolescence adjustments are made on a lump-sum dollar basis.

Domestic Hot Water System A mechanical system designed to produce hot water for household purposes.

Domicile The state in which one makes his or her principal residence.

Example*:* Jean's job requires her to travel throughout the United States. Although she owns property in several states, Jean's domicile is New York, where she has her principal residence. Jean is subject to the laws of New York concerning automobile registration, voting rights, payments of taxes, and other matters.

Dominant Tenement The land that is benefited by an easement appurtenant.

Donee A person to who received a gift.

Donor A person who makes a gift.

Door Jamb The vertical pieces surrounding a door opening.

Door Sill The framing member at the bottom of a door opening that serves as a threshold.

Dormer A window projecting through a sloping roof (single dormer).

The roofed structure containing such a window (shed dormer).

Dormer Window A vertical window in small gable that projects from a sloping roof.

Double Courses A double layer of shingles or similar material.

Double Declining Balance A method of depreciation for tax purposes whereby twice the straight-line rate is applied to the remaining depreciable balance of an asset. *See* Declining Balance Depreciation.

Double Escrow *See* Escrow, Double.

Double Floor A wooden floor and subfloor.

Double Framing A way of increasing strength by doubling the usual number of framing members.

Double Taxation Taxation of the same income at 2 levels.

***Example**:* A corporation earns $25,000 of net income. The corporation pays a $5,000 corporate income tax, then distributes $20,000 in dividends to its shareholders, who pay an $8,000 tax on this dividend income. The corporation's earnings are subject to double taxation.

Double-Hung Window A window with two sashes the move up and down independently in tracks.

Dovetail A projecting end of a piece that has a fan or dovetailed shape.

Dower The right to which a wife has in her husband's estate at his death.

Down Payment The amount one pays for property in addition to the debt incurred.

***Example**:* Chen buys a house for $50,000. He arranges a $30,000 first

mortgage and a $5,000 second mortgage. The down payment he needs is $15,000 which he pays in cash at closing.

Down Zoning The act of rezoning a tract of land for a less intensive use than the existing use or permitted use.

Example: Arlington had a booming single-family residential market, but was not attracting industry. The owner of a large tract of land zoned for industrial use asked for a downzoning to single-family housing use to develop the land immediately.

Downspout A pipe used for carrying rainwater from the roof of a house to the ground or into a dry well or sewer connection.

Dragnet Clause A provision in a mortgage that pledges several properties as collateral. A default on one mortgage constitutes a default on the one with the dragnet.

Example: A real estate investor was in financial straits. She failed to pay a certain mortgage. The holder of the mortgage on a different property, which was not in default, enforced the dragnet clause in its mortgage by foreclosing.

Drain Tile Hollow tile used to drain water-saturated soil or disperse liquid into the ground, as in an absorption field.

Drainage A system that removes surface water through tiles and pipes.

Drainage District A geographic area where the local government controls the construction and operation of the drainage systems.

Draw A periodic advance of funds from a construction lender to a developer. Construction loans generally provide for a schedule of draws, either at regular intervals during construction or pending construction of specific segments of the structures.

Example: A developer arranges a construction loan of $500,000. The funds are to be advanced in a series of draws as follows:

- $50,000 upon completion of final plans and specifications.

- $200,000 upon completion of the foundation.
- $150,000 upon completion of the frame, external surfaces, and roof.
- $100,000 upon internal finishing.

Drip A piece of molding placed at the edge of a door or window to divert water away from the opening so it will fall free to the ground.

Drip Cap A projection from the vertical face of an exterior wall used to make rainwater drip from the outer edge of the wall rather than run down the wall face.

Drop Panel The thickened part of a concrete slab that surrounds a column or bracket.

Drops See Carved Drop.

Drops Siding A type of tongue-and-grooved exterior board siding.

Dry Mortgage Same as nonrecourse mortgage.

Dry Rot Decay of seasoned wood; caused by fungus.

Dry Well A hole in the ground lined with stone used to disburse waste or rainwater into the ground.

Dryer A device used to dehydrate farm crops before storage.

Drywall A covering wall board made of plaster and heavy paper. It is also called gypsum board or plaster board.

Drywall Construction Interior wall construction that uses wallboard, plywood, and other sheet materials instead of wet plaster.

Dual Agency The situation in which an agent represents more than one party to a transaction with the knowledge and consent of all parties.

Also see Divided Agency.

Example: In certain real estate transactions involving exchange of real estate, it is not uncommon for one broker to arrange the swap,

representing both parties and thereby creating a dual agency.

Dual Contract The illegal or unethical practice of providing 2 different contracts for the same transaction.

Example: Chen wants to purchase a home from a builder for $144,000 but has no cash for the down payment. The builder suggests that they prepare a fictitious contract for $160,000 and try to borrow 90% of $160,000. The bank's attorney discusses the dual contract and explains that they could be guilty of attempted fraud.

Ducts In construction, these are pipes of metal, plastic, or other material used for distributing or collecting air.

Due-On-Sale Clause A provision in a mortgage that states the loan is due upon the sale of the property.

Example: Chu owes on a $30,000 mortgage loan against her house at an 8% interest rate. She wants to sell the house to a buyer who will assume the mortgage. The lender says that the $30,000 loan is due upon the sale of the house so it cannot be assumed by the buyer. The lender adds that he will waive the due-on-sale provision if the interest rate is escalated to 16%.

Dummy An individual or entity that stands in the place of the principal to a transaction.

Example: Chen wants to borrow from a bank $100,000 to build houses to sell. Chen requests his attorney to establish a dummy corporation with $500 of equity. the dummy borrows the $100,000 from the bank and, in turn, lends it to Chen as a non-recourse loan.

Duplex Two dwelling units under one roof.

An apartment having rooms on two floors.

Example: An artist in a Manhattan duplex apartment enjoyed the sunlight that came in from the upper floor to his studio below.

Duplex Outlet An electrical outlet that can receive two plugs. It is the most common

type of outlet used.

Duplex Receptacle See Duplex Outlet

Durable Capital Goods Long-lasting goods that can be used again and again, like office machinery. They should be distinguished from raw materials.

Duress Unlawful constraint exercised upon a person whereby he is forced to do some act against his will.

Dutch Auction A bidding process in which the asking price is lowered gradually until someone places a qualifying bid.

Example: The home was offered in a Dutch auction beginning at $150,000. The auctioneer lowered the price gradually in $5,000 increments until a bidder was found willing to pay $120,000. Therefore, the home was sold for $120,000.

Dutch Colonial An early-American-style, moderate-sized, 2-to 21/2-story house with a gambrel roof and eaves that flare outward.

Dutch Door A door that is divided horizontally in the middle so the halves may be opened and closed independently or together.

Dwelling A place of residence.

Examples: The following are dwellings: apartment, hotel, mobile home, nursing home, single-family house.

Dwelling, Detached A living unit that is completely surrounded by open space.

Dwelling, Duplex See Duplex.

Earnest Money Deposit accompanying an offer.

Earnings Money earned from labor or personal services rather than money received as return on capital.

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

Easement Appurtenant An easement attached to the dominant estate; it is passed with the conveyance of the dominant estate and continues to burden the servient estate.

Easement By Necessity The right of an owner to cross over another's property for a special necessary purpose.

Easement By Prescription Continued use of another's property for a special purpose can ripen into a permanent use if conditions are met.

> ***Example****:* Although Chen can reach the highway by another path, for the last 10 years, Chen has been traveling across Lee's property to reach the highway. Since Chen has been doing this for the length of time required by state law, Chen can continue to do so despite Lee's protests, because Chen has achieved an easement by prescription.

Easement In Gross An easement that is not attached to any parcel of land but is merely a personal right to use the land of another.

Easing The part of a handrail that curves parallel to the floor.

Easton v. Strassburger A leading court case requiring a real estate licensee to make a diligent inspection of property involved in a sale.

Eave Flashing Metal strips attached to eaves and gutters to prevent water absorption and provide drainage.

Eave Vent A vent located under the eaves of a house.

Eaves The lower part of a roof projecting over the wall.

Ecology The science of the relationship between living things and their environment.

Economic Age-Life Method A method used to estimate accrued depreciation by multiplying the reproduction or replacement cost by the ratio of effective age divided by total economic life. Curable and short-lived items are not estimated separately.

Economic Base Industry within a geographic market area that provides employment op-

portunities that are essential to support the community.

***Example**:* Steel is the economic base for Pittsburgh. For each steelworker added to the economic base there is another job added in service employment (physician, lawyer, switchboard operator, barber). Each new job brings 2 people to the community (spouse, children, nonworking parents, etc.).

Economic Base Analysis A technique for the analysis of the macro economic supports of a community. It is used as a means of predicting income and population or other variables that affect real estate value.

Economic Depreciation Loss of value from all causes outside the property itself. *See* Depreciation (appraisal).

***Example**:* An expensive private home may drop in value when an industrial plant is built nearby. This is a form of economic depreciation that must be considered in the appraisal of the property.

Economic Forces In appraisal theory, one type of force that affects property value. It includes effects on value such as supply and demand, employment, wage levels, industrial expansion, and availability of mortgage credit.

Economic Life The period over which a property will yield a return on the investment, over an above the economic or ground rent due to land.

Economic Obsolescence A loss in value due to factors outside the subject property but adversely affecting the value of the subject property.

Economic Rent The reasonable rental expectancy if the property were available for renting at the time of its valuation. Earnings attributable to the ground itself.

Economically Feasible Refers to a real estate project that is able to meet defined financial investment objectives, the ability of a project to produce sufficient cash flows to repay all of the expenses involved in creating and marketing the project plus provide a competitive return to the owner/developer. A criterion of highest and best use analysis.

Effective Age The age of a property based on the amount of wear and tear it has sus-

tained. Contrast with actual age.

Example: Lee's house was built 12 years ago. Because she keeps it in excellent condition it shows only as much wear as a typical 5-year-old house. Lee's house therefore has an effective age of 5 years.

Effective Age Of Improvement The number of years of age that is indicated by the condition of the structure.

Effective Annual Rate The annual interest rate equivalent to a nominal rate that is compounded more frequently than annually. For example, if the nominal rate is 10% compounded monthly, the effective annual rate is $(1 + (.10/12))^{12} - 1 = 10.47\%$.

Effective Date In an appraisal report, the date for which the value is being estimated. The effective date is not necessarily the same as the date the report is written.

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

Effective Demand The desire to purchase combined with the ability to pay.

Effective Gross Income For income-producing property, potential gross income (scheduled gross income), less a vacancy and collection allowance, plus miscellaneous income. Also known as Adjusted Gross Income.

Effective Gross Income Multiplier EGIM. The ratio of the sales price, after adjustment for non-realty interests and favorable financing divided by the projected first-year effective gross income. For income-producing properties, the EGIM can be derived from comparable sales as one method of estimating a property value in the direct sales comparison approach.

Effective Gross Revenue See Effective Gross Income.

Effective Interest Rate The percentage of interest that is actually being paid by the borrower for the use of the money.

Effective Rate The true rate of return considering all relevant financing expenses. *See*

Annual Percentage rate.

Example: Chen borrows $10,000 on a one-year bank loan. He pays 2 discount points and a 10% face interest rate. He repays the loan at the end of the year, with interest. Since he really received only $9,800 at the start of the loan and repaid $11,000, the effective rate was greater than 10%. It was approximately 12.25%.

Effective Rate Of Capital Recovery (Effective Capital Recovery Rate) The difference between the overall rate and the discount rate. The capital recovery rate weighted by the percentage of investment in the improvements.

Effective Tax Rate The taxes on a property expressed as a ratio between the market value of the property and the annual taxes. This is used as a method of comparing the taxes on properties located in different communities with different assessment percentages and different tax rates.

Efficiency Rate In appraising, the ratio of rentable square feet of office space to gross square footage.

Efficiency Ratio The proportion of a building's area that is leasable space.

Example: An office building contains 200,000 square feet of space. Of this amount, 10,000 square feet are taken up by elevators and other physical plant equipment. Another 5,000 square feet are taken up by the sales and management office. Restrooms and hallways occupy 30,000 square feet. The lobby is 5,000 square feet. Total space available for lease is 150,000 square feet. The efficiency ratio is 150,000:200,000. or 75%.

Efficiency Unit Or Apartment A small dwelling unit, often consisting of a single room, within a multi-family structure. In most cases, kitchen and bath facilities are not complete.

Effluent Liquid sewage after some stage of treatment.

Egress Means of leaving property.

Ejectment Action to regain possession of real property, when there is no lease.

Example: The holder of a conditional sales contract, through an action in ejectment, regains possession when the buyer defaults.

Election Of Remedies A legal rule requiring a plaintiff to declare which of several alternative remedies will be pursued in a lawsuit.

Electric Air Cleaner An electronic device that charges dust particles with electricity and removes them by attracting the particles to metal collecting rods.

Electric Heat A heating system run by converting electricity into heat. The heat may be transferred directly by radiation or it may be used to heat air which, in turn, moves to the area by a process called convection. Some heating systems use a combination of both methods of heat transfer.

Electrical System The wiring, circuit breakers, fuses, distribution box, wall switches, lighting fixtures and such necessary to provide sufficient electrical service to power all the electrical equipment in a building. Most wiring is armored cable. However plastic-coated wire and knob-and-tube wiring have also been used. Wire is typically made of copper, but aluminum wire was used frequently after the 1940s. Because of its lower resistance to fire, aluminum use is now prohibited in some areas.

Eleemosynary Corporation A corporation created for charitable purposes. There are tax advantages accorded to such corporations. The corporation may operate the same as a profit making corporation. Commonly called a nonprofit corporation.

Elements of Comparison A categorization of property characteristics that causes real estate prices to vary, e.g., property rights, financing terms, conditions of sale, date of sale (or market conditions), location and physical characteristics.

Elevation Height above sea level or height measured from any point.

An illustration showing the vertical exterior design of a building.

A geometrical projection of a vertical plane perpendicular to a horizontal plane.

Elevation The movement of soil caused by water in the soil.

Ellwood Technique In the appraisal of mortgaged income property, a technique used to estimate the present value of the property. The appraiser determines and discounts to a present value the annual cash flow to the equity owner and the expected resale proceeds. Those amounts are added together to derive the equity value, then added to the mortgage balance to offer a property value estimate. The late L. W. Ellwood provided capitalization rate tables that accelerate the process.

Emblement Growing annual crops. The right of a tenant farmer to harvest his crop after his lease expires.

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.

Empty Nesters A couple whose children have established separate households; important segment of the housing market, since empty nesters often seek to reduce the amount of housing space they occupy. Thus empty nesters are one source of demand for smaller housing units.

***Example**:* The Davis have raised 2 children, who are now grown and have families of their own. As empty nesters, the Davis no longer have need for the big 4-bedroom home they occupy. They purchase a 2-bedroom town house, which provides all the space they require.

Enclosure Land enclosed within a visible boundary, such as a fence, used to protect a property from encroachment by animals.

Encroachment Trespass; the building of a structure or construction of any improvements partly or wholly on the property of another.

Encumbrance Anything which affects or limits the fee simple title to property, such as mortgages, easements or restrictions of any kind. Liens are special encumbrances which make the property security for the payment of a debt or obligation, such as mortgages and taxes.

End Loan Same as permanent mortgage.

Endorsement The signature of the payee on the back of a negotiable instrument.

Energy Efficient As applied to buildings, generally indicating the existence of extra insulation, weatherproofing, and/or special features and equipment designated to reduce the cost of energy for heating, cooling and hot water.

Example: An energy efficient home might have an extra layer of insulation in the attic and walls, a relatively airtight exterior, a heat pump, and a solar hot water heater. An energy efficient furnace might be designed to burn fuel more completely and capture more of the heat generated.

Energy Tax Credits A reduction in income tax, generally based on the cost of installing insulation and other energy-saving devices. Note: At the federal level, energy tax credits generally expired before 1987 and were not renewed by the 1986 Tax Act.

Engineering Breakdown Method A method of figuring accrued depreciation by making separate estimates for individual components and totaling their sum.

English Basement The floor of an apartment building or row house that is about half below ground level. It often has windows and is used as a dwelling unit.

Entity The legal form under which property is owned. *See* also Corporation, Limited Partnership, Partnership.

Example: The benefits and risks of owning real property may vary depending on the entity that is formed. Among the options are: corporation, individual ownership (see tenancy entries), joint venture, limited partnership, partnership, real estate investment trust.

Entrepreneur An individual who generates business activity. A businessman or businesswoman. Often associated with one who takes business risks.

Example: Businesses owned by entrepreneurs include: auto dealerships, restaurants, retail stores, wholesale distributing companies.

Entrepreneurial Profit The sum of money an entrepreneur expects to receive in addition to costs for the time and effort, coordination and risk bearing necessary to create a project. The portion associated with creation of the real estate by a developer is referred to as developer's profit. Properties that also include an operating business may include additional entrepreneurial profit that is reflected in the going-concern value of the property.

Environmental Conditions The climate, topography, natural barriers, transportation systems and other factors of location that affect the value of a property.

Environmental Controls Standards set by the Environmental protection Agency to control air, water and noise pollution and other environmental conditions.

Environmental Forces In appraisal theory, one of four categories of forces that affect property value; environmental forces include effects on value such as climate, location, topography, natural barriers and transportation systems.

Environmental Impact Statement An analysis of the expected effects of a development or action on the surrounding natural and fabricated environment. Such statements are required for many federally supported developments under the National Environmental Policy Act of 1969.

Example: Chen seeks to develop a large subdivision and obtain FHA-insured financing for lot purchasers. Chen must prepare an environmental impact statement detailing the effects the development will have on the natural and fabricated environment.

Environmental Obsolescence See Economic Obsolescence.

Environmental Protection Agency (EPA) An agency of the U.S. government established to enforce federal pollution abatement laws and to implement various pollution prevention programs.

Example: The Environmental Protection Agency requires permits for the sitting of manufacturing facilities that may introduce pollution into the air or public waters. The EPA also provides grants to local

governments to assist in construction of sewage treatment plants.

EPA *See Environmental Protection Agency.*

Equal Credit Opportunity Act A federal law, enacted in 1974, to discourage discrimination by lenders on the basis of sex or marital status. Amended in 1976 to prohibit discrimination on the basis of age, race, color, religion, national origin, or receipt of public assistance.

Example*:* Chu, a divorced woman, is denied a mortgage loan by a local savings and loan association. She feels she would have obtained the loan if she were a man. She sues the savings and loan under the Equal Credit Opportunity Act. Her steady, permanent part-time earnings are to be considered in granting the loan.

Equalization Board A government agency that determines the fairness of taxes levied against properties.

Example*:* Chen feels the market value estimate of his property made by the tax assessor is too high. Appeals to the assessor do not result in satisfying Chen's complaint. Chen may take his case to the Equalization Board in the hope of reducing the amount of his assessment.

Equipment Fixed assets other than real estate, such as office or automotive equipment, which are separate from other assets under the category of fixtures because of their physical attachment to a realty.

Equitable Conversion A legal doctrine in some states in which, under a contract of sale, buyers and sellers are treated as though the closing had taken place in that the seller in possession has an obligation to take care of the property. *See* Equitable Title. Note: A contract of sale may specify which party incurs risk of loss until closing.

Example*:* Though the legal title has not passed, the law holds that there has been an equitable conversion that effectively vests the property in the buyer.

Equitable Mortgage A lien against real property(mortgage) which is enforceable in court of equity, but does not legally constitute a mortgage. (2) A deed given as security for a debt will be held to be a mortgage rather than a transfer of title. Also called a constructive mortgage.

Equitable Title The title held by a vendee under a land contract.

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.

Equity Line Of Credit A combination of a line of credit and equity loan. A maximum loan amount is established based on credit and equity. A mortgage (deed of trust) is recorded against the potential borrower's property for said maximum loan amount. The potential borrower has the right to borrow, as needed, up to the amount of the mortgage.

Equity Build-up The gradual increase in a mortgagor's equity in a property caused by amortization of loan principal.

Example: Davis bought a home for $20,000 cash plus a mortgage loan of $80,000, the total cost being $100,000. After 5 years, Davis had worked the outstanding principal of the loan down to $76,000. Assuming the home was still worth at least $100,000. Davis now has an additional $4,000 in equity because of equity buildup.

Equity Capitalization Rate (R_E) The capitalization rate that reflects the relationship between a single year's before-tax cash flow and the equity investment in the property. The before-tax cash flow in this instance is the net operating income less the annual debt service payment, and the equity is the property value less any outstanding loan balance. The equity capitalization rate, when divided into the before-tax cash flows, gives an indication of the value of the equity. Also called cash-flow rate, cash on cash rate, or equity dividend rate.

Equity Constant See Equity Dividend Rate.

Equity Dividend The annual cash flow that an equity investor receives. *See* Before-Tax Cash Flow, Cash-On-Cash Return.

Equity Dividend Rate The ratio of the original investment in cash (equity dividend) to before-tax cash flow (investment). It is the cash received on the cash invested in a property.

Equity Kicker *See* Kicker.

Equity Of Redemption The right to redeem property during the foreclosure period.

Equity Participation An agreement by which a lender receives some share of the income and/or cash flow of a property based on the performance of that property. The participation might be based on a percentage of the net operating income, cash flow from operations, and/or the gain from sale of the property. The equity participation results in an additional return to the lender above the interest rate charged on the loan. Same as participation mortgage.

Equity Ratio The ratio of down payment to total price. It is the part of an investment that is free of debt.

Equity Residual Technique An appraisal technique for solving for value by which the first year's before-tax cash flow (net operating income minus annual debt service) is capitalized by the equity capitalization rate (equity dividend) to arrive at an estimate of the equity value. The equity value is then added to the loan balance to arrive at an estimate for the total property.

Equity Yield The return on the equity from all sources. It includes the annual equity dividend and any excess or deficit over the original equity investment at the termination of the investment.

Equity Yield Rate (Y_E) The rate of return on the equity portion of an investment, taking into account periodic cash flow and the proceeds from resale. Considers the timing and amounts of cash flow after annual debt service, but not income taxes. *See* After-Tax Equity Yield.

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

Errors And Omissions Insurance Liability protection against professional malpractice, mistakes in business dealings by insured, etc.

***Example**:* Real estate brokers usually have errors and omission insurance to protect against claims arising from mistakes they and their agents make in their representation of clients.

Escalation The right reserved by the lender to increase the amount of the payments and/or interest upon the happening of a certain event.

Escalation Clause A clause in a lease that adjusts the rent during the term of the lease to reflect changing conditions. Some escalation clauses adjust for the cost of living by tying the amount of rent to an index such as the U.S. Department of Labor cost of living index. It is also common to adjust the rent to reflect the amount of business the tenant is doing on the premises.

Escalator Clause A clause in a contract providing for the upward or downward adjustment of certain items to cover specified contingencies.

Escape Clause A provision in a contract that allows one or more of the parties to cancel all or part of the contract if certain events or situations do or do not happen.

***Example**:* Mary agrees to buy Joe's house for $100,000; the contract of sale includes an escape clause that allows Mary to cancel the contract if she cannot obtain approval for a mortgage loan of $80,000 within 60 days.

Escheat The reverting of property to the state when heirs capable of inheriting are lacking.

Escrow The deposit of instruments and funds with instructions to a third neutral party to carry out the provisions of a agreement or contract; when everything is deposited to enable carrying out the instructions, it is called a complete or perfect escrow.

Escrow Account Same as trust account.

Eg: a bank account into which a tenant deposits withheld rent, to be withdrawn only when the landlord has corrected uninhabitable conditions in the rental unit or when the tenant is ordered by a court to pay withheld rent to the landlord.

Escrow Agent Any person engaged in the business of receiving escrows for deposit or delivery.

Example*:* The title company is serving as the escrow agent. It holds the earnest money and deed, pending fulfillment of other conditions to the contract.

Escrow, Closing Term meaning the same as closing, especially in states where deeds of trust are used instead of mortgages.

Example*:* Elaine sold her land in California to Connie. The title company acted as escrow agent. Elaine surrendered her deed to them and Connie gave her purchase money to them, thus effecting an escrow closing.

Escrow, Double Opening escrow to sell a property while another escrow on the same property is still open is a form of double escrow.

Buying property through a middle man is also a form of double escrow.

Estate As applied to the real estate practice, the term signifies the quantity of interest, share, right and equity, of which riches or fortune may consist in real property. The degree, quantity, nature and extent of interest which a person has in real property.

Estate At Sufferance An estate arising when the tenant wrongfully holds over after the expiration of the term. The landlord has the choice of evicting the tenant as a trespasser or accepting such tenant for a similar term and under the conditions of the tenant's previous holding. Also called a tenancy at sufferance.

Estate At Will The occupation of real estate by a tenant for an indefinite period, termi-

nable by one or both parties at will.

***Example**:* Under an estate at will, the landlord may evict the tenant at any time, and the tenant may vacate at any time. The tenant may have certain rights, however, such as ownership of emblements (crops as a result of annual cultivation).

Estate For Life A freehold estate, not of inheritance, but which is held by the tenant for his own life or lives of one or more other persons.

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 may be said to be an estate for years.

Estate From Period To Period An interest in land where there is no definite termination date but the rental period is fixed at a certain sum per week, month, or year. Also called a periodic tenancy.

Estate In Fee A fee estate. The greatest degree of ownership of real property.

Estate In Remainder Title to a property is to pass on to a third person (remainderman) upon the death of a designated person on whose life the estate depends, the third person holds an Estate in Remainder during the life of the holder of the life estate.

***Example**:* A deeds a life estate to B for the life of B. When B dies, the property passes to C. B holds a life estate; C holds the estate in remainder.

Estate In Reversion An estate left by the grantor for himself or herself, to begin after the termination of some particular estate granted by him or her.

***Example**:* All landlords have an estate in reversion which becomes theirs to possess when the lease expires.

A deeds a life estate to B for B's life, with the provision that when B dies, the title revert back to A. B holds a life estate; A holds the estate in reversion.

Estate In Severalty *See* Tenancy In Severalty.

Estate Of Inheritance An estate which may descend to heirs.

Estate Tax A tax based on the value of property left by the deceased. Since 1987, the estate and gift tax laws exempt approximately $600,000 of property.

***Example**:* Chen dies, leaving $800,000 worth of assets. The estate of Chen will pay an estate tax. Chen's heirs may also be liable for an inheritance tax under their state law.

Estimate To form a preliminary opinion of value.

Estimated Remaining Life The period of time it takes for the improvements to become valueless.

Estimated Selling Price A statistical term used to express the projection made by regression analysis.

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

Estoppel Certificate A document by which the mortgagor (borrower) certifies that the mortgage debt is a lien for the amount stated. The debtor is thereafter prevented from claiming that the balance due differs from the amount stated.

***Example**:* The Good Money Savings Association asks Chen to sign an estoppel certificate, which he does. Good Money Savings then sells the mortgage to Lee, who buys with confidence. Chen is later estopped (prevented) from denying that he owed the money.

Estovers The legally supported right to take necessities from property. Contrast with waste.

***Example**:* Jean has a life estate on property. She needs to cut timber for firewood to heat the residence. The remainderman, Lee, complains that Jean is damaging the property. The law supports Jean's use of the estovers as she has been doing.

Et Al And others.

Et Con Abbreviation of the Latin et conjunx. Legal term signifying **"**and husband.**"** *See* Et Ux.

Example*:* Hereby signed and delivered by Ellen Smith et con.

Et Ux And wife.

Ethics That branch of moral science, idealism, justness, and fairness, which treats of the duties which a member of a profession or craft owes to the public, to his clients or patrons, and to his professional brethren or members.

Evaluation A study of potential property uses, but not to determine its present value.

Examples*:* Evaluations include studies as to the market and marketability of a property, feasibility, highest and best use, land use, and supply and demand.

Eviction Dispossession by process of law. The act of depriving a person of the possession of lands in pursuance of the judgment of a court

Eviction Notice A notice given to a tenant to vacate the premises due to non-payment of rent or other breach of the lease agreement. Usually served using **"**three-day notice**"**.

Eviction, Actual Exists where one is removed from the property, either by force or by process of law.

Example*:* An apartment tenant may be subject to actual eviction, in which case, a notice will be served requiring the tenant to vacate the apartment within a specified time interval.

Eviction, Constructive Exists when, through the fault of the landlord, physical conditions of the property render it unfit for the purpose for which it was leased.

Example*:* A landlord may allow the physical condition of an apartment building to deteriorate to the point that the premises are no longer

safe for occupancy. A tenant may be able to terminate the lease, order constructive eviction, and end liability for future rent payments.

Eviction, Partial Exists where the possessor of the property, such as a tenant, is deprived of a portion thereof.

Example: A law firm leases a floor of an office building. The landlord wishes to make substantial modifications to one side of the building. Because of the disruption caused by the work, the tenant and landlord agree to a partial eviction from the property affected by construction. The tenant's rent is reduced accordingly.

Evidence Of Title Documents, such as deeds, that demonstrate ownership.

Example: The property owner kept the deed in a bank vault because it is important evidence of title.

Examination Of Title Research of the title to a piece of real estate; less thorough than a title search, usually concentrates on recent records.

Example: Charles, attorney-at-law, prepared a title examination for a building that was sold. The same building had sold two years earlier, and Charles had prepared a title search then; he found no reason to duplicate efforts for the more recent sale.

Excavation A hole dug to provide safe and adequate support for footings and foundations.

Exceptions Matters affecting title to a particular parcel of real property which are excluded from coverage of a title insurance policy.

Excess Accelerated Depreciation The accumulated difference between accelerated depreciation claimed for tax purposes and what straight-line depreciation would have been. Generally, excess accelerated depreciation is recaptured (taxed) as ordinary income upon a sale, instead of receiving more favorable capital gains treatment. *See* Depreciation Recapture. Note: Since the 1986 Tax Act, the significance of accelerated depreciation has been diminished

because only straight-line may be claimed for real estate acquired since then, and the tax rate differential between ordinary income and capital gains has been minimized.

Excess Condemnation Taking by right of eminent domain, more property than actually necessary for the intended purpose. This happens frequently, the excess property being sold at auction after completion of the project.

Excess Income *See* Excess Rent.

Excess Land On an unimproved site, land that is not needed to accommodate a site's highest and best use. On an improved site, excess land is the surplus land that is not needed to serve or support the existing improvement. It may not be adding "plottage" value and is most likely being held by the owner for future development. Its interim highest and best use may very well be as vacant land.

***Example**:* The standard lot size in a local market is one acre. Suppose a subject parcel contained five acres, the additional four acres are excess land.

Excess Rent The amount by which contract rent exceeds market rent due to unfavorable lease terms. When the rent of an existing lease exceeds the rental rate on comparable existing space. Should the lease expire or the tenant break the lease, the new rate will probably be at market rates.

***Example**:* Two years ago the Delta Corporation signed a 5-year lease on office space in downtown Metropolis at $25 per square foot. Overbuilding of office space caused the market rental rate of the space to decline to $20. The $5 paid above market rent is considered excess rent. This is part of the leased fee value, but a prospective buyer of that building should recognize that the excess rent will diminish upon lease expiration, or perhaps sooner.

Excess Value A value greater than market value that is created when a property is leased to a good tenant at a rental that exceeds the fair market rent of the property. See also Excess Rent.

Exchange Under Section 1031 of the Internal Revenue Code, like-kind property used in a trade or business or held as an investment can be exchanged tax-free. *See* also Boot, Realized Gain, Recognized Gain, Delayed (Tax-Free) Exchange.

Example*:* Chu exchanges her farm worth $100,000, but subject to a $20,000 mortgage, for Lee's apartments worth $80,000.

Exchange Agreement Instrument used in exchange.

Exclusion General matters affecting title to real property excluded from coverage of a title insurance policy.

Exclusionary Zoning

Exclusive Agency A contract that gives an agent exclusive right to sell a property. The owner usually reserves the right to sell the property without having to pay a commission. The term is also applied to a property with such a contract.

Exclusive Agency Listing A written instrument giving one agent the right to sell property for a specified time but reserving the right of the owner to sell the property himself without the payment of a commission.

Exclusive Listing A written contract between a property owner and a real estate broker wherein the owner promises the broker a fee or commission if the property is sold during a stated period. There are two basic types of exclusive listing: exclusive agency listing and exclusive right to sell.

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.

Exculpatory Clause A clause which releases the landlord from liability due to injuries.

Execute To complete, to make, to perform, to do, to follow out: to execute a

deed, to make

Executed Contract A contract where both parties have completely performed.

Execution Lien A lien permitting a judgment creditor to seize and sell the defendant's property to satisfy the judgment.

Execution of Judgment A court order allowing an official of the court to put into effect a judgment of the court.

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

Executor's Deed A court-approved deed where the grantor is the executor.

Executory Contract A contract where something remains to be done by one or both parties.

Executrix A woman who performs the duties of an executor.

***Example**:* Chen appoints his wife as executrix for his state. She will not need a real estate license to sell the property he leaves.

Exemplary Damages Damages to punish (make an example of) the offender. This is done when the wrong is deliberate or grossly negligent and compensatory damages do not appear to be sufficient.

Exemption An amount provided by law that reduces taxable income or taxable value.

***Example**:* Personal exemptions, generally based on the number of people in a household, reduce taxable income.

***Example**:* Homestead exemptions, offered in many jurisdictions, reduce the value of real estate that would otherwise be subject to ad valorem tax.

Existing Mortgage The mortgage belonging to the seller of a property which is assumed by the buyer.

Expandable House A house especially built for expansion or additions.

Expansion Joint A joint or gap between adjacent parts of a building, units of concrete, or

any structure that allows for expansion as a result of temperature changes.

Expansion Tank An air-filled tank in a hot-water heating system which provides space for the increased volume of water that results from heating the water.

Expense Ratio A comparison of the operating expenses to potential gross income. This ratio can be compared over time and with that of other properties to determine the relative operating efficiency of the property considered.

Example*:* An apartment complex generates potential gross income of $1 million annually and incurs operating expenses of $400,000 over the same time period. The expense ratio of 40% can be compared to its historical rate and to that of other competitive properties. The comparison may disclose reasons for differences that may be used to bolster the property's efficiency.

Expense Stop In a lease, a dollar amount (usually expressed on a per square foot basis) above which the tenant agrees to pay operating expenses. An expense stop is used to help protect the lessor from unexpected increases in expenses from inflation or other factors. The amount paid by the tenant is said to **"**pass through**"** to the tenant.

Expenses Certain items which appear on a closing statement in connection with a real estate sale.

Expert Testimony Testimony by one acknowledged to have special training and knowledge in a particular subjecct. Only testimony on the subject in which the witness is **"**expert**"** is considered expert testimony.

Exposure (Market) The advertising, whether free or paid, of property that is for sale.

Example*s:* Real estate agents provide market exposure through such devices as:

◆ classified ads in local papers, ◆ for sale signs on the premises, ◆ inclusion in multiple listing service, ◆ displays in their office.

Express Contract A contract whose elements are stated either orally or in writing.

Expressed Stated in words.

Expropriation 1. The act of taking private property for public use.

2. The term is also used to describe the situation where a foreign government takes property of nationals of other countries with adequate compensation.

Extended Coverage A broad form title insurance policy which protects the owner against additional risks.

Extended Plenum System A system of ducts in a hot-air heating system. A main duct runs lengthwise through the middle of the building, and smaller ducts extend from the main plenum throughout the building.

Extension An agreement between 2 parties to extend the time period specified in a contract.

Example: When a tenant is unable to vacate the property at the termination of the lease, an extension may be granted by the landlord.

Example: When a seller fails to clear the title in time for a closing, an extension of the closing date may be granted.

Extension Agreement A document that extends the term of a mortgage.

Exterior Finish The outside coating or covering of a building, such as wood, stucco, and brick.

Exterior Wall In construction, any outer wall, except a common wall, that encloses a building.

External Obsolescence A loss in property value resulting from negative influence outside the property itself. An element of accrued depreciation. External obsolescence is generally incurable and can be further defined as either economic obsolescence or location obsolescence.

Facade The outside front wall of a building.

Examples: Facade materials of a building include: aluminum, brick, glass, masonry, wood.

Face Amount Same as face value.

Face Brick A high-quality, treated brick used for exterior finishes.

Face Interest Rate The percentage interest that is shown on the loan document. Compare with annual percentage rate, effective rate.

Example: A mortgage has an 8% face interest rate, $10,000 face value, and 30-year amortization term. If market interest rates are 12%, the market value of the loan is $7,200.

Face Value The dollar amount, shown by words and/or numbers, on a document. Compare with market value; see amortization.

Example: A mortgage has a face value of $10,000, amortization term of 30 years, and 8% face interest rate. It will be amortized in 13 years to $8,000 by annual payments.

Factors Of Production An old economic theory which states that the four factors of production are labor, coordination (management), capital, and land. It goes on to state that labor has the first claim on any income that is produced and that capital has the last claim after all the other factors are satisfied.

Fair Cash Value See Market Value.

Fair Credit Reporting Act A federal law that allows individuals to examine and correct information used by credit reporting services.

Example: Chen wishes to purchase property from Lee under an installment land contract. Lee refuses to make the contract because of Chen's poor credit rating. Under the Fair Credit Reporting Act, Chen may demand disclosure of Lee's source of information and then take steps to correct any misinformation in the report.

Fair Housing See Federal Fair Housing Law.

Fair Market Rent The amount that a property would command if it were now available for lease. Contrast with contract rent. *See* Economic Rent, Rent Control, Section 8 Housing.

Example*:* The fair market rent for an apartment is estimated at $400 per month. Under Section 8, the tenant is required to pay 20% of income toward rent; the landlord would receive a payment from the government to make up the difference.

Fair Market Value A term, generally used in property tax and condemnation legislation, meaning the market value of a property.

Example*:* Property taxes generally are assessed at some ratio of fair market value.

Example*:* When property is condemned for public use, the owner is entitled to be compensated at fair market value.

Fair Rental See Economic Rent.

Fair Tail An estate of inheritance limited to some specified class of heirs of the person to whom it is granted. Estates in fee tail have been abolished in most states.

Fair Value 1. See Market Value.

2. The establishment of a reasonable value by a court or board for the setting of public utility rates.

False Advertising Describing property in a misleading fashion.

Example: Examples of false advertising might include:

- representing a property as not being in a floodplain when, in fact, it is .
- stating, without caveat, that a property will appreciate in value.
- denying structural flaws that are known to exist.

Familial Status Refers to one or more individuals who are under the age of 18 years and

live with a parent or a person having legal custody.

Fannie Mae Nickname for Federal National Mortgage Association.

Farm 1. Land used to grow crops raising dairy products etc.

2. The physical area in which a real estate brokerage concentrates its business efforts so sellers and buyers will seek them out when they need the services of a real estate broker or salesperson.

Farmer's Home Administration An agency, within the U.S. Department of Agriculture, that administers assistance programs for purchasers of homes and farms in small towns and rural areas.

Example: Chen wishes to develop housing for the elderly in a rural area. He may apply to the Farmer's Home Administration for a special 40-year mortgage loan.

FDIC *See* Federal Deposit Insurance Corporation.

Feasibility See Feasibility Study.

Feasibility Study A determination of the likelihood that a proposed development will fulfill the objectives of a particular investor.

Example: A feasibility study of a proposed subdivision should:

- estimate the demand for housing units in the area.
- estimate the absorption rate for the project.
- discuss legal and other considerations.
- forecast cash flows.
- approximate investment returns likely to be produced.

Federal Deposit Insurance Corporation (FDIC) A public corporation, established in 1933; insures up to $100,000 for each depositor in most commercial banks and savings and loan associations. Has own reserves and can borrow from the U.S. Treasury.

Example: The First National Bank becomes insolvent and cannot pay

depositors who want to withdraw their money. The FDIC pays each depositor the full principal amount, up to $100,000, if a merger with a healthy bank cannot be arranged.

Federal Fair Housing Law A federal law that forbids discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in the selling or renting of homes and apartments. *See* Steering.

***Example**:* Broker Chen is contacted by a black couple wishing to purchase a home. Although homes are currently for sale in several all-white neighborhoods, Chen maintains there are no houses available in these areas. Chen may be prosecuted under the Federal Fair Housing Law.

Federal Home Loan Bank (FHLB) Banks created under the Federal Home Loan Bank of 1932 lend only to member financial institutions in order to keep a permanent supply of money available for home financing. Insurance companies, savings and loans and other similar companies may become members and borrow from one of the many regional banks.

Federal Home Loan Bank Board A federal agency created by the Federal Home Loan Bank Act of 1932 to control federal savings and loan associations. It sets credit policies, administers reserve and liquidity requirements, and controls lending practices of member associations.

Federal Home Loan Bank System A federally created banking system primarily intended to assure liquidity to qualified thrift lenders. The Office of Thrift Supervision was established to replace the Federal Home Loan Bank Board, as part of the Financial Institutions Reform, Recovery and Enforcement Act of 1988 (FIRREA).

Federal Home Loan Mortgage Corporation (FHLMC) It's directed by the Federal Home Loan Bank Board for the purpose of increasing the availability of mortgage funds and providing greater flexibility for mortgage investors. It purchases single-family and condominium mortgages from approved financial institutions and resells its mortgage inventories. Also called Freddie Mac.

***Example**:* ABC Savings and Loan Association sells mortgage loans to the Federal Home Loan Mortgage Corporation to gain funds for originating new mortgage loans.

Federal Housing Administration Federal Agency which insures lenders making FHA loans.

Federal Housing Finance Board A federal agency created under the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) to regulate and supervise the 12 district Federal Home Loan Banks. The functions of the Board were the responsibility of the Federal Home Loan Bank Board prior to passage of the Act.

Federal Land Bank An agency of the federal government that makes mortgage loans on rural property to farmers and to individuals who provide services to farmers and ranchers. Loans are made at below-market interest rates. Borrowers are required to purchase stock in their local land bank association, which serves as additional security for the loan. Address: The Federal Land Bank operates through regional and district offices located throughout the nation.

Federal Nation Mortgage Association An independent agency that purchases mortgages from the primary markets and issues long-term debentures and short-term discount notes. Also called Fannie Mae. It provides a secondary market by buying and selling existing loans.

Federal Reserve System The federal banking system of the United States under the control of a central board of governors (Federal Reserve Board) involving a central bank in each of twelve geographical districts that regulates and provides services to member commercial banks. Also has the responsibility for conducting federal monetary policy.

Federal Revenue Stamps Stamps that, when affixed to a transaction document, indicate payment of a federal tax imposed upon the transaction. These have not been required since 1968.

Federal Saving An association chartered by the FHLBB in contrast to a state-chartered

And Loan Association savings and loan association.

Federal Savings And Loan Insurance Corporation (FSLIC) An agency of the federal government that insures savers' accounts at savings and loan associations.

Federal Savings And Loan Insurance Corporation (FSLIC) Prior to passage of FIRREA, the agency that provided deposit insurance to most savings and loan associations. The 1990 law abolished the agency and placed its functions under the Federal Deposit Insurance Corporation.

Federal Tax Lien A debt attached against property for unpaid federal taxes; most often used by the Internal Revenue Service to attach property for payment of owner's unpaid income taxes.

***Example**:* Cecil sold his home but could not receive the equity because of the federal tax lien arising out of his failure to pay federal income taxes.

Federal Trade Commission (FTC) A federal agency, headquartered in Washington, DC, that regulates advertising and other promotion and sales practices of firms engaged in interstate commerce. The FTC does not regulate interstate land sales (HUD), anticompetitive activities (Justice), or sale of securities (SEC).

***Example**:* Chen, a builder, was found guilty of false television advertising by the FTC.

Federally Related Mortgage A mortgage loan that is, in some way, subject to federal law because it is guaranteed, insured, or otherwise regulated by a government agency such as the Federal Housing Administration (FHA), Veterans Administration (VA), Federal National Mortgage Association (FNMA), or Federal Home Loan Mortgage Corporation (FHLMC).

***Example**:* To borrow on a federally related mortgage, certain things must be done in an appropriate way, including use of a state-certified appraiser.

Federally Related Transaction	Means any real estate-related financial transaction entered into on or after August 9, 1990, that any regulated institution engages in or contracts for; and requires the services of an appraiser.
Fee	An estate of inheritance in real property.
Fee On A Condition Subsequent	A fee simple that is conveyed reserving to the grantor the right of entry upon occurrence of a condition subsequent.
Fee Simple	In modern estate, the terms **"**fee**"** and **"**fee simple**"** are substantially synonymous.
Fee Simple Absolute	Fee simple ownership with no qualifications or limitations.
Fee Simple Conditional	A fee that rests on a certain condition. A common condition used to be that the person who inherited the title had to have a son. If he or she didn't the title reverted to the estate or the donor.
Fee Simple Defeasible	Fee simple ownership with a condition which, if broker, could result in loss of title to the property.
Fee Simple Determinable (qualified fee)	Fee simple subject to a condition or limitation, the occurrence of which causes title to revert back to its grantor or his or her heirs automatically.
Fee Simple Estate	The greatest interest that one can have in real property. An estate that is unqualified, of indefinite duration, freely transferable and inheritable.
Fee Simple Value	The value of a fee simple estate.
Fenestration	The overall manner or plan of placing doors or windows in a structure.
Feudal Tenure	A real property ownership system where ownership rests with a sovereign who, in turn, may grant lesser interests in return for service or loyalty. In contrast to allodial tenure.
Feuds	Grants of land.

FHA *See* Federal Housing Administration.

FHA Mortgage Loan A mortgage loan insured by the FHA. *See* Federal Housing Administration.

***Example**:* Chen wishes to purchase a home but has insufficient cash to make a large down payment. By obtaining an FHA mortgage loan, Chen may borrow more than the customary 80% of value, with the FHA insuring the loan amount.

FHLB *See* Federal Home Loan Bank.

FHLMC *See* Federal Home Loan Mortgage Corporation; nicknamed Freddie Mac.

FIABCI *See* International Real Estate Federation.

Fiberglass Filaments of glass that are made into continuous, thread-like filaments, used for electrical and other types of insulation.

Fictitious Name **"***Made up***"** name for a business.

Fidelity Bond An assurance, generally purchased by an employer, to cover employees who are entrusted with valuable property or funds.

***Example**:* A landlord employs a resident manager who, among other duties, collects the rent. To safeguard these funds during the collection process, the landlord purchases a fidelity bond on the resident manager.

Fiduciary A person in a position of trust and confidence, as between principal and broker; broker, as fiduciary, owes certain loyalty which cannot be breached under rules of agency.

Fiduciary Duty That duty owed by an agent to act in the highest good faith toward the principal and not to obtain any advantage over the latter by the slightest misrepresentation, concealment, duress or pressure.

Fiduciary Relationship A relationship where a person is put in a position of trust. The relationship is often such that the trusted person has special information and

obligations which, if misused, would cause harm to the person who entrusted the information or relied upon the faithful performance of the duties.

Field Tile A porous tile laid under and around a foundation or slab to drain away underground water.

Fifteen-Year Mortgage A fixed-rate, level-payment mortgage loan with a maturity of 15 years.

***Example**:* In the 1980s, 15-year mortgages became popular as a way to reduce the amount of interest paid over the life of the mortgage loan. Although the monthly payment is somewhat higher than that of a comparable 30-year loan, the interest savings are substantial.

Fill 1. To furnish an area with additional material to equalize or raise topography to a desired level.

2. The materials used for fill, such as dirt and gravel.

Filled Land Land not suitable for building because of its typography, wetness, or poor bearing quality that is improved by dumping dirt, rock, gravel, or other solid material on it.

Filtering The process whereby higher-priced properties become available to lower income buyers.

***Example**:* Many older residences near the downtown of big cities were once occupied by the upper classes, but have filtered down to the relatively poor. At some point in the filtering process, many large houses may be converted into rented multifamily housing.

Final Reconciliation An appraisal term for the process of choosing the most appropriate data and selecting from among alternative conclusions developed in the approaches to value to estimate a final value for the property being appraised.

Final Value Estimate In an appraisal of real estate, the appraiser's value conclusion.

***Example**:* An appraiser has determine these 3 amounts of value based on each appraisal approach:

Cost approach - $600,000,

Market comparison approach - $575,000,

Income approach - $560,000.

She then reconciles these amount, decides which is most relevant, and offers a final value estimate. If the income approach is considered most indicative of purchaser behavior, the amount may be $560,000 to $570,000, depending on the relative weight assigned to each approach.

Finance Charge Interest or certain other fees charged to a credit customer.

Example*:* A customer makes purchases of $400 on credit. Payment is made one month later. Based on an annual percentage rate of interest of 18%, a finance charge of $6.00 (.18/12 x $400) is added to the bill.

Financial Intermediary A firm, such as a bank or savings and loan association, which performs the function of collecting deposits from individuals and investing them in loans and other securities. Also includes credit unions and mutual savings banks. *See* Disintermediation.

Example*:* First National Bank serves as a financial intermediary by taking in deposits and placing them in mortgage loans and various securities. In doing so, the bank links individual investors with demanders of credit and the financial markets.

Financial Feasibility The ability of a proposed land use or change of land use to justify itself from an economic point of view. Financial feasibility is one test of the highest and best use of land, but not the only test. Nor does the financial feasibility of a project make it the most rewarding use of the land.

Example*:* A proposed small office building will cost $1 million to build, including direct costs. It is expected to generate $150,000 in annual net operating income. Building investors require a 12% rate of return on the $1 million investment, or $120,000, so this project is financially feasible.

Financial Institutions Reform, Recovery And Enforcement Act (FIRREA). A federal law passed in 1990 that restructured the regulatory and deposit insurance apparatus dealing with savings and loan associations and changed the rules under which federally regulated S&Ls operate. *See* Federal Housing Finance Board, Office Of Thrift Supervision, Resolution Trust Corporation.

***Example**:* the FIRREA was intended to address the major problem of failing S&Ls due to mounting nonperforming loans held in portfolio, as well as to make reforms that would prevent the problem from recurring. often referred to as the "S&L Bailout,". The law represents a large expenditure of Federal funds to pay off depositors at failed associations. The law also created the Resolution Trust Corporation, which is charged with managing and liquidating the assets of associations seized by the government. The Federal Savings and Loan Insurance Corporation was abolished by the law, and its insurance and regulatory responsibilities were brought under the Federal Deposit Insurance Corporation, which also insures commercial banks.

Financial Leverage The use of borrowed money to complete an investment purchase.

Financial Management Rate Of Return (FMRR) Similar in concept to the adjusted internal rate of return. Negative cash flows are discounted at a safe rate, and positive cash flows are compounded forward to the end of the holding period at a reinvestment rate. If the negative cash flows occur after a positive cash flow, the negative cash flow is discounted back and netted against the positive cash flow. The net remaining is either discounted back (if negative) or compounded forward (if positive).

A method of measuring investment performance that is a variation on the internal rate of return method. The user specifies 2 after-tax reinvestment rates: A safe, liquid rate, obtainable for liquid deposits. A run-of-the-mill rate, which can be earned from typical investments over a long term.

Negative cash flows are generally discounted to a present value at the i_L

rate, inflows are compounded to the investment resale date at i_R. The FMRR is the rate that equates the present value of negative cash flows to the future value of inflows.

***Example**:* An investment requires a $10,000 negative cash flow for the first 3 years, then offers $8,500 of cash inflows for years 4-10. If i_L is 5%, the negative cash flows have a present value of $27,232. If i_R is 10%, the cash inflows will become $80,641. The FMRR is 11.47% because that is the rate at which $27,232 would grow to $80,641 in 10 years with compound interest.

Financial Statement One that shows income and expenses for an accounting period, or assets, liabilities, and equity as of a point in time.

Financially Feasible A requirement of highest and best use; refers to a project that satisfies the economic objectives of the investor.

Financing Borrowing money to buy property. *See* Creative Financing.

Examples: The following are examples of financing:

- obtaining a mortgage loan on a purchase,
- assumptions of a mortgage from a seller,
- arranging for the seller to take a loan as part of the purchase price,
- arranging an installment sale.

Financing Premium An incremental amount paid for a property that is purchased with favorable financing, e.g., assumption of a below-market interest rate loan.

Financing Process The systematic 5 step procedure followed by major institutional lenders in analyzing a proposed loan, which includes: filing of application by a borrower: lender's analysis of borrower and property: processing of loan documentation: closing (paying) the loan: and servicing (collection and Secured Party.)

Financing Risk Uncertainty caused by the method of financing an investment.

Financing State- The instrument which is filed in a loan on a personal property in order

ment to give public notice of the security interest and thereby protect the interest of the secured parties in the collateral.

Finder's Fee Feed paid to a person for information helpful to a broker for information that does not require a license.

Fine Textured Soil Soil that has a high percentage of fine particles (.003 mm in diameter or less), often called clay.

Finish Coat The last layer or final layer of plaster than furnishes either a decorative surface or a base for decoration.

Finish Out Allowance A provision in a lease for an office or retail space that provides a certain sum or amount per square foot to the tenant to customize the space provided.

***Example**:* A retail tenant leases space for 5 years at a $10 per square foot annual rental rate. The lessor provides four concrete walls and a concrete floor, and will pay the tenant a finish out allowance of up to $4 per square foot for costs to customize the space.

Fire Brick A brick of fire clay that is made to withstand the effects of high heat used in fireplaces and heating chambers of furnaces.

Fire Doors and Walls Doors and walls especially constructed with fire-resistant materials. They are installed to prevent the spread of fire.

Fire Insurance Insurance against loss or damage by fire to specific property. It is usually written together with extended coverage insurance. Often, it is grouped with a variety of other coverages into a package policy.

Fire Stop A method of preventing smoke and fire from spreading through a structure by filling concealed air spaces with fire-resistant materials or structural members.

Fire Wall A wall built between buildings or built to divide parts of a building to prevent the spread of fire.

Fire-Resistant Construction Construction that can withstand ordinary fire conditions for at least one hour without serious damage to the structure.

Fire-Resistive Able to withstand exposure to flame of a specified intensity or for a specified time. Compare fireproof.

***Example**:* The interior walls in the house were made of fire-resistive material. The walls were designed to resist igniting at temperatures below 1,000 degrees if not exposed for more than one hour.

Fire-Retardant Material Material that inhibits combustion.

Firefighter's Rule A rule recognizing the limited right of a public service officer to enter upon another's property.

Fireproof Having all exposed surfaces constructed of noncombustible materials or protected by such materials.

***Example**:* The exterior surface of the building was composed of brick, aluminum siding, and asbestos shingles, thereby making the exterior fireproof.

Fireproof Construction Construction designed to withstand fire without impairment of its structural integrity. All load-bearing members are built out of non-combustible material, and all structural members are fireproofed.

Fireproofing Non-combustible material applied to structural elements that provides increased fire resistance but usually has no structural function.

Firm Commitment An irrevocable agreement that commits one of the parties to perform a certain act; most common in reference to commitments by lenders to provide financing.

***Example**:* Good Money Bankers made a firm commitment to finance a shopping center that had been preleased.

First Lien A term used by the Federal Home Loan Mortgage Corporation to describe a lien meeting the requirements of any investment statute or regulation issued thereunder by any government agency under state or federal law authorized to supervise and examine the operations, activities, or investments of lenders relating first mortgages, unencumbered prop-

erty, first liens, or words of similar import.

First Mortgage A mortgage that has priority as a lien over all other mortgages. In cases of foreclosure the first mortgage will be satisfied before other mortgages. Also called senior mortgage. *See* Junior Mortgage, Second Mortgage.

***Example**:* A property costing $100,000 is financed with a first mortgage of $75,000, a second mortgage of $15,000, and $10,000 in cash. If the borrower defaults and the property is sold upon foreclosure for $80,000, the holder of the first mortgage will receive the full amount of the unpaid principal plus legal expenses. The second mortgage holder will receive any excess after the first mortgage has been satisfied.

First Refusal Right Same as right of first refusal.

First Trust Deed A legal document pledging collateral for a loan that has first priority over all other claims against the property except taxes and bonded indebtedness. That trust deed superior to any other.

First User The first person to use a piece of real estate after improvements are constructed.

First-Year Depreciation Same as additional first-year depreciation.

Fiscal Controls Federal tax revenue and expenditure policies used to control the level of economic activity.

Fiscal Year A continuous 12-month time interval used for financial reporting; the period starts on any date after January 1 and ends one year later.

***Example**:* For agencies of the federal government, fiscal year 2001 refers to the time between October 1, 2000 and September 30, 2001.

Fixed Assets Permanent assets not readily converted into cash that are necessary for the operation of a business, such as buildings and heavy machinery.

Fixed Expenses In the operation of real estate, those expenses that remain the same re-

gardless of occupancy. Contrast with variable expenses.

Examples: Insurance and interest expenses are expected to be the same cost, regardless of the occupancy of a building, so they are fixed. By contrast, the cost of utilities and office cleaning will vary with occupancy.

Fixed Payment Mortgage A loan secured by real property which features a periodic payment of interest and principal which is constant over the term of the loan. All fixed payment mortgages are fixed rate mortgages, but some fixed rate mortgages may have variable payments, such as a graduated payment mortgage.

Example: A fixed payment mortgage calls for 360 monthly payments of interest and principal of $1,000. Added to that amount is a payment to an escrow account for taxes and insurance which may change from year to year.

Fixed-Rate Mortgage A loan secured by real property featuring an interest rate that is constant for the term of the loan. Contrast with adjustable rate mortgage.

Example: A fixed-rate mortgage is originated with an interest rate of 10% for a term of 30 years. The rate will remain at 10% until the loan is retired or the due-on-sale clause is exercised at resale of the property.

Fixing-Up Expenses (Tax) Expenses incurred for the purpose of physically preparing a personal residence for sale. Qualified fixing-up expenses may be deducted from the sale price to determine the price that must be spent in the purchase of another residence to defer capital gains taxes on the sale of the old one.

Fixtures Items attached to the land or improvements, which usually cannot be removed without agreement, and therefor, they become real property;

Example: plumbing fixtures built into the property, etc.

Fixty Of Location The physical characteristic of real estate that subjects it to the influence

of its surroundings.

Flashing Sheet metal or other material used to protect a building from seepage of water.

Flat An apartment, generally on one level.

Example: A 2-room flat is an apartment having 2 rooms.

A level payment mortgage or lease requirement.

Example: A flat lease is one that requires level payments each month or other specified period.

Flat Fee Broker A licensed broker who charges a fixed fee for the provision of brokerage services instead of a commission based on a percentage of the sales price of the property. *See* Discount Broker.

Example: Lee, a flat fee broker, charges $5,000 to arrange the sale of a home, no matter what price is agreed upon by the buyer and seller. If a sale is not consummated within the term of the listing contract, no fee is paid.

Flat Lease A rental agreement that requires periodic level rent payments.

Flexible Interest Rate See Variable Interest Rate.

Flexible Payment Loan A note secured by a mortgage where amortization of principal is not required during an initial period; however, the required payments during such period must be sufficient to pay interest. Such note must require repayment in monthly installments in accordance with a payment schedule stated in the note, and the required payments after the initial period must be sufficient to retire the entire obligation, both interest and principal, within the remainder of the mortgage term.

Float The interval of time after a deposit or withdrawal is made and before the transaction is credited or deducted.

Example: Chen writes a check to pay a debt to Lee. Lee deposits the

check in a bank other than the one used by Chen. Chen's bank may have a float of 2 or 3 days before Lee's bank collects the money.

The difference between a variable interest rate and the index to which it is pegged.

***Example**:* A bank makes construction loans at 3% over the prime rate. The 3% is the float.

To incur a debt.

***Example**:* To fund a project, Atlas Company may float a loan or float a bond issue.

Floating Easement An easement that does not contain the exact route or location over the servient tenement.

Floating Home A boat used as one's principal residence, similar to a mobile home.

Floating Rate An interest rate that is not fixed over the term of a loan, bond, or other fixed-income security, but is allowed to vary according to the change in a specified index. *See* Adjustable-Rate Mortgage.

***Example**:* Financial Securities Company created a floating-rate mutual fund based on a portfolio of adjustable-rate mortgages. The yield on the fund varies from year to year, depending on the interest rates charged on the ARMs in portfolio.

Floating Zone A special provision of some zoning regulations that permits planned development of a portion of the land within a designated area for a use not permitted in the balance of the area. This use is permitted only when a development plan that is considered to be in the best interest of the entire community is submitted to the zoning authority.

Flood Insurance An insurance policy that covers property damage due to natural flooding. Flood insurance is offered by private insurers but is subsidized by federal government.

***Example**:* Chen owns a home within an area defined as a 100-year floodplain. If the local community is participating in a special federal

program, Chen may purchase flood insurance to cover damage from periodic flooding.

Flood Plain A level land area subject to periodic flooding from a contiguous body of water. Floodplains are delineated by the expected frequency of flooding . For example, an annual floodplain is expected to flood once each year.

Flood Waters Water which overflows a regularly defined channel.

Floodway Ground area that is usually covered annually by water.

Floor Cover Covering over the subflooring. It may be made of various types of material, including carpeting, terrazzo, vinyl, wood, brick or various types of tile. The quality of the floor covering material is generally directly relating to the quality of the building.

Floor Furnace A type of hot-air heating unit that is installed directly under the floor with its grilled upper surface flush with the finished floor.

Floor Joists A horizontal framing lumber which supports the flooring to which it is attached.

Floor Load The live load support capacity of a floor is measured in pounds per square foot that the floor may safely support if the load is uniformly distributed.

Floor Loan The minimum that a lender is willing to advance. *See* also Gap Loan.

***Example**:* Chen, a lender, agrees to a $700,000 floor on a $1,000,000 permanent loan. When construction is complete, the borrower will receive a $700,000 floor loan; when the property is 80% occupied the full $1,000,000 will be loaned.

Floor Plan The arrangement of rooms in a building, or a one-plane diagram of the arrangement.

***Example**:* The home is difficult to sell because of its awkward floor plan. One must pass through a bedroom to enter the master bedroom. There is no direct access from the garage to the kitchen and the living room is too small.

Floor Structure Typically, in commercial or industrial buildings, a reinforced concrete slab on the ground floor and metal joists covered by metal decking and a concrete slab for above-ground floors. Apartments may have wooden joists covered by wooden subflooring. Some industrial buildings have raised floors to facilitate the loading and unloading of trucks.

Floor-Area Ratio The arithmetic relationship of the total square feet of a building to the square footage of the land area.

Flowage Easement An easement that provides the right to let water flow over the land and even to flood the land under prescribed circumstances. It restrains the owner from preventing the water from flowing over the land.

Flue An enclosed passageway in a chimney through which smoke and gases pass upward.

FMHA *See* Farmer's Home Administration.

FMRR *See* Financial Management rate of return.

FMV Fair Market Value.

FNMA *See* Federal National Mortgage Association, which buys and sells existing residential mortgages; nicknamed Fannie Mae.

Footing The base or bottom of a foundation wall, pier, or column.

Forbearance A policy of restraint in taking legal action to remedy a default or other breach of contract, generally in the hope that the default will be cured, given additional time.

> ***Example****:* Because of a slowdown in the local economy, loan delinquencies increased dramatically at First Savings. Considering that most of the borrowers were long-term customers of the bank and had always honored their commitments, First Savings adopted a policy of forbearance in dealing with overdue payments. Every effort would be made to avoid foreclosure and give the borrowers time to bring the loans up to date.

Force Majeure An unavoidable cause of delay or of failure to perform a contract obligation in time.

Example: A force majeure clause is often inserted in a construction contract to protect the contractor from delays due to weather, labor disputes, and other unavoidable incidents.

Forced Sale A sale that is made under compulsion, such as to satisfy a debt.

Forced Sale Value The price that is realized at the forced sale.

Forced-Air Furnace A furnace that uses a fan to force the warm air through the ducts instead of relying on gravity to circulate the air.

Forces In appraisal theory, any of four dynamic and changing powers and their interactions that affect the value of real property. Includes social forces (population trends), economic forces (employment, wage levels, supply and demand), governmental forces (zoning, fiscal policies, legislation) and environmental forces (climate, topography, transportation).

Forecasting The process of assimilating past information and compiling the data for the purpose of drawing conclusions as to the probable happenings or conditions in the future.

Foreclosure A termination of the equity of redemption of a mortgagor or the grantee in the property covered by the mortgage. Statutory foreclosure is effected without recourse to courts, but most conform to laws (statutes). Judicial foreclosure submits the process to court supervision. *See* Default, Foreclosure Sale, Statutory Right Of Redemption.

Example: The lender forecloses to gain possession of mortgaged land after the borrower missed 3 payments.

Foreclosure Consultant An individual who engages in the business of advising homeowners in default. Must now comply with disclosure requirements.

Foreclosure Sale The public sale of a mortgaged property following foreclosure of the loan secured by that property. Depending on the type of foreclosure proceeding, the sale may be administered by the courts (judicial foreclo-

sure) or by an appointed trustee (statutory foreclosure). Proceeds of the sale are used to satisfy the claims of the mortgage primarily, with any excess going to the mortgagor.

***Example**:* Anyone may bid on properties sold at a foreclosure sale. As a practical matter, however, most properties are acquired by the lender, often for the amount owed on the foreclosed loan.

Forfeiture Loss of money or anything else of value because of failure to perform under contract.

***Example**:* Because Lee, the prospective purchaser, failed to keep up payments under the land contract, he forfeited all his rights to the property.

Formal Will A will executed with the formalities required by law (e.g. subscribed and witnessed).

Foundation The supporting portion of a structure below the first floor construction including the footings.

Four-Three-Two-One Rule For an area with commercial lots of uniform depth, the idea that 40% of the value lies in the front quarter, 30% in the next quarter, than 20%, and 10%. If part of the property is condemned by eminent domain, this provides some guidance as to the value of the part taken. (Compare with depth tables.)

FPM Flexible Payment Mortgage.

Fractional Interest Ownership of some but not all of the rights in real estate.

***Example**s:* Leasehold, Easement, Hunting rights

Frame The load-bearing skeleton of a building.

Frame (Wood) Construction Construction in which walls, partitions, etc. are made of wood or are dependent upon a wooden frame for support.

Frame House A house constructed with a wooden frame over which is placed some form of siding or veneer.

Framing A part of the building process that consists of putting together the lumber skeleton of the building.

Franchise An arrangement between a franchisor and franchisee through which the franchisee uses the company name of the franchisor and is provided specified business services in exchange for a franchise fee. The fee is usually an initial purchase requirements plus an ongoing percentage of gross sale of the business.

***Example**:* In real estate brokerage, locally owned firms may operate as franchises of such national companies as Century 21, Gallery of Homes, and Red Carpet. The franchisor advertises the name and logo of the company, offers training for salespersons, and offers or provides other services to the franchisee.

Fraud The intentional and successful employment of any cunning, deception, collusion, or artifice, used to circumvent, cheat or deceive another person whereby that person acts upon it to the loss of the property and to his legal injury.

Fraud, Statute of A state law, based on an old English statute, requiring certain contracts to be in writing and signed before they will be enforceable at law, e.g., contracts for the sale of real property, contracts not be performed within one year.

Freddie Mac Nickname for Federal Home Loan Mortgage Corporation.

Free And Clear Title Title to a property without encumbrances. Generally used to refer to a property free of mortgage debt. *See* Clear Title, Marketable Title.

***Example**:* Free and clear title is generally desired by the purchaser of a property. This requires clearing any clouds on the title and satisfying any liens that may exist.

Freehold An interest in real estate without a predetermined time span.

***Example**:* A fee simple or a life estate is considered a freehold estate because there is not a specified time limit. A lease is less than

freehold because it has a specified termination date.

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

French Provincial A French-style formal, 1 1/2- to 2 1/2-story house that is perfectly balanced with a high, steep hip roof and curve-headed upper windows that break through the cornice.

Front Foot Value The value of a piece of property expressed in terms of front foot units. Property measurement for sale or valuation purposes; the property measured by the front foot on its street line - each front foot extending the depth of the lot.

Front Money Cash necessary to start a development project.

Example: Front money is generally required for purchasing a site, preparing plans and studies, obtaining permits, and obtaining loan commitments.

Frontage The length of a property that abuts the street line or other landmark such as a body of water. Frontage differs from width, which may vary from the front of the lot to the back.

Frontage Road A street that runs parallel to a limited access highway to service abutting properties without direct access to the highway and to gather and control traffic entering and exiting from the highway.

Frostline The depth of frost penetration in the soil. Varies in different parts of the country. Footings should be placed below this depth to prevent movement.

FSBO For sale by owner. A term referring to properties on the market that are not listed with a real estate broker. Pronounced **"**fizzbo.**"**

Example: The Lees are attempting to find a buyer for their home by placing an ad in the paper and putting up a sign in the yard. Such activities indicate the existence of a FSBO.

FSLIC *See* Federal Savings and Loan Insurance Corporation.

FTC *See* Federal Trade Commission.

Full Disclosure A requirement to reveal all information pertinent to a transaction.

Example*:* Under full disclosure, a broker is required to give the buyer all known facts about the physical, financial, and economic condition of the subject property.

Fully Amortized Loan One having payments of interest and principal that are sufficient to liquidate the loan over its term. Self-liquidating.

Examples*:*

- $10,000 at 10% interest with 10 annual payments of $1,627.45.
- $100,000 at 9% interest with 360 monthly payments of $804.62.

Fully Indexed Rate In conjunction with adjustable rate mortgages, the interest rate indicated by the sum of the current value of the index and margin applied to the loan. This rate is the interest rate which is used to calculate monthly payments in the absence of constraints imposed by the initial rate or caps.

See teaser rate, adjustable rate mortgage.

Example*:* An adjustable rate mortgage is indexed to the one-year treasury bill rate. The current value of the index is 6%. A margin of 2.5 percentage points is applied to the loan. The fully indexed rate is 8.5%. However, the loan has an initial rate of 7.5% which determines the interest rate for the first year. When the rate is adjusted, the fully indexed rate rises to 10%. A cap of 2 percentage points limits the adjustment in the rate to only 9.5%. If there had been no cap, the interest rate would have risen to 10%.

Function Of The Appraisal The reason that the appraisal is being made (for a mortgage, estate valuation, estimates selling price for seller, etc.).

Functional Depreciation Loss of value from all causes within the property, except those due to physical deterioration. *See* Obsolescence.

***Example**:* A poor floor plan or outdated plumbing fixtures are types of functional depreciation.

Functional Modern Or Contemporary House A post-World Was II style house with an exterior style that is an integral part of the overall design. Its function is to enclose some living areas with modern materials while integrating the indoor and outdoor space into one unit.

Functional Obsolescence Loss of value due to adverse factors from within the structure which affect the utility of the structure. Also see Incurable Functional Obsolescence.

Functional Utility The extent to which a property is able to be used for the purpose that it was intended. Functional utility includes factors such as current trends in tastes and styles, architectural style, design and layout and traffic patterns.

Fund Control A method of disbursing construction loan funds through the equivalent of an escrow.

Furniture And Fixtures An accounting term which refers to the movable property of a business that is not classified as stock or inventory or leasehold improvements.

Future Acquired Property Property acquired after a loan or sale. For example: A loan agreement may state that the loan is a lien on all property presently owned or which the borrower may acquire in the future.

Future Advance Clause A clause contained in an open end mortgage that lets the borrower receive additional loans without having to prepare a new mortgage.

Future Benefits The anticipated benefits the present owner will receive from his property in the future.

Future Interest A property right or estate that may not be enjoyed until some time in the future.

***Example**:* When a life estate is created, the remainder is a future interest.

***Example**:* The lender's right to a portion of net appreciation, under a shared appreciation mortgage, is a future interest.

Future Value The worth of a property at some later date. *See* also Future Value Of $1, Future Value Annuity Of $1 Per Period.

Future Value Annuity of $1 Per Period A compound interest factor that represents the sum to which a constant periodic investment of $1 per period will grow, assuming compound growth at a specific rate of return for a specific number of compounding periods. It is shown in column two of the compound interest tables. In an appraisal, these payments are generally assumed to be made at the end of each period.

Future Value of $1 The amount to which an investment of $1 grows with compound interest after a specified number of years at a specified interest rate. It is shown in column one of the compound interest tables.

Future Worth Of One Same as compound amount of one.

Future Worth Of One Per Period Same as compound amount of one per period.

Gable The vertical, triangular portion of a building formed by the inclining edges of a pitched roof.

Gable Roof One with a triangle, with the ridge forming an angle at the top and each eave forming an angle at the bottom.

Gain An increase in money or property value. *See* Capital Gain, Realized Gain, Recognized Gain.

***Example**:* Chen sells for $10,000 land that he bought for $4,000. He recognizes a $6,000 gain excluding property and income taxes.

Gallons Per Min- A measurement of the rate of the flow of a liquid, such as water from a

ute well.

Gambrel Roof One having two slopes on two sides with a steeper lower slope than the upper, flatter sections.

Gap Loan A special type of loan made to developers when their project fails to meet the conditions of their original mortgage commitment soon enough to satisfy the developer's cash needs. Some of the committed money is withheld by the original lender. The loan is usually made by another lender at higher interest rates (because of the added risk) to provide the developer with needed funds in place of the withheld portion of the original loan.

Garden Apartments A housing complex whereby some or all tenants have access to a lawn area.

Garnishment A legal proceeding under which a person's money in control of another (such as salary) is taken for payment of a debt. The amount which may be taken is set by statute (usually as a percentage), and , in most states, a judgement is necessary before garnishment.

GEM *See* Growing Equity Mortgage.

General Contractor One who constructs a building or other improvement for the owner or developer. May retain a construction labor force or use subcontractors. *See* Contractor.

***Example**:* Chu, a landowner, has architectural plans and specifications for an office building. She enters into a contract with Lee, a general contractor, to build the structure. Lee hires subcontractors who put up the foundation, walls, roof, electrical and plumbing systems, etc.

General Warranty Deed A deed in which the grantor agrees to protect the grantee against any other claim to title of the property and provides other promises. *See* Warranty Deed.

***Example**:* Chen received a general warranty deed for land he bought from Lee. Five years later a defect is found. Mrs. Smith, whose deceased husband sold the land to Lee, actually owns one half of the property. Chen can claim restitution from Lee for the half because the deed warranties against all defects.

General Benefits In condemnations, benefits to the surrounding property and community caused by the project being developed that was the cause of the taking.

General Lien A lien which affects all property of a person.

General Market Area A geographic area or political jurisdiction in which similar property types compete on an economic basis for potential buyers, users, or patrons.

General Partner A member in a partnership who shares in the profits and losses and has authority to bind the partnership.

General Partnership A partnership where all partners can participate in management and liability.

General Plan Restrictions Restrictions imposed on an entire subdivision.

Gentrification The displacement of lower-income residents by higher-income residents in a neighborhood. Generally occurs when an older neighborhood is rehabilitated or revitalized.

***Example**:* In the past, many large older homes in x-town had been converted to boarding houses. Recently, middle-income families have been buying these houses and converting them back into single-family homes. The lower-income residents are often forced to move to surrounding areas and are replaced by the middle-income renovators. As this process is repeated, gentrification of the neighborhood occurs.

Geodetic System A system that consists of a network of surveyor's marks (bench marks) located by latitude and longitude, originally used to identify federal land.

Georgian A large, English-style, formal 2- or 3-story rectangular house that is characterized by its classic lines and ornamentation.

Gerrymander To divide an area into districts, against the obvious natural divisions, in order to accomplish an unlawful purpose. For example: To divide a school district to keep out certain people for reasons of race or religion; to divide political voting district so as to give power to a political party.

GI Loan Same as VA Loan.

Gift Deed A deed for which the consideration is love and affection and where there is no material consideration.

Gift Tax Federal tax upon a monetary gift to a relative or friend. Generally, each person may give up to $10,000 per year to each donee without imposition of a federal gift tax. On higher gifts, there may be a gift tax, or the gift may affect the donor's estate tax.

***Example**:* Mr. and Mrs. Chen together give $20,000 this year to each of 3 sons ($60,000 total). There will be no gift tax imposed.

GIM *See* Gross income multiplier.

Ginnie Mae *See* (nickname for) Government National Mortgage Association.

Ginnie Mae Pass Through A pass-through certificate secured by a pool of mortgage loans insured by the Government National Mortgage Association, an arm of the federal government. Ginnie Mae pass through often provide high yields with security to investors, although the returns may be affected by the pattern of loan repayments on the mortgages in the pool.

Girder A large, horizontal beam often carrying other beams and joist on which the floor is laid.

GLA *See* Gross Leasable Area.

GNMA *See* Ginne Mae. Government National Mortgage Association (Ginnie Mae).

Going-Concern Value The value of a property that includes the value due to a successful operating business enterprise that is expected to continue. Going-concern value results from the process of assembling the land, building, labor, equipment and marketing operation and includes consideration of the efficiency of plant, the know-how of management and the sufficiency of capital. The portion of going-concern value that exceeds that of the real property and tangible personal property is an intangible value that is referred to as business value.

Going-in Capitalization Rate The overall capitalization rate found by dividing first year's net operating income by the present value of the property. When the term capitalization rate is used without a prefix, it is assumed to be a going-in capitalization rate.

Good And Marketable Title Title to a piece of real estate that can be shown, usually by title search or abstract of title to be vested in the owner of record, and free of claims or liens that would impair its marketability.

Good Faith An act done honestly.

***Example**:* Chen pays $1,000 to Lee as a good faith deposit on land Lee offers for sale. Lee doesn't own the land and doesn't plan to buy it, so his acceptance of the deposit was not in good faith.

Good Faith Money *See* Earnest Money.

Good Funds Law A statute delaying the close of escrow until out-of-state funds are actually received.

Good Title *See* Good And Marketable Title.

Goodwill The expectation of continued public patronage of a business.

Government National Mortgage Association (GNMA) A government organization to assist in housing finance. There are 2 main programs:

To guarantee payments to investors in mortgage-backed securities.

To absorb the write-down of low-interest rate loans that are used to finance low-income housing. *See* Secondary Mortgage Market.

Government Rectangular Survey A rectangular system of land survey that divides a district into 24-square mile quadrangles from the meridian (north-south line) and the baseline (east-west line); the tracts are divided into 6-mile-square parts called townships, which are in turn divided into 36 tracts, each 1 mile square, called sections.

Government Survey The system of land division and description used in parts of the United States wherein land is divided into townships six miles square containing six sections of 640 acres.

Government-Sponsored Enterprise (GSE) A quasi-governmental organization that is privately owned but was created by the government and retains certain privileges not afforded totally private entities.

Example: Both the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are government-sponsored enterprises that were created by the federal government but transferred to private owners. Both organizations have the implicit backing of the U.S. Treasury, which allows them to raise funds at lower interest rates than other private concerns.

Governmental Forces In appraisal theory, one of four forces thought to affect real estate value, e.g., governmental controls and regulations, public services, fiscal policies, and zoning and building codes.

GPM *See* Graduated-Payment Mortgage.

Grace Ground level at the foundation.

Example: Part A of the building in Figure 81 is above grade; Part B is below grade.

To prepare a smooth surface on a site.

Example: Machinery was brought to the site to grade the land in preparation for the foundation.

Grace Period The period during which one party may fail to perform without being considered in default.

Example: Rent is due on the first of each month, but the tenant requested and received a 10-day grace period from the landlord. If rent is paid on or before the 10th, the tenant is not in default.

Grade Ground level at the foundation.

Graded Lease Same as graduated lease.

Gradient The slope or rate of increase or decrease in the elevation of a surface; usually expressed as a percentage.

Grading Plowing and raking a lot to give it a desired contour and drainage.

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.

Graduated Realtors Institute An educational program sponsored by the National Association of Realtors or State Boards.

Example: Broker Chen attends 3 approved courses offered by the California Association of Realtors, and he passes the examinations. His new business cards read: Broker Albert Chen, GRI.

Graduated-Payment Mortgage (GPM) A mortgage requiring lower payments in early years than in later years. Payments increase in steps each year until the installments are sufficient to amortize the loan.

Grand List The term used for the tax roll or assessment list in New England communities.

Grandfather Clause When a law is changed or a new law is passed, those whose specific activity was legal under the previous law are often allowed to continue, by virtue of this provision.

Example: All real estate brokers are allowed to continue to practice as brokers after licensure requirements increase. The new law affects only new licensees; old licensees are grandfathered.

Grant A technical legal term in a deed of conveyance bestowing an interest in real property on another. The words: **"**convey**"** and **"**transfer**"** have the same effect.

Grant Deed A limited warranty deed using the word **"**grant**"** or like words that assures a grantee that the grantor has not already conveyed the land to another and that the estate is free from encumbrances placed by the grantor.

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

Granting Clause The action clause of a grant deed.

Grantor Seller or property; one who signs a deed.

Grantor/Grantee Index A reference kept with public records that cross-indexes grantors and grantees with one another and the properties they relate to.

***Example**:* By visiting the county courthouse records room, you can trace property ownership history. If you know who the current owner is, cross-reference the name(s) to the grantor/grantee index to discover prior owners.

Graphic Analysis A method of analyzing comparable sales using Ellwood Graphic Analysis whereby a range of expectation with regard to the relationship between expected yield rates and associated changes in cash-flow forecasts are projected using sensitivity analysis that, if required by an investor, would have resulted in the price paid for the comparable property. The technique is used to support the inputs in a discounted cash-flow approach.

Gratuitous Agent A person not paid by the principal for services on behalf of the principal, who cannot be forced to act as an agent, but who becomes bound to act in good faith and obey a principal's instructions once he or she undertakes to act as an agent.

Gravity Furnace A hot-air furnace that relies on gravity instead of a fan to circulate different weights of air: hot air rises and cold air settles.

GRI *See* Graduate, Realtors Institute.

Grid A chart used in rating the borrower risk, property, and the neighborhood.

Gridiron Pattern The rectangular street pattern of cities that resembles a gridiron.

GRM *See* Gross Rent Multiplier.

Gross Total with no deductions, such as gross sales and gross income.

Gross Acre An acre (43,560 sq. ft.).

Gross Area The total floor area of a building, usually measured from its outside walls.

Gross Building Area (GBA) The total floor area of a building measured in square feet from the external walls, excluding unenclosed areas. Unlike gross living area measurements, GBA does include basement areas.

Gross Earnings The total revenue from operating sources before deducting expenses incurred for gaining such revenues.

Gross Effective Income See Adjusted Gross Income.

Gross Income Total income before any expenses are deducted.

Gross Income Multiplier Same as gross rent/net multiplier.

Gross Leasable Area The floor area that can be used by tenants. Generally measured from the center of joint partitions to outside wall surfaces. Contrast net leasable area.

Gross Lease A lease of property whereby the landlord (lessor) is responsible for paying all property expenses, such as taxes, insurance, utilities, and repairs.

> ***Example****:* In a certain apartment complex the landlord pays for all utilities and taxes. The lease is a gross lease, since the landlord receives rent as a gross figure and must pay operating expenses.

Gross Living Area A system of measuring the size of a house that is widely used by appraisers. It calls for measuring around the outside of the house above the foundation. If there are multiple stories, each story is included. Areas that are classified as garages, porches, basements, or attics are excluded from the calculations.

Gross Margin With regard to an adjustable rate mortgage, an amount expressed as percentage points, stated in the note which is added to the current index value on the rate adjustment date to establish the new note rate.

Gross National Product (GNP) The total value of all goods and services produced in an economy during a given period of time.

Gross Possible Rent Same as potential gross income.

Gross Profit Ratio In an installment sale, the relationship between the gross profit (gain) and the contract price. The resulting fraction is applied to periodic receipts from the buyer to determine the taxable gain from each receipt.

***Example**:* Land, held as a capital asset by Chu, is sold for $10,000. Chu's tax basis was $4,000, so the resulting gain was $6,000. The gross profit ratio is 60% ($6,000 divided by $10,000 equals 60%). Chu accepted a $1,000 cash down payment with the $9,000 balance of the price to be paid over 3 years. Of each amount paid toward the principal, 60% is gain to be taxed and the balance is a nontaxable return of capital. *See* Contract Price.

Gross Rate A method of collecting interest by adding total interest to the principal of the loan at the outset of the term.

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

Gross Sales Total sales before the deduction of returns, allowances, etc.

Gross Schedule Income Total income from property before deducting any expenses.

Ground Lease An agreement for the use of the land only, sometimes secured by improvements placed on the land by the user.

Ground Rent Earnings of improved property credited to earnings of the ground itself after allowance is made for earnings of improvements; often termed economic rent.

Ground Rent Capitalization A method of estimating land value by either dividing a first-year land lease payment by an appropriate land capitalization rate or by discounting a series of land lease payments by an appropriate land discount rate.

Grout Thin mortar used in masonry work to fill joints between bricks, blocks, tiles, etc. (2) A variety of plaster used to finish ceilings of superior quality.

Growing-Equity Mortgage A mortgage loan in which the payment is increased by a specific amount each year, with the additional payment amount applied to principal retirement. As a result of the added principal retirement, the maturity of the loan is significantly shorter than a comparable level-payment mortgage.

Example: Long purchased her home with a growing-equity mortgage. Long's monthly payments will increase by 5% each year, with the increase amount applied to principal. Long will retire the loan in about half the time required to retire a comparable loan with fixed payments.

Guarantee (A Loan) To agree to indemnify the holder of a loan all or a portion of the unpaid principal balance in case of default by the borrower. *See* also VA Mortgage Loan.

Example: Chen takes out a VA mortgage loan to purchase a home. The Veterans Administration guarantees the loan. In case foreclosure is threatened because Chen fails to make the payments, the VA will reimburse the lender for losses up to the amount guaranteed.

Guarantee Of Title Opinion of title condition backed by a fund to compensate in case of negligence. A forerunner of title insurance.

Guaranteed Mortgage See Insured Mortgage.

Guarantor A person who makes a guaranty that some act will be performed or a payment will be made.

Guaranty An assurance provided by one party that another party will perform under a contract.

Example: Chen is an experienced developer. His son, Joe, decides to branch out and start her own company. The construction lender requires a guaranty from Chen before granting Joe a loan for his first project.

Guardian A person appointed by a court to care for the person or property of a minor or incompetent person.

Guideline Lives Depreciable lives, for buildings and equipment, that are used in trade or business. Generally applied to assets bought before 1981; the accelerated cost recovery system applies to depreciable assets bought in 1981-1986; the modified accelerated cost recovery system applies to purchase after 1986.

Example: Guideline lives for certain assets:

◆ apartments-40 years, ◆ dwellings-45 years, ◆ hotels-40 years, ◆ warehouses-60 years.

Habendum A provision in a deed which defines the extent of the ownership to be granted to and enjoyed by the grantee.

Habendum Clause The **"**to have and to hold**"** clause that defines or limits the quantity of the estate granted in the deed.

Example: The habendum clause **"**to have and to hold for one's lifetime**"** creates a life estate.

Half Bath A room in a residence which contains a toilet and wash basin but no bathing facilities, such as a bathtub or shower stall. A three-quarter bath contains a shower but no bathtub.

Example: The two-story homes has two full baths upstairs and a half bath downstairs.

Half Section One half of a section of land that has been divided in half either north and south or east and west.

Half-Timbering Historically, a sixteenth and seventeenth century method of construction that left the strong timer frames exposed, and the spaces between were filled with plaster or brick.

Handsplit Shake or Shingle An exterior covering material that dates back to colonial days. A properly applied shingle should last the life of a building. The difference between a shake and a shingle is that a shingle is sawed and a shake is split.

Handyman's Special In real estate classified advertising, generally refers to a house that requires extensive repair and remodeling, selling at a relatively low price.

***Example**:* The William's looked at a handyman's special that needed new carpeting and repainting. They bought it for $50,000, spend $12,000 (not counting the value of their own labor) to repair it, then resold it for $75,000, providing them with a $13,000 profit.

Hangout The remaining balance of a loan when the term of the loan is beyond the term of a lease.

***Example**:* A lender offers a 30-year loan on property that is leased to Big Buy Foods for the next 25 years. In 25 years the loan balance will be $100,000, which is the hangout. The lender estimates that the land value in 25 years will greatly exceed $100,000, so concern for the hangout is minimized.

Hard Money Loan The borrower receives actual cash and not just credit.

Hazard Insurance A form of insurance that protects against certain risks, such as from fires or storms.

***Example**:* Mortgage lenders frequently require that owners maintain hazard insurance, at least to the extent of the mortgage debt.

Head 1. Generally, the upper-most structural member of a building.

2. The top horizontal framing member of a door or window.

3. A roofing tile used for forming the first course at the eaves.

4. The upper part or source of a river or stream.

Header A framing member that goes across the top of an opening and carries the load above. In masonry, it is a brick or stone laid with the end toward the face of the wall.

Hearing A formal procedure, with issues of fact or law to be tried, in which parties have a right to be heard. Similar to a trial and may result in a final order.

***Example**:* State real estate commissions hold hearings to investigate complaints filed against licensed salespersons.

Heat Pump A system employed to transfer heat into a space or substance. A condenser provides the heat while an evaporator picks up heat from air, water, etc. By shifting the flow of air or water, a heat pump system may also be used to cool the space.

Heating, Ventilation and Air-Conditioning System (HVAC) A system that provides consistent regulation and distribution of heat and fresh air throughout a building.

Hectare A metric land measurement equal to about 2.471 acres or about 107,637 square feet.

***Example**:* Chen sold 6 hectares of land in Puerto Rico for $20,000.

Height Density A zoning regulation that limits the maximum height of the structures within a designated area.

Heirs One who inherits property at the death of the owner of the land, if the owner has died without a will.

Heirs And Assigns A term often found in deeds and wills to grant a fee simple estate.

***Example**:* Chen wills property to **"**Lee, heirs and assigns.**"** Upon inheriting the property, Lee can sell it or will it to heirs.

Hereditaments Anything capable of being inherited.

High Victorian Italianate A nineteenth-century-style house with three different kinds of window arches, the primary distinguishing characteristic of this style. The arches are straight-sided, flat-topped and rectangular.

High-Rise Generally a building that exceeds 6 stories in height and is equipped with elevators.

***Example**:* A high-rise building is constructed to include retail space on the first floor, 8 floors of office space, 10 floors of condominium units, and a club/restaurant on the 20th floor.

High-Rise Apartment Building 1. An apartment building that is considered high in relation to those buildings surrounding it.

2. A modern, elevator-equipped apartment building usually more than four stories high.

Highest And Best Use (HBU) 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. HBU is usually determined under two different premises; as if the site was vacant and could be improved in the optimal manner or as the site is currently improved. In the latter premise, the highest and best use of the site will either be to keep the existing building or demolish the building and develop a building that is the highest and best use. In general, it is not feasible to demolish an existing building as long as it contributes to the value of the site.

Highway Easement An easement that is created for the purpose of the construction of a highway. Often, the abutting property owners own the title (fee) under the highway, and when the highway is abandoned, title reverts to these owners.

Highway Line The outside limits over which a highway has right of way; not to be confused with the actual physical borders of the highway. It often includes extra land on each side of the highway.

Hip The junction of three sloping sides of a hip roof.

Hip Roof A roof sloping on four sides. Mansard - A Roof double pitched on four sides. A roof with a steeper slope has a longer life. One formed by four walls sloped in different directions with the two longer sides forming a ridge at the top.

Historic District A designated area where the buildings are considered to have some significant historic character. Such designation makes the area eligible for certain federal assistance programs and protects the area from clearance in conjunction with federally sponsored programs.

***Example**:* Older areas, such as the French Quarter is New Orleans, enjoy protection by being designated as historic districts.

Historic Preservation A process of retaining the historical architectural characteristics of structures, sites, and areas through the establishment of regulations and by making structural restorations.

Historic Preservation Loan A type of loan insured by the FHA. It is made by financial institutions for the purpose for preserving, rehabilitating, and restoring eligible residences.

Historic Structure A building that is officially recognized for its historic significance has special status under the 1976 Tax Reform Act, which encourages rehabilitation and discourages demolition or substantial alteration of the structure. In 1981 a special tax law allowed a 25% tax credit for rehabilitation of certified historic structures, reduced to 20% in 1986.

***Example**:* Because the old office building was designated a certified historic structure, its owner decided to restore the building to take advantage of allowable tax deductions.

Historical Cost The actual cost of the construction of a structure when it was originally

built; to be distinguished from the original cost-the cost to the present owner-which may be more or less than the historical first cost.

Hold Harmless Clause In a contract, a clause whereby one party agrees to protect another party from claims.

***Example**:* Fast Foods is leasing property from its landlord, Lucky Lessors. A customer is injured by a falling light fixture, and she sues both Fast Foods and Lucky Lessors. In the lease, Fast Foods agreed to a hold harmless clause whereby they indemnified Lucky Lessors against such events.

Holdback A portion of a mortgage loan that is withheld by the lender from the borrower at the time of the closing to be disbursed later, after the borrower has met specified conditions set forth in the mortgage document. Typical conditions are the construction, improvement, and repaid of the property and the renting of it to a pre-specified level of occupancy.

Holdback Money not paid until certain events have occurred, such as a floor loan of a loan commitment or retainage on a construction contract.

***Example**:* On a $1,000,000 loan the lender has a $300,000 holdback until the property is 80% rented.

***Example**:* The developer has a 10% holdback from subcontractors until the building inspection is complete.

Holden Act See Housing Financial Discrimination Act Of 1977.

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

Before it was overdue;

In good faith and for value;

Without knowledge that it has been previously dishonored and without notice of any defect at the time it was negotiated to him.

Holding Company One that owns or controls another company(ies).

***Example**:* Banks and public utilities are often owned or controlled by a

holding company. Sometimes this arrangement allows more latitude for business practices than the operating company can achieve alone.

Holding Costs Same as carrying costs.

Holding Over The act of maintaining possession of a property without the owner's consent after the lease has expired.

Holding Period The time span of ownership, often for investment real estate.

***Example**:* Some investors prefer short holding periods (under 5 years) in an attempt to retain high levels of financial leverage. Others hold property longer to reduce frequent transaction costs and avoid depreciation recapture.

Holdout A landowner in the path of an assemblage who attempts to realize the highest possible price by refusing to sell in the early stages of assemblage.

***Example**:* While downtown lots were being assembled for future use as a bus depot, Harold held out for a price of $200 per square foot for his land.

Holdover Tenant A tenant who remains in possession of leased property after the expiration of the lease term. *See* Tenancy At Sufferance.

***Example**:* Chen leases an apartment for one year. At the end of the year, Chen is still in the process of finding a new home. As a holdover tenant, Chen may be evicted or allowed to remain on a month-to-month basis by continuing to pay rent, at the landlord's discretion.

Hollow Core Construction A door or wall built with two facing panels with a space between them filled with air, insulation, or other filler.

Hollow Masonry Tile A hollow masonry unit that has coreholes which exceed 25% of the total tile volume.

Hollow Wall A masonry wall made of two layers of masonry separated by a small air space.

Holographic Will A will entirely handwritten and signed by the testator.

Home Equity Conversion The process of liquidating all or a portion of the equity in one's home. *See* Home Equity Loan, Reverse Annuity Mortgage.

***Example**:* The Lee's own home valued at $100,000, on which they have a mortgage loan in the amount of $60,000. By refinancing the loan for $80,000, they can obtain cash in the amount of $20,000 through home equity conversion.

Home Equity Loan A loan secured by a second mortgage on one's principal residence, generally to be used for some non-housing expenditure.

***Example**:* Home equity loans became popular in the late 1980s as a way to finance purchases or consolidate existing debts while retaining tax-deductible status for the interest paid on the loan.

Home Improvement Additions and/or changes made to a residence that improve the structure and design, and therefore the value, of the home.

Home Improvement Loan A loan, usually secured by a mortgage on the home, used to pay for major remodeling, reconstruction, or additions to the home.

***Example**:* In order to add an extra bedroom, remodel the kitchen, and construct a swimming pool in the backyard, the Lees took out a home improvement loan from their local savings and loan association.

Home Inspector A professional who evaluates the structural and mechanical condition of a home prior to its being sold. Some state require home inspectors to be bonded or licensed.

***Example**:* Before closing on their new home, the Lees hired a home inspector to check the condition of the structure. The inspector to check the condition of the structure. The inspector discovered an unsafe furnace burner and a leaking faucet. The seller agreed to have the problems repaired before the closing.

Home Loan *See* Mortgage.

Home Warranty Insurance Insurance that protects the homeowner against mechanical system failures and structural failures. It is available for both new and used homes.

Home Warranty Insurance Private insurance insuring a buyer against defects (usually in plumbing, heating, and electrical) in the home he has purchased. The period of insurance varies and both new and used homes may be insured.

Homeowner's Exemption An exemption of the portion of one's principal place of residence from property tax assessment.

Homeowner Warranty Insurance Same as homeowner warranty program.

Homeowner's Once-In-A-Lifetime Exclusion *See* Over Age 55 Home Sale Exemption.

Homeowner's Policy An insurance policy designed especially for homeowners. Usually protects the owner from losses caused by most common disasters, theft, and liability. Coverage and costs vary widely.

> ***Example****:* Whitman acquired a homeowner's policy for an annual premium of $500. It insures her home from fire losses (up to $100,000), theft (of household goods, excluding jewelry, paintings, stamp collections, silverware), and gives up to $300,000 of liability protection.

Homeowners' Association An organization of the homeowners in a particular subdivision, planned unit development, or condominium; generally for the purpose of enforcing deed restrictions or managing the common elements of the development. *See* Community Association.

> ***Example****:* All unit owners of the Lakefront Condominiums are members of the Lakefront Homeowners' Association. The Association maintains the pool, grounds, and building structure, and regulates use of common elements. They assess each owner a $75 monthly fee.

Homeowners' Warranty (HOW) Program A private insurance program that protects purchasers of newly constructed homes, when the builder participates in the program, against structural and mechanical faults.

***Example**:* Chen purchases a new home. The builder participates in the HOW program and provides Chen with a homeowner's warranty to cover any faults or oversights in the construction.

Homeownership The state of living in a structure that one owns. Contrasted with being a renter or tenant in one's home.

***Example**:* Homeownership is a goal of many families. It provides security from the decisions of landlords, pride of ownership, and investment advantages in exchange for undertaking the responsibilities of a property owner.

Homeownership Rate The percentage ratio of owner-occupied dwelling units to total occupied dwelling units in an area.

***Example**:* In 1989, the homeownership rate for the United States was 63.9%, indicating the proportion of all households owning the home in which they lived. Within the population, the rate varies greatly by age and type of household. Again for 1989, the rate for householders under age 35 was 39.1%, while for those over 65 it was 75.8%. Married couple families had a rate of 78.3%, but single households had only a 48.2% rate.

Homestead A home upon which the owner or owners have recorded a Declaration of Homestead, protects home against judgments up to specified amounts.

Homestead Exemption In some jurisdictions, a reduction in the assessed value allowed for one's principal residence.

***Example**:* The homestead exemption in Georgia enables a homeowner, upon application, to get $5,000 subtracted from the assessor's appraisal of the home. This reduces the property tax burden.

Homesteader One who claims a homestead.

Homogeneous Uniform, of like characteristics or quality. Opposite of heterogeneous. The values of an area tend to be maximized when properties are homogeneous, because low-valued or unusual properties are likely to reduce the value of other nearby properties of higher cost.

Example: The houses in the neighborhood were homogeneous, all single-family, one-story buildings with brick exteriors. They were readily marketable with asking and selling prices in a tight range.

Horizontal Property Laws State statutes that enable condominium ownership of property. Whereas property laws generally recognize ownership rights to all space from the center of the earth to some distance in the air, condominium laws allow individual ownership to be split on a horizontal plane that generally limits the unit owner's interest to the inside dimensions of unit. *See* Common Elements.

Example: Before passage of horizontal property laws, all owners in a condominium were obligated under each individual mortgage loan in the complex. If one owner defaulted, the lender could foreclose on the entire condominium. Now, to secure a loan, each owner pledges only his or her limited interest in the condominium.

Horizontal Siding A group of siding materials that are attached to the sheathing in horizontal rows. Some common types are drop siding, bevel siding, and flush siding.

Hoskold Premise An appraisal theory that was designed to value the income stream of a wasting asset. Two separate interest rates are used; a speculative rate, representing a fair rate of return on capital, and a safe rate for a sinking fund designed to return all the invested capital in a limp sum at the termination of the investment. The Hoskold premise assumes that a portion of the net operating income is reinvested at a safe rate to replace the investment.

Hot-Air Gravity A type of heating system where the air is heated in a furnace and dis-

System tributed through ducts without the aid of fans. The circulation of the air depends on the fact that hot air will naturally rise and cold air will naturally settle downward.

Hot-Air Heating System See Warm Air System.

Hot-Water Heater A tank in which hot water is heated for domestic, commercial, or industrial use.

Hot-Water Heating System A heating system that uses hot water circulating from a boiler and flowing through a series of pipes to the areas to be heated and back to the boiler.

Hot-Water System See Domestic Hot Water System.

House Plans Drawings, usually in scale, of a house showing all the design and construction details. A complete set of house plans consists of the following: 1. Orthographic projections of each floor and the basement;

2. Electrical plan; 3. Plumbing plan; 4. Wall sections; 5. Elevations of all sides; 6. Plot plan; 7. Door and window schedules; 8. Specifications;

House Style The exterior design of a house based on historic or contemporary fashions.

House Type The physical configuration of a house, not the style Examples of terms describing a house style would be one, tow, or three-story; Raised Ranch; Split-entry; etc.

Housing Affordability Index An indicator of the proportion of the population that can afford to buy the average home sold during the current period.

Example*:* There are many types of housing affordability indexes in use. One of the most well-known is the index compiled by the National Association of Realtors. The index is formed by the ratio of a percentage of the average income of all families in the area to the monthly loan payment needed to purchase the average-priced home

sold in that area. An index value of 1.00 indicates that half of the families in the area could afford to buy the average home. The higher the index, the more affordable housing should be in the area.

Housing And Urban Development (HUD) Department A U.S. government agency established to implement certain federal housing and community development programs. This federal agency attempts to assure decent, safe, and sanitary housing for all Americans, and investigates complaints of discrimination in housing.

Example: Jones desires to develop a housing project for low-income families. She applies to the Department of Housing and Urban Development for a special low-interest loan for the development.

Housing Code A local government ordinance that sets minimum standards of safety and sanitation for existing residential buildings. Contrast to building codes, which pertain to new construction.

Example: Because of violations of the housing code, including a badly leaking roof and rat infestation, the old apartment building was condemned.

Housing Financial Discrimination Act Of 1977 (Holden Act) California Health and Safety Code Section 35800, et seq., designed primarily to eliminate discrimination in lending practices based upon the character of the neighborhood in which real property is located.

Housing Starts The number of residences on which construction has begun in a specified period at a designated location, which may be a community, region, state, or the whole nation. It is used as an economic indicator.

Example: During the last month, housing starts were 20% lower than the same month a year ago, reflecting a lower demand for new houses caused by high mortgage rates.

Housing Stock The total inventory of dwelling units in a designated areas, such as a community, region, state, or the nation. This includes both owned and rented units.

HOW *See* Homeowners' Warranty Program.

HUD *See* Department of Housing and Urban Development.

HUD-1 Form Same as Uniform Settlement Statement.

Hundred Percent Location A city retail business location which is considered the best available for attracting business.

HVAC An acronym that refers to the climate control system in buildings (Heat, Ventilation, and Air-Conditioning).

Hydronic System A hot-water heating system.

Hydrostatic Pressure See Artesian Well.

Hypothecate To give a thing as security without the necessity of giving up possession of it.

IAAO International Association of Assessing Officers.

Illegal Contract An agreement that is contrary to existing law or public policy and therefore cannot be enforced in court.

Illiquidity An adjective which describes assets that cannot be easily liquidated (i.e., sold and turned into cash).

Imperative Necessity Circumstances under which an agent has expanded authority in an emergency, including the power to disobey instructions where it is clearly in the interests of the principal and where there is no time to obtain instructions from the principal.

Impervious Surface Dense, compact, fine-grained soils that restrict the infiltration of water.

Implied Presumed or inferred rather than expressed.

Implied Contract Created by actions but not necessarily written or spoken. *See* also Stat-

ute Of Frauds.

***Example**:* Chen posts a for-sale sign on his property that says, **"**See Your Broker.**"** Davis submits an offer through her broker and buys the property. Chen refuses to pay the broker, who then goes to court contending that the sign created an implied contract.

Implied Dedication An intent to give the public rights in land not expressed by the landowner.

Implied Easement *See* Easement By Prescription.

Implied In Fact Contract A contract whose elements are inferred from the acts or conduct of the parties.

Implied In Law Contract A contract created in law to avoid the perpetration of fraud or unjust enrichment. Also called a quasi-contract.

Implied Warranty One that is not written but exists under the law. Contrasted with **"**expressed.**"** Implied warranties are legally enforceably.

***Example**:* Under the law in several states there is an implied warranty of habitability for apartments leased to tenants. This means that the tenant has the right to a dwelling that is fit for living i.e., there are no building code violations.

Impound Account A fund set aside for future needs. *See* Reserve Fund, Escrow Account.

***Example**:* Each month a homeowner deposits 1/12 of the estimated annual property tax and insurance premium requirements into an impound account, so that the balance will be sufficient to pay amounts when they come due.

Impounds A trust-type account established by lenders for the accumulation of funds to meet taxes, FHA mortgage insurance premiums, and/or future insurance policy premiums required to protect their security. Impounds are usually collected with the note payment.

Improper Im- An improvement that does not conform to the highest and best use of a

provement site.

Improved Land Land that has some improvements. Land that has been partially or fully developed for use.

Examples: Any of the following activities on a piece of raw land will result in improved land: landscaping and grading, installation of utilities, construction of roads, curbs, and/or gutters, construction of buildings.

Improvement Structures or buildings that are permanently attached to the land.

Improvement Ratio The relative value of improvements to the value of unimproved property.

Example*:* Land worth $25,000 was improved with a $1 million building. The improvement ratio is $1 million to $250,0000, or 4:1.

Improvements Things built on land which become a part of the real property.

Imputed Income Savings that owners receive when they occupy their own buildings because they do not have to pay rent. When the value of owner-occupied buildings is estimated, this savings must be added to the rents received from the other tenants to give a true picture of the income potential of the property.

Imputed Interest Implied interest. Interest considered to have been paid in effect even though no interest was actually paid. In a mortgage that states an insufficient interest rate, the law will impute that the rate is higher, and the principal is less.

For example, the IRS requires that annual interest be recognized on a Zero Coupon Security.

Example*:* Chen sells property to Lee. Lee gives Chen a portion of the price in cash and Chen takes a note for the remainder. Since the gain on the sale is taxable at capital gains rates and the interest paid on the note is taxed as ordinary income, it is in Chen's favor to set a

higher price in exchange for charging a low rate of interest on the note. If this is done, the Internal Revenue Service will consider portion of the principal paid on the note as imputed interest and tax that portion as ordinary income.

Imputed Rate The rate set by law, if no interest rate is stated in the documents.

In Lieu Tax Payments received by a community, county, or state from property owners who are not required to pay ad valorem because of an exemption they have. For example, a university not subject to property taxes may voluntarily pay a community for the services and protections it receives.

In Perpetuity Forever.

In REM Latin: **"**against the thing.**"** A proceeding against the property directly, as distinguished from a proceeding against a person (used in taking land for nonpayment of taxes, etc.)

Example*:* Lee cannot collect on his past due loan from Chen. Lee, through court action, secures a judgment in rem against a building lot owned by Chen, which causes a lien against the lot.

Inchoate Unfinished, begun but not completed. In real estate, this can apply to dower or courtesy rights prior to be death of a spouse.

Example*:* Chu dies, leaving dower rights inchoate. Her children by a former marriage sue her widower to recover her share of property he sold.

Income The money or other benefit coming from the use of property, skill, or business.

Example*s*: In real estate, income may be produced by: rents, fees, royalties, sales of crops, timer, or livestock, revenues derived from business activities on the property.

Income Approach One of the approaches to value used by real estate appraisers to estimate the value of property being appraised. It is based on the theory that the present value of a property is equal to the present value of its future ca-

pacity to produce income including the proceeds of a sale at a future date.

Income Averaging A method of figuring income tax by paying tax on the average income per year for the past five years. For example: A. a real estate salesperson, earns $10,000 taxable income for 4 years. In the fifth year, A sells a shopping center and earns $100,000 taxable income. A could take the total income for 5 years ($140,000), divided by 5 ($28,000) and pay tax on $28,000 for the past 5 years, less what A has already paid.

Income Capitalization Approach One of the three traditional appraisal methods to estimating value. In this approach, value is based on the present value of future benefits of property ownership. In direct capitalization, a single year's income is converted to a value indication using a capitalization rate. In yield capitalization, future cash flows are estimated and discounted to a present value using a capitalization rate.

Income Multiplier The relationship of price to income. First-year ratios calculated by dividing the value of the property by either the potential gross income, effective gross income, or net operating income. *See* Gross Rent Multiplier.

Income Participation *See* Participation Mortgage.

Income Premise The basis of the capitalization process used by real estate appraisers to estimate the value of a property, based on the assumption that, even though the future income installments of a property may fluctuate, their stabilized equivalent may be assumed. This assumed income is capitalized into a present value estimate.

Income Property Real estate that generates rental income.

Examples: The following are types of income property:

- apartment buildings; • shopping centers; • office buildings; • industrial properties and warehouses; • resort and recreational properties; • schools, churches, parks; • hotels, motels, and

restaurants.

The following are generally not considered income property: ◆ personal residences; ◆ undeveloped land (rental income is minimal)

Income Ratio The monthly payment on a loan including principal and interest, taxes, and insurance divided by the borrower's monthly gross income.

Income Risk The amount of risk estimated to exist that a future income stream projected for a property will occur as estimated.

Income Stream A regular flow of money generated by a business or investment.

Example*:* A net lease that pays $1,000 per month rent for 10 years provides an income stream.

Income Tax Liability The income taxes that will be due on the net operating income produced by the property, less the mortgage interest and depreciation. It is the tax on that portion of a property's income that is unsheltered.

Income/ Expense Ratio *See* Expense Ratio.

Incompetent One who is incapable; any person who is, by reason of age, disease, weakness of mind or any other cause, unable, unassisted to properly manage and take care of himself or his property, and by reason thereof, would be likely to be deceived or imposed upon by artful or designing persons.

Incorporate To form a corporation under regulations provided by the Secretary of State.

Example*:* Chen intends to enter the real estate brokerage business and wishes to protect his personal assets. He retains a lawyer to whom he pays a $1,000 fee to incorporate the business. Chen is the sole stockholder and chairman of the board of directors. Chen's personal assets are protected because liability is limited to the assets owned by the corporation.

To provide a geographic area the legal status of a political subdivision of the state.

***Example**:* A large subdivision outside a large city petitions the state legislature to incorporate as an independent city. The residents of the incorporated area may elect representatives and tax themselves to provide services.

Incorporation by Reference A means of including documents not included in an agreement by making reference to them.

Incorporeal Property Legal interests in real property that do not entail the right of possession. *See* Easement, License.

Incorporeal Rights Nonpossessory rights in real estate, arising out of ownership, such as rents.

Increasing And Decreasing (Diminishing) Returns A valuation principle which states that when larger amounts are invested, the rate of return increases. When the maximum rate of return is reached, however, any increase in investment will reduce the rate of return.

An increase in such things as the amount of labor, materials, amenities, capital, or any other factor of production may not increase the value of the property equal to the cost of the added items.

Increasing Annuity A steadily increasing net operating income of a property forecasted over a long period of time. To be classified as an annuity, the income stream should be low risk, durable, and of high quality.

Increment An increase. Most frequently used to refer tot he increase of value of land that accompanies population growth and increasing wealth in the community. The term **"**unearned increment**"** is used in this connection since values are supposed to have increased without effort on the part of the owner.

Incurable Depreciation A defect that cannot be cured or that is not financially practical to cure; a defect in the **"**bone structure**"** of a building. Compare curable depre-

ciation.

***Example**:* It is estimated that if a specific house had a more convenient floor plan, it would sell for an additional $5,000. The cost of rearranging the partitions to improve the plan is $10,000. The poor floor plan is incurable depreciation.

Incurable Functional Obsolescence A defect in property that reduces its value as a result of its design, materials, condition, etc. The cost to cure the defect is greater than the value added by effecting the cure.

Incurable Physical Depreciation A defect caused by a deficiency or superadequacy in the structure, materials or design of a structure. The defect is deemed incurable if the cost to cure the defect is greater than the anticipated increase in value after the defect is cured. A component of accrued depreciation.

Indemnification A form of guarantee or holding harmless from loss.

Indemnify To protect another person against loss or damage.

***Example**:* FHA mortgage loans indemnify the lender against the risk of a buyer's default.

To compensate a party for loss or damage.

***Example**:* Upon foreclosure, the FHA indemnified the lender for losses on the defaulted loan.

Indemnity Agreement An agreement by the maker of the document to repay the addressee of the agreement up to the limit stated for any loss due to the contingency stated on the agreement.

Indenture A written agreement made between 2 or more persons having different interests.

***Example**:* The indenture trustee enforces the agreement made between the bond issuer (borrower) and the lender.

Independent Administration of Es- A provision of the probate code allowing certain acts of the personal representative to be done without direct court supervision.

tates Act (IAEA)

Independent Appraisal A value estimate provided by someone who does not participate in the income or value of the property.

Example: An appraiser's certification should show independence from the transaction. Those who cannot provide independent appraisals include owners, lenders, and property managers.

Independent Contractor A contractor who is self-employed.

Example: Chu, a real estate salesperson, is an independent contractor engaged by broker Lee. She has not received any income in the last 3 months but is unable to collect unemployment insurance because she is an independent contractor. Last year she paid a self-employment tax instead of social security.

Independent Fee Appraiser One who estimates the value of property, has no interest in the property, and is not associated with a lending association or other investor.

Example: Some lenders have appraisers on their salaried staff; others hire independent fee appraisers.

Index A statistic that indicates some current economic or financial condition. Indexes are often used to make adjustments in wage rates, rental rates, loan interest rates, and pension benefits set by long-term contracts.

Example: Office building rental rates are sometimes adjusted in relation to the consumer price index.

To adjust contract terms according to an index. *See* Indexed Loan.

Example: Mortgage interest rates on adjustable rate mortgages are often indexed to the average mortgage rate for all lenders or the average cost of funds for all lenders.

Index Lease A rental agreement that requires changes in rent based on a published record of cost changes. *See* Cost Of Living Index.

Example: A landlord makes an index lease with initial rent at $10,000

per year, adjusted annually by the Consumer Price Index (CPI). If the CPI is 100 at the time of the lease and increases to 110 in the second year, the rent for the second year will be 10,000 x 1.10= $11,000.

Index Number A number used to express the difference between the value, price, cost, etc., of a group of items at two or more different points of time. Traditionally, a base point in time is designated as 100, and the index number of other times reflects changes from the base. An example of an index is the Consumer Price Index issued by the United States Department of Labor.

Indexed Loan A long-term loan in which the term, payment, interest rate, or principal amount may be adjusted periodically according to a specific index. The index and the manner of adjustment are generally stated in the loan contract.

Example: An adjustable rate mortgage is an indexed loan. At specific intervals the face interest rate on the loan may be changed according to variations in the specified index.

Indirect Construction See Indirect Costs.

Indirect Costs Costs not directly associated with the structure, but incurred during the construction period. Also called soft costs. Contrast with direct costs.

Examples: ◆ Real estate taxes, ◆ Administrative costs, ◆ Professional fees, ◆ Insurance, ◆ Lease up.

Indorsement The act of signing one's name on the back of a check or note, with or without further qualification.

Industrial District Areas in which the major improvements are of an industrial nature such as factories, warehouses, etc.

Industrial Park An area designed and zoned for manufacturing and associated activities.

Industrial Property Property used for industrial purposes, such as factories.

Examples: Types of industrial property:

- factory-office multi-use property,
- factory-warehouse multi-use property,
- heavy manufacturing buildings,
- industrial parks,
- light manufacturing buildings,
- research and development parks.

Industrial Siding A railroad track that runs alongside and serves an industrial building or park and is connected to a main railroad line.

Industrial Tax Exemption A property tax exemption given by local, county, or state governments in order to encourage industries to locate in a certain area.

Inflation A loss in the purchasing power of money; an increase in the general price level. Generally measured by the Consumer Price Index, published by the Bureau of Labor Statistics.

Example: Real estate is considered a hedge against inflation because it tends to be long-lasting and holds its value in real terms. As the value of the dollar drops, real estate tends to command more dollars. A home that was purchased in 1967 for $50,000, resold in 1976 for $100,000 and in 1993 for $200,000. The home did nothing to cause its price to change; inflation caused the house to command more dollars.

Information Reporting Reports provided to the Internal Revenue Service (IRS), such as commissions earned by real estate sales agents and real estate transactions of home sellers, reported by the broker.

Example: In January, Chen files a form 1099 with the IRS for real estate transactions she brokered during the past year. Such information reporting is required by the Tax Reform Act of 1986.

Infrastructure The basic public works for a city or subdivision, including roads, bridges, sewer and water systems, drainage systems, and essential public utilities.

Example: After many years of neglect, the city council realized that there was a need to invest in the infrastructure of the city.

Accordingly, they embarked on a major program of road improvements and reconstruction of water and sewerage lines throughout the city.

Ingress Ingress And Egress Means of entering property.

A right to enter upon and pass through land.

Inherit To acquire property by will or succession.

Inheritance Tax A tax, based on property value, imposed in some states on those who acquire property from a decedent. Compare estate tax.

***Example**:* An estate tax is based on the value of all property left by the decedent, whereas an inheritance tax is based on the amount that an heir receives.

Initial Note Discount As applies to an adjustable rate mortgage, the index value at the time of loan application plus the margin less the initial note rate.

Initial Note Rate With regard to an adjustable rate mortgage, the note rate upon origination. This rate may differ from the fully indexed note rate.

Initial Rate Discount As applies to an adjustable rate mortgage, the index value at the time of loan application plus the margin less the initial note rate.

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.

Inlaid Linoleum A term applied to all types of true linoleum, including marbleized, jasper, plain, and molded types, as distinguished from the less expensive, inferior, enamelled or thin-faced felt sheets.

Inland Waters Inlet All bodies of water exclusive of the open sea.

A narrow waterway extending inland.

Inner City Generally the older and more urbanized area of a large city surrounding the central business district. The term often refers to densely populated

blighted areas characterized by low-income residents and a high proportion of minority racial and ethnic groups.

Examples:

- Many inner city neighborhoods have been rehabilitated by urban renewal projects.
- Violence is a problem in some inner city schools.
- The mayor promises a construction program to rehabilitate the inner city.

Inner Hearth The inner portion of a fireplace where wood, coal, or gas is burned.

Inquiry Notice Constructive notice derived from facts which the law requires a reasonable person to investigate or inquire about.

Inside Lot In a subdivision, a lot surrounded on each side by other lots, as opposed to a corner lot, which has road frontage on at least 2 sides.

Insolvency A situation when someone or some organization cannot pay their debts.

Inspection A physical scrutinizing review of property or of documents.

Example: Inspections may be required for the following purposes: compliance with building codes, sale requirements as to property conditions, such as wood-destroying insects or structural soundness, legal review of documents such as leases and mortgages to determine whether they are as purported.

Installment Contract Same as land contract.

Installment Land Contract Contract for purchase of real estate in installments, where deed is delivered when the final payment of the purchase price is made.

Installment Land Sales Contract See Land Contract.

Installment Loan A loan providing for payment of the principal in two or more install-

ments.

Installment Note A note which provides that payments of a certain sum or amount be paid on the dates specified in the instrument.

Installment Reporting A method of reporting capital gains by installments for successive tax years to minimize the impact of the totality of the capital gains tax in the year of the sale.

Installment Sale When a seller accepts a mortgage for part of the sale, the tax on the gain is paid as the mortgage principal is collected. *See* also Contract Price, Gross Profit Ratio, Imputed Interest.

Installment Sales Contract Commonly called contract of sale or "land contract." Purchase of real estate wherein the purchase price is paid in installments over a long period of time, title is retained by seller, and upon default by buyer (vendee) the payments may be forfeited.

Installment To Amortize One Dollar A mathematically computed factor derived from compound interest functions that offer the level periodic payment required to retire a $1.00 loan within a certain time frame. The periodic installment must exceed the periodic interest rate. *See* Amortization, Amortization Schedule.

Examples:

- $2638 is required to amortize $1.00 at 10% interest, with 5 yearly payments.
- $1627 is required to amortize $1.00 at 10% interest with 10 yearly payments.
- $1175 is required to amortize $1.00 at 10% interest, with 20 yearly payments.

Installments Parts of the same debt, payable at successive periods as agreed; payments made to reduce a mortgage.

Example*:* Chen purchases a property with a land contract. The contract calls for a payment of $30,000 at closing, with 10 annual installments of $15,000 each.

Institute Of Real Estate Management (IREM) A professional organization of property managers. Affiliated with the National Association of Realtors. Publishes the Journal of Property Management. Address: Institute of Real Estate Management, 430 North Michigan Avenue, Chicago, IL 60611.

Institutional Lender Financial intermediaries who invest in loans and other securities on behalf of their depositors or customers; lending and investment activities are regulated by laws to limit risk.

***Example**:* Institutional lenders are a prime source of real estate loans. Many organizations, such as savings and loan associations and commercial banks, originate loans directly; others, such as insurance companies, lend through mortgage brokers.

Institutional Property Property owned and run by nonprofit organizations such as schools or hospitals.

Schools, hospitals, mental institutions, foundations, etc.

Instrument A written legal document; created to effect the rights of the parties, giving formal expression to a legal act or agreement for the purpose of creating, modifying or terminating a right. Real estate lenders' basic instruments are: promissory notes, deed of trust, mortgages, installment sales contracts, leases, assignments.

Insulating Glass Two pieces of double-or shingle-strength glass sealed together with an air space between them.

Insulation In construction, material such as plaster-board, asbestos, compressed wood-wool or fiberboard placed between inner and outer surfaces that reduces the transfer of hear, cold or sound by dissipating air currents.

Insurable Interest An interest in a person or property that would cause one a loss if that person or property were injured. Must be present to collect from an insurance policy.

***Example**:* The Good Money Savings Association lent $50,000 on Chen's house. Yesterday the house was destroyed by fire. Good

Money can collect on its insurance policy, because they were insured and had an insurable interest. Five Star Savings also had an insurance policy on the home but had no lien, so they couldn't collect.

Insurable Title A title that can be insured by a title insurance company.

***Example**:* In some contracts for the sale of real estate the buyer must receive insurable title or he is not obligated to purchase the property.

Insurable Value The cost of total replacement of destructible improvements to a property.

***Example**:* Although the market value of the home was $100,000, its insurable value was $75,000, based on an allocation of $25,000 to the land and replacement costs of $75,000 for the structure and other man-made improvements.

Insurance A contractual agreement where the insurer agrees to reimburse the insured for financial loss.

Insurance (Mortgage) A service, generally purchased by a borrower, that will indemnify the lender in case of foreclosure of the loan. Indemnification is generally limited to losses suffered by the lender in the foreclosure process. *See* FHA Mortgage Loan, Private Mortgage Insurance.

***Example**:* Chen took out a home loan covered by mortgage insurance. After one year, Chen defaulted on the loan and the lender foreclosed. Chen owed $50,000, but the foreclosure sale produced only $40,000 in proceeds. The insurance company paid the lender the difference of $10,000.

Insurance Coverage Total amount and type of insurance carried.

***Example**:* The owner maintained $100,000 of hazard insurance coverage on the property, and $300,000 of liability insurance coverage. The hazard insurance coverage was adequate to meet the 80% coinsurance requirement in the policy.

Insured Mortgage A mortgage in which payments to the mortgagee are guaranteed in the event the mortgagor fails to make them.

Intangible Asset See Intangible Property.

Intangible Property Personal property that has value but cannot be physically touched. Examples are patents, copyrights, trademarks, the good reputation of a business, a franchise, etc.

Intangible Value An asset which is not physical. Goodwill, patent rights.

Intensity The amount of labor and capital put into the development of a parcel of land. For example, how many dwelling units per acre.

Intensive Farming The input of large amounts of labor and capital into land to produce maximum production of crops.

Inter Vivos During one's life.

Example: Chen makes an inter vivos gift of $10,000 to each of 3 children. The children spend the $10,000 and may inherit more money if Chen names them in the will he is preparing.

Interchange A system of ramps, overpasses, below-grade-level changes, etc., used to regulate highway traffic to reduce the need for controls such as lights and stop signs.

Interest 1. Cost of the use of money.

Example: Lenders require payment of interest at a specified rate, to compensate for risk, deferment of benefits, inflation, and administrative burdens.

2. The type and extent of ownership.

Example: One may hold either a partial or fee simple interest in a property. That interest entitles one to specific ownership rights.

Interest Cap The maximum interest rate increase of an Adjustable Mortgage Loan. For example: a 12% loan with 5% interest rate cap would have maxi-

mum interest for the life of the loan which would not exceed 17%.

Interest Deductions (Under The 1986 Tax Act)

Investment Interest.

Investment interest deductions are limited to net investment income, which includes interest, dividends, long-term capital gains and income or loss from working interests in oil and gas interests. However, net investment income includes neither rental nor other passive activity income or loss, nor interest paid to buy an ownership in a passive activity.

Construction Interest. Interest incurred during the construction and development of most real estate (but not a personal residence) must be capitalized, and deducted over its depreciable life beginning when the property is ready to be placed in service or sold.

Business Interest. Interest incurred in an active trade or business in which the investor materially participates is fully deductible.

Housing Interest. Interest on up to $1 million of acquisition debt (used to purchase or improve a home) plus $100,000 of home equity debt is tax deductible. This may be claimed for a principal residence plus one vacation home (provided the owner used it personally for the greater of 14 days or 10% of the time it is rented). Points paid on a mortgage to acquire a principal residence may be deductible if they are customary in the geographic area; points paid for other purposes such as refinancing are amortized (deducted evenly each year over the life of the loan) rather than deducted currently.

Consumer Interest. Interest on credit cards and auto loans has not been deductible since 1990.

Interest Extra Loan

A loan in which a fixed amount of principal is repaid in installments along with interest accrued each period on the amount of the outstanding principal only.

Interest Only Loan

A straight, non-amortizing loan in which the lender receives only interests during the term of the loan and principal is repaid in a lump sum at maturity. Contrast with self-amortizing mortgage.

***Example**:* Land was bought with a 5-year interest-only loan of $100,000 at 12%. The interest of $12,000 was paid annually for 4 years. The $100,000 principal, together with the last $12,000 interest payment, was due at the end of the fifth year.

Interest Rate The charge made for a loan of money expressed as a percentage of the principal. The rate of return on an investment.

***Example**:* A $50,000 mortgage loan is made at 12% interest and 4 discount points. The contract interest rate is 12% and determines the monthly payment amount. The effective rate of interest, which incorporates the effects of the discount points, is 12.55% and is the rate of return to the lender if the loan runs to maturity.

Interest-Only Loan A loan in which interest is payable at regular intervals until loan maturity, when the full loan balance is due. Does not require amortization.

Interim Financing A loan, including a construction loan, used when the property owner is unable or unwilling to arrange permanent financing. Generally arranged for less than 3 years, used to gain time for financial or market conditions to improve.

***Example**:* Chen developed an office building but, in the expectation of falling interest rates, does not wish to use permanent financing at this time. He arranges a 2-year interim loan, during which time he seeks favorable permanent financing.

Interim Occupancy Agreement A contract establishing a landlord-tenant relationship between a seller and purchaser allowing the purchaser to take possession of the premises before the close of escrow.

Interim Use A temporary use for a property when the highest and best use of the property is different from the highest and best use of the land as if vacant.

Interior Lot See Inside Lot.

Intermediate-Term Temporary short-term loans--ordinarily 3 to 10 years--that are usually

Loans for the purpose of permitting a developer to delay longer-term financing until more favorable loan terms become available.

Intermediation The process of polling 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.

Internal Rate Of Return (IRR) The true annual rate of earnings on an investment. Equates the value of cash returns with cash invested. Considers the application of compound interest factors. Requires a trial-and-error method of solution.

Example: Chen sells for $20,000 land that he bought 4 years earlier for $10,000. There were no carrying charges or transaction costs. The internal rate of return was about 19%. That is the annual rate at which compound interest must be paid for $10,000 to become $20,000 in 4 years.

Example: Lee received $3,000 per year for 5 years on a $10,000 investment. The internal rate of return was about 15%.

Internal Revenue Code The law, passed by Congress, that specifies how and what income is to be taxed, and what may be deducted from taxable income.

Example: Court cases, regulations, revenue rules, and revenue procedures attempt to properly interpret the Internal Revenue Code.

Internal Revenue Service (IRS) An agency of the federal government that is responsible for the administration and collection of federal income taxes. The IRS prints and distributes tax forms and audits tax returns.

International Architecture An early-twentieth-century-style house whose design is very simple with no ornamentation. The windows appear to be continuous rather than appearing to be holes in the walls.

International Association Of Assessing Officers A professional organization of property tax assessors. Awards the designation of Certified Assessment Evaluator (CAE). Publishes the quarterly Assessors Journal. Address: International Association of Assessing

(IAAO) Officers, 1313 East 60th Street, Chicago, IL 60637.

International Real Estate Federation An organization with worldwide membership that is devoted to encouraging private rights of real estate. The international abbreviation is FIABCI; its American chapter is an affiliated of the National Association of Realtors. Address: FIABCI, 777 14th Street NW, Washington, DC 20005

International Right Of Way Association (IR/WA) An individual membership association (no corporate membership) that offers courses covering various phases of right-of-way work. Educational curriculum includes law, engineering, appraisal. Offers a designation, SR/WA, and a bimonthly magazine. Address: International Right of Way Association, 13650 S. Grammercy Place, Ste. 100, Gardena, CA 90249. (310) 538-0233.

Interpleader A court proceeding initiated by the stakeholder of property who claims no proprietary interest in it for the purpose of deciding who among claimants is legally entitled to the property.

Interpolation The act of approximating a value between two known quantities within the range of available data. It is used with mortgage interest, depreciation, building costs, etc., tables when the amount to be looked up falls between two quantities on the table.

Interstate Highway System The federal system of high-speed, limited-access roads that connects major cities and industrial areas from coast to coast across the United States. It also serves as part of the National Defense System.

Interstate Land Sales Act A federal law, administered by the Department of Housing and Urban Development (HUD), which requires certain disclosures and advertising procedures when selling land to purchasers in other states.

***Example**:* Chen, a developer, has a 200-acre subdivision in Florida and wishes to market lots nationally. Under the Interstate Land Sales Act, he must register with the Office of Interstate Land Sales Registration (OILSR, a division of HUD), and make certain disclosures in the prospectus sent to prospective purchasers.

Interval Ownership A form of timeshare ownership.

Intestate A person who dies having made no will, or one which is defective in form, in which case his estate descends to his heirs at law or next of kin.

Intestate Laws Laws that control the distribution of an estate of someone who dies intestate.

Intestate Succession Inheriting property when the deceased had no will or a defective will.

Inventory A list of the stock and fixtures of a business.

Inverse Condemnation When the government damages property and the owner sues the government for damages.

Investment Analysis A study of the likely return from a proposed real estate investment with the objective of evaluating the amount an investor may pay for it, the investment's suitability to that investor, or the feasibility of a proposed real estate development. Appraised value is based on a synthesis of people in the market whereas investment analysis is based on the value to a specific investor. There are various methods of investment analysis, including: Cash on cash return, Payback period, Internal rate of return, Net present value. Each provides some measure of the estimated return on an investment, based on various assumptions and investment horizons.

Investment Life Cycle The time span from acquisition of an investment to final disposition.

Investment Property Vacant land held for an expected increase in value.

Investment Tax Credit A reduction in income tax generally based on the cost and life of certain assets purchased. Note: This was abolished by the Tax Reform Act of 1986; but *See* Rehabilitation Tax Credit And Low-Income Housing (qualified).

Investment Trust A company established specifically for the purpose of being used as ve-

hicle for investors to pool their money and make investments in stocks, real estate, or other types of investment. Capital is raised by the sale of the company's stock. Open-End investment trusts have no fixed number of shares. Their stock is bought and sold to investors by the company. Close-end investment trusts have a fixed number of shares. Once sold, the company usually does not buy them, back, so the investors must sell their stock to other investors should they wish to liquidate their shares. See also Real Estate Investment Trust (REIT).

Investment Value The estimated value of a certain real estate investment to a particular individual or institutional investor. May be greater or less than market value, depending on the investor's particular situation.

***Example**:* The investment value of vacant land in the path of growth would be greater for a young aggressive investor who has time to wait for fruition than for an elderly widow who needs cash flow for living costs. Similarly, the investment value of a tax shelter investment is greater for a high-tax-bracket investor than for a tax-exempt pension plan.

Investment Yield The gain from a real estate investment expressed as an annual percentage that includes all of the income and the capital gain or loss from the resale.

Involuntary Conversion Condemnation or sudden destruction by nature.

***Example**:* A property is taken by eminent domain for the purpose of constructing a public highway. This voluntary conversion of the property is contrasted with a sale that the owner enters into voluntarily.

Involuntary Conveyance A transfer of title without the owner's permission.

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

Inwood Annuity A number that, when multiplied by the periodic payment from a level

Factor payment income stream, indicates the present value of the income stream, based on a specific interest rate. Same formula as that for annuity factor.

***Example**:* An investment is expected to provide income of $100 per month for 10 years. At the end of 10 years the investment has no value. At an interest rate of 10%, the present value (PV) of the investment is PV = $100 X 75.67 = $7,567 where 75.67 is the Inwood annuity factor.

Inwood Coefficient See Inwood Factor.

Inwood Factor A factor that is a reflection of the present worth of one dollar period for a specified number of periods discounted at a specified rate. It is one of the traditionally six functions of a dollar.

Inwood Premise An appraisal theory used to value an income stream of equal payments in which the present value of the income stream is based on a single discount figure; the basis for the present value of an ordinary annuity factor in compound interest tables.

Inwood Tables A set of annuity factors for various interest rates and maturities. *See* Inwood Annuity Factor.

***Example**:* The Inwood tables show that the right to receive $1.00 at the end of each year for 10 years at 15% interest is worth $5.02 as of the beginning of the first year.

Inwood, William An English architect and mathematician (1771-1843) who compiled **"**Tables for the Purchasing of Estates and for the Renewal of Leases Held Under Corporate Bodies.**"**

IR/WA International Right of Way Association.

IRA (Individual Retirement Account) Savings programs available to individuals. The plans allow for a certain amount to be deposited each year. This money is not subject to income tax for that year or following years as long as it is not withdrawn. The

money is taxed as withdrawn upon retirement, usually when the depositor is in a lower tax bracket. During the life of the account, the money maybe put into various interest bearing investments. Securities dealers as well as banking institutions now offer IRA's.

IREM Institute of Real Estate Management.

IRR Internal Rate of Return.

Irrevocable Incapable of being recalled or revoked; unchangeable.

Irrigation The artificial watering of crops in times of drought or in dry areas. It is done by carrying water to the cultivated area through pipes.

Irrigation Districts Quasi-political districts created under special laws to provide for water services to property owners in the district; an operation governed to a great extent by law.

Irrigation Ditch A ditch, channel, or canal used to carry water to crops that do not receive enough water naturally.

IRS Internal Revenue Services.

Italian Villa A Latin-style, massive 2- or 3-story house of masonary with large overhanging eaves.

J Factors In the Ellwood method of mortgage equity analysis, the J factor is an income adjustment factor.

Jalousies Windows and doors made of movable glass louvers that can be adjusted to slope upward to admit light and air yet exclude rain or snow.

Jamb The framing pieces that line doors and windows.

Jeopardy Danger, risk.

***Example**:* Property pledged as security for a delinquent loan is in jeopardy of foreclosure.

Cheaply or poorly constructed.

Jerry-Built Jetty A pier or other stone or pile structure placed in a body of water to protect a harbor by hindering currents.

The projecting parts of a building such as a balcony, a bay window, or an overhanging second story.

Jetty A pier or other structure (usually of stones), built out into a body of water to hinder the currents and so protect a harbor. (2) A part of a building which projects out beyond the exterior walls, such as an overhanging second story, a balcony, etc.

Joint The space between two adjacent surfaces, e.g., between masonry units.

The point of union where two members are attached by nails, fasteners, etc.

Two or more, such as joint tenants.

Joint And Several A liability against two or more signers of a contract that allows the creditor to sue any one of the debtors or all together.

Joint And Several Liability A creditor can demand full repayment from any and all of those who have borrowed. Each borrower is liable for the full debt, not just the prorated share.

***Example**:* Chen and Lee are general partners. Together they borrow (or the partnership borrows) $10,000 from a bank, agreeing to joint and several liability. Upon default, the bank can collect the remaining balance of the $10,000 from either party.

Joint And Several Note A note signed by two or more persons in which they are liable jointly and individually for the full amount of the loan.

Joint Appraisal An appraisal by more than one appraiser, but one which states common conclusions of all.

Joint Note A note signed by two or more persons who each have liability for payment of part of the loan.

Joint Tenancy Undivided ownership of a property interest by two or more persons each

of whom has a right to an equal share in the interest and a right of survivorship, i.e., the right to share equally with other surviving joint tenants in the interest of a deceased joint tenant.

Joint Tenants People holding under joint tenancy.

Jointure The arrangement for settling a freehold interest in a property for the benefit of the owner's wife to satisfy the wife's dower right.

Joint Venture Two or more individuals or firms joining together for one specific project as partners. A joint venture is of limited duration and if the members of the venture undertake another project, the association becomes a partnership.

Joist One of a series of parallel beams used to support the ceiling and floors. it is a parallel.

Judgment The final determination of a court of competent jurisdiction of a matter presented to it; money judgments provide for the payment of claims presented to the court, or are awarded as damages, etc.

Judgment Creditor One who has received a court decree or judgment for money due from the judgment debtor.

***Example**:* To enforce the judgment awarded by court, the judgment creditor filed a lien against the judgment debtor Chen.

Judgment Debtor One against whom a judgment has been issued by a court for money owed, and that remains unsatisfied.

***Example**:* A judgment was entered into against Chen for non-payment of rent. Chen is the judgment debtor.

Judgment Lien The claim upon the property of a debtor resulting from a judgment.

***Example**:* Chen won't pay his debt to Lee. After establishing the debt in court, Lee may be allowed by the court to put a judgment lien on Chen's real estate.

Judgment Proof An attempt by someone who thinks he will be subject to the placing of

liens on his property as a result of court decisions to divest himself of all property that could be subject to a lien.

Judicial Foreclosure Having a defaulted debtor's property sold where the court ratifies the price paid.

***Example**:* Apple Mortgage Company is owed $50,000 on a first mortgage by Mr. Lee. At judicial foreclosure, Apple Mortgage Company bids $30,000 for the property, which in more than anyone else bids. They then claim the property and are awarded a $20,000 deficiency judgment against Mr. Lee.

Judicial Sale The sale of property to satisfy the debt in a mortgage foreclosure. The court orders and supervises the sale and distribution of the proceeds to the creditors.

Jumbo Loan Amount of loan exceeding the maximum purchased by FNMA and FHLMC.

Junction Box A metal box that houses the junction of electrical cables, wires and circuits and has a removable cover for easy access.

Junior Financing Money which is loaned on real estate that is secured with mortgages which do not have first claim on the property (second, third, etc. mortgages). Because there is additional risk in this type of financing, the rate of interest is usually higher than the interest on the first (senior) mortgage.

Junior Lien A lien that does not have first priority.

Junior Mortgage A mortgage whose claim against the property will be satisfied only after prior mortgages have been repaid. *See* First Mortgage, Second Mortgage.

***Example**:* Property is purchased for $100,000. A first mortgage is obtained covering $75,000 of the price. To reduce the cash requirements, a junior mortgage is arranged to cover $15,000 of the price. The remaining $10,000 is cash equity.

Junior Trust Deed A trust deed that does not have first priority.

Jurisdiction The authority by which judicial officers take cognizance of and decide causes; the power to hear an determine a cause; the right and power which a judicial officer has to enter upon the inquiry.

Just Compensation The amount paid to the owner of a property when it is acquired under eminent domain. *See* Condemnation.

***Example**:* Property is condemned to construct a sewage treatment plant. The owner is entitled to just compensation equal to the fair market value of the property taken.

Keene's Cement An unusually tough and durable gypsum plaster to which alum has been added. Used primarily for walls of commercial buildings.

Keogh Plan A retirement plan whereby a self-employed person may set aside a certain portion of income (tax deferred) into a retirement account. The money is taxable upon withdrawal at retirement when the person's tax bracket is often lower.

Key Lot A lot which has adjoining on its side the real of another lot. It is lease desirable.

Keyman Insurance Insurance through loss (through death or disability) of a **"**key**"** (important) person in a company. The liability is the estimated cost of the loss (in business lost, and replacement of the individual). Some lenders require this insurance before lending to small companies which rely on one or a few **"**key**"** people.

Keystone In masonry, the center, wedge-shaped piece of an arch.

Kicker A payment required by a mortgage in addition to normal principal and interest. *See* Participation Loan.

***Example**:* Chen obtains a loan to purchase a retail store building. The lender requires a kicker equal to 10% of gross sales in excess of $100,000 per month, in addition to principal and interest.

Kiln-Dried Lumber Lumber that has been dried in kiln from two days to several weeks, depending upon its thickness and grade, to reduce its moisture content.

Kilo A prefix meaning one thousand.

Kilogram 1000 grams (2.204 pounds).

King Post 1. A vertical member of a truss that reaches from the apex of the inclined rafters to the tie beam between the rafters.

2. A vertical post in a roof framing system that extends down from the apex of the roof rafters to a supporting beam.

Kiosk Information booth in the shopping mall.

Kite Winder The kite-shaped steps in a stairway at the place where the stairway direction changes.

Kiting Also known as ballooning, an unethical and fraudulent act where dual contracts are made, one at the true purchase price and the second at a higher price, with the hope of duping the lender into granting a higher loan.

Knee Brace A brace placed across the angle between two members that are joined to provide extra strength.

Knob And Tube Wiring An early method of electric wiring still used in some areas. Wire is attached to the house frame with porcelain knob insulators and porcelain tubes.

Knock Down The portions of a building that can be easily installed or removed such as windows.

Knot The hard, irregular shaped defects in boards, caused by cutting at the point where the branch of the tree meets the trunk. (2) A measure of speed, equal to one nautical mile (approximately 6,076 ft.) per hour.

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

Lacustine Soil A heavy, fine-textured soil formed from materials deposited by the waters of lakes and ponds.

Lally Column A steel column usually cylindrically shaped and used as a support for beams or girders. Often, they are filled with concrete to increase their strength.

Laminated Wood A material made by bonding together two or more layers of wood.

Land Material of the earth, including the soil, rock and any other substances attached to it; natural resources in their original state, e.g., mineral deposits, timber, soil. In law, land is considered to be the solid surface of the earth and does not include water.

Land And Improvement Loan A loan obtained by the builder-developer for the purchase of land and to cover expenses for subdividing.

Land Banking The activity of purchasing land that is not presently needed for use.

Land Capitalization Rate (R_L) The rate that reflects the first-year land lease payment divided by the value of the land.

Land Contract A contract ordinarily used in connection with the sale of a 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 Density The ratio of building units or occupants divided by a unit of land area (acre, square mile).

Land Description Necessary to definitely determine boundaries. Certain methods are recognized by law and called legal descriptions.

Land Economics The branch of economics that concentrates upon the economic attributes of land and the economics of agriculture.

***Example**:* A study of land economics is helpful to estimate the value of farm land prices.

Land Lease Only the ground is covered by the lease. *See* Ground Lease.

Land Residual A method of appraising. The value of the building is subtracted from the value of the property, leaving the value of the land.

Land Residual Technique In appraisal, a method of estimating the value of land when given the net operating income (NOI) and value of improvements. Used for feasibility analysis and highest and best use. *See* Income Approach.

Land Sale-Leaseback The sale of land and simultaneous leasing of it by the seller, who becomes the tenant.

Land Sales Contract A land contract.

Land Trust Trust in which a trustee receives record title to real estate restricted by an ancillary agreement whereby the beneficiary of the trust retains full control and management over the trust real estate.

Land Use Intensity A measure of the extent to which a land parcel is developed in conformity with zoning ordinances.

Example*:* Under a local zoning ordinance, developers might be allowed a maximum land use intensity of 4,000 square feet of improvements per acre of land.

Land Use Planning An activity, generally conducted by a local government, that provides public and private land use recommendations consistent with community policies. Generally used to guide decisions on zoning.

Example*:* As part of its land use planning efforts, the city planning department prepared maps of existing land uses, forecasts of future development, a list of planned new roads, utility extensions, and waste disposal facilities, a map of environmentally sensitive areas, and a map showing recommended future land uses.

Land Use Regulation Government ordinances, codes, and permit requirements intended to make the private use of land and natural resources conform to policy standards. *See* also Zoning.

Example*s:* Local governments have several types of land use

regulation. Commonly used types are: building codes, curb-cut permit systems, historic preservation laws, housing codes, subdivision regulations, tree-cutting laws, zoning.

Land Use Succession A change in the predominant use of a neighborhood or area over time. *See* also Neighborhood Life Cycle.

Example*:* As the neighborhood aged, it began to make a transition from large single-family housing to apartment buildings through the process of land use succession.

Land Utilization Study An analysis of the potential uses of a parcel of land and a determination of the highest and best use for that parcel; a complete inventory of the parcels in a given community or other area classified by type of use, plus (in some cases) an analysis of the spatial patterns of use revealed by this inventory. Land utilization studies do not embody the viewpoint of any particular investor nor do they focus on any one parcel. Furthermore, no consideration of markets and feasibility is normally included.

Land Value Map A map prepared by assessors indicating the use of the land and its value. The value is usually indicated in units of comparison, such as value per square foot, value per acre, or value per front foot.

Land, Tenements, And Hereditaments A phrase used in early English law to express all sorts of real estate.

Example*:* The bundle of rights in real estate is expressed by the phrase land, tenements and hereditaments. It includes all interest in real estate.

Land/Building Ratio A ratio of relative values of the land to improvements. Contrast with improvement ratio.

Example*s*:

- A shopping center has a land-to-building ratio of 40% ($4 million land to $10 million building).
- An office building has a land-to-building ratio of 10% ($1 million land to $10 million building).

Landlocked The condition of a lot that has no access to a public thoroughfare except through an adjacent lot. *See* Egress. Compare With Easement, Right-Of-Way.

Landlord One who rents property to another; a lessor. A property owner who surrenders the right to use property for a specific time in exchange for the receipt of rent.

Landmark A fixed object serving as a boundary mark for a tract of land. Same as monument.

***Example**:* The tree and rail line may serve as landmarks in a land description.

Landowner's Royalty In oil and gas leases, the portion of the value of each barrel of oil which goes to the property owner.

Lands Commission A panel appointed by Congress shortly after California achieved statehood to resolve disputes involving title to real property.

Landscape Architect A professional who designs building sites, subdivisions, and other projects which require work on drainage, grading, vegetation, installation of utilities and site improvements.

***Example**:* On the office park project, a landscape architect advised the developer on the placement of drainage sewers, parking lots, plantings and other landscaping requirements.

Lap Joint A joint formed by placing one board or piece of material partly over the other and fastening them together. See also Lap Siding.

Lap Siding A type of siding commonly used on the exterior walls of houses. Each piece laps over the adjoining piece. See also Clapboard.

Late Charge An additional charge a borrower is required to pay as a penalty for failure to pay a regular installment when due, after the grace period expires.

Late Payments A fee added to a bill after the expiration of a specific grace period. Such payments are intended to encourage timely payment of the bill.

***Example**:* First Federal Savings requires an additional 5% in late payments when a mortgage payment is made after the fifteenth of the month.

Latent Defects Flaws that are hidden but are apt to surface later.

***Example**:* A building was found to have latent defects in the form of poor construction of subfloors and improper foundation support.

Later Date Order The commitment for an owner's title insurance policy issued by a title insurance company which covers the covers the seller's title as of the date of the contract. When the sale closes the purchaser orders the title company to record the deed to purchaser and bring down their examination to cover this later date so as to show purchaser as owner of the property.

Lateral 1. Of, relating to, or situated at or on the side or sides.

2. An extension of a sewer line or septic system drain line.

Lateral Support The support which the solid of an adjoining owner gives to his neighbor's land.

Latitude 1. The distance in degrees north or south of the equator measured along a meridian on a map or globe.

2. A degree of freedom from normal restraints, limitations, or regulations.

Law 1. Real estate license laws: Special laws enacted by each state to regulate the practices of real estate brokers and salespeople.

2. Real estate laws are special laws generally evolved for English common law that regulate real estate such as zoning regulations and building codes.

Lawful Object Legal purpose. One of the four essential elements of a contract.

Lay Of The Land A slang expression used to generally describe the topographical features of a parcel of land.

Leaching The process of absorbing water into the ground from a waste disposal system.

Leaching Cesspool A hole in the ground lined with stones. Water flows from a household waste disposal system into the hole. The solids sink to the bottom of the hole and the liquids flow into the ground through holes in the site. See also Cesspool.

Leaching Filed A part of a waste disposal system used to disburse the waste water into the ground. Often, it consists of a field of trenches dug into the ground and lined with tile, broken stone, gravel or sand and into which the waste water is distributed through perforated pipes.

Leaching Trenches See Leaching Field.

Lead Hazard Disclosure Law On March 6, 1996, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Housing and Urban Development (HUD) released a law mandated by the Residential Lead-Based Paint Hazard Act of 1992. The Act, required disclosure of lead-based paint hazards before selling or renting pre-1978 homes. An estimated 75% of homes in the United States contain lead paint.

The law require before selling or renting a pre-1978 home:

1. Sellers, landlords or their agents must disclose known information regarding lead based paint/hazards in the housing;
2. Sellers, landlords or their agents must provide purchasers and renters with an EPA pamphlet "Protect your Family from Lead in your Home"; and,
3. Purchasers would have ten days to inspect/test for lead hazards. This time period could be shortened or lengthened by mutual agreement.

Call the EPA at 800-424-LEAD.

Lead-Based Paint Hazard Act of See Lead Hazard Disclosure Law.

Leader See Downspout.

Lean-To-Roof A slanted, single-plane roof often attached to the side of building.

Lease A contract between the owner and tenant setting forth conditions upon which tenant may occupy and use the property and the term of the occupancy. Sometimes used as an alternative to purchasing property outright, as a method of financing right to occupy and use real property.

Lease Fee Estate An ownership interest in the real estate held by a landlord who has transferred the right of occupancy to a property through the execution of a lease. The leased fee estate can be valued as the present value of the lease income plus the right to the reversion at the end of the lease.

Lease Fee Value The value of a leased fee estate.

Lease Interest See Leasehold.

Lease With Option To Purchase A lease that gives the lessee (tenant) the right to purchase the property at an agreed-upon price under certain conditions.

***Example**:* Chen leases property with an option to purchase. He must pay $500 per month rent for 5 years; after that he may buy the property (but is not forced to buy) for $100,000.

Lease-Option A lease containing an option to purchase the property by the lesee.

Lease-Purchase An agreement whereby a tenant can acquire ownership of a property through a series of payments specified in a lease. At the end of the lease term, title is transferred to the tenant.

Leaseback See Sale-Leaseback.

Leased Fee The interest in a property that remains with the owner after he has granted someone else the right to occupy the property. This right usually granted by a lease for a specific period of time.

Leased Fee The landlord's ownership interest of a property that is under lease.

***Example**:* Land in Hawaii is under a lease to an individual who built a home on it. The landowner's interest is the leased fee. Its value is based on the anticipated income from rent.

Leasehold The interest of one who leases property. A less-than-freehold estate.

Leasehold Estate An ownership interest in real estate held by a tenant during the term of a lease. The leasehold estate can be valued as the present value of the difference between the market rent and the rent specified by the lease.

Leasehold Estate Value The value of a leasehold estate.

Leasehold Improvements Fixtures attached to real estate that are generally acquired or installed by the tenant. Upon expiration of the lease, the tenant can generally remove them, provided such action does not damage the property nor conflict with the lease.

Examples: Cabinets, light fixtures, and window treatments of a retail store in a leased building are leasehold improvements.

Leasehold Mortgage A lien on the tenant's interest in real estate.

***Example**:* Chen is leasing land from Lee under a 50-year lease. Chen builds a shopping center and borrows money from the Big Money Assurance Company to do so. Big Money Assurance Company secures the loan with a leasehold mortgage. The mortgage will be lower in priority (subordinate) to land lease because the lease was contracted first. Had the mortgage been arranged before the lease, the mortgage would have priority. The holder of a prior lien has first claim to the income and assets if in default.

Leasehold Value The value of tenant's interest in a lease, especially when the rent is below market and the lease has a long remaining term.

***Example**:* When land rent for an acre of Manhattan was $10,000 per year, a knowledgeable investor bought the rights of a 99-year lease. A comparable tract today commands $150,000 annual rent. The

leasehold value of the subject property is the present value of the bargain rent ($140,000) over the remaining lease term.

Ledger A horizontal framing member, supported by hangers or by upright posts, that supports the joists.

Legacy A gift of personal property by will.

Legal Access The inherent right of the owner of property immediately adjacent to a highway to enter onto the highway from the property.

Legal Age The official standard of maturity upon which one is held legally responsible for one's acts. Contracts for the sale or lease of real estate by a minor are voidable by the minor. *See* Minor.

Example: Young, aged 17, signed a contract to purchase a home. Because Young was not of legal age, the seller could not enforce the contract when Young later decided not to go through with the purchase.

Legal Capacity The legal ability to enter into contracts or to convey or hold title to property.

Legal Description A description recognized by law; a description by which property can be definitely located by reference to either a government surveys or an recorded maps, or metes and bounds method.

Legal Name The name one has official purposes.

Example: The legal name of GM is General Motors, Incorporated.

Legal Notice Notification of others using the method required by law. *See* Constructive Notice, Notice.

Example: Chen wishes to rescind an offer to buy real estate that has not been accepted by Lee. Chen sends a telegram and registered letter to Lee as legal notice.

Example: Chu bought land. She recorded the deed in the county courthouse as legal notice of ownership.

Legal Owner The term has come to be used as a technical difference from the equitable owner, and not as opposed to an illegal owner. The legal owner has title to the property, although the title may actually carry no rights to the property other than a lien.

Legal Residence Generally one's permanent home.

***Example**:* Although President Bush lives in Washington, DC, and has a vacation home in New England, he claims Houston as his legal residence because he maintains a permanent home there.

Legal Title A collection of rights of ownership that are defined or recognized by law or that could be successfully defended in a court law.

***Example**:* Legal title is vested in the mortgage lender in title theory states, although the real owner has constructive ownership.

Legally Permitted Required in highest and best use; that which is allowable by law. To be the highest and best use of a site, the use must be legally permissible.

Legatee A person to whom personal property is given by will.

Lender Participation *See* Participation Mortgage.

Less Than Freehold Leasehold estate.

Less-Than-Freehold Estate The interest of one who leases property. The right of exclusive possession. A leasehold.

Lessee One who contracts to rent property under a lease contract; a tenant.

Lessee's Interest See Leasehold, Leasehold Estate, Leasehold Value.

Lessor An owner who enters into a lease with a tenant; a landlord.

Lessor's Interest See Leasehold, Leasehold Estate, Leasehold Value.

Let To rent a property to a tenant.

***Example**:* Larry lets an apartment to Simon for $300 per month.

Letter Of Commitment Official notification to a borrower of the lender's intent to grant a loan. Generally specifies the terms of the loan and sets a date for the closing.

***Example**:* Four weeks after applying for a mortgage loan, the Longs received a letter of commitment stating that the loan was approved and that the interest rate would be 9.5% and the term 30 years.

Letter Of Credit An arrangement, with specified conditions, whereby a bank agrees to substitute its credit for a customer's.

***Example**:* Chen, from Atlanta, wishes to buy property from Lee in Boston. Chen arranges a letter of credit with the Atlanta Trust Company Bank to pay Lee upon closing in Boston.

Letter Of Intent The expression of a desire to enter into a contract without actually doing so.

***Example**:* After a preliminary meeting, the Five Stars Development Company writes to a landowner, **"**We wish to enter into a contract to buy your land and will further pursue this matter in coming days. This letter of intent does not commit either party to purchase, sell, or lease.**"**

Levee 1. A raised embankment along the edge of a river that prevents the river from overflowing.

2. A continuous ridge surrounding an irrigated field.

Level Annuity *See* Annuity.

Level-Payment Income Stream *See* Annuity.

Level-Payment Mortgage Requires the same payment, including both interest and principal, each month (or other period) for full amortization. *See* Mortgage Constant, Flat.

***Example**:* Chen borrows $50,000 to buy a house. The level-payment

mortgage at 15% interest, payable over 30 years, requires a $632.50 monthly payment for principal and interest. That payment will be constant over the life of the loan.

Leverage Making money with borrowed money. The use of borrowed funds in the purchase of an investment. If the addition of the mortgage increases the return to the equity (equity dividend rate or equity yield rate), the addition of the mortgage has resulted in positive leverage. If the addition of the mortgage decreases the return to the equity, the addition of the mortgage has resulted in negative leverage.

Levy To legally impose or collect that which is due.

Example*:* A tax assessor levies a tax. A judge levies a fine.

Liabilities The debts owed by a business.

Liability debt or financial obligation. Contrast with asset.

Example*:* One who borrows $75,000 for a mortgage loan incurs a liability to repay that loan.

Example*:* A general partner in a partnership has a personal liability for debts of the partnership in the event the partnership cannot repay its debt.

potential loss.

Example*:* One should purchase sufficient liability insurance to protect against possible legal claims of someone who gets injured on one's property.

Liability Insurance Insurance protecting a property owner or manager against damage to the person or property of another due to the owner's or manager's negligence.

Example*:* Chen slipped on a broken step on the walkway in an apartment complex owned by Lee. Lee's liability insurance pays Chen for the doctor and hospital fees.

Liable Responsible or obligated. Contrast with exculpatory clause and nonrecourse.

Example: One who borrows a mortgage loan generally becomes personally liable for its repayment. The lender can look to the property or the borrower personally for repayment.

Libor London Interbank Offered Rate. The rate that international banks dealing in Eurodollars charge each other for large loans. Some domestic banks use this rate as an index for adjustable rate mortgages.

Example: European lenders offered to finance a hotel in California at the LIBOR rate plus three percentage points, adjusted monthly.

License Personal, revocable, non-assignable permission to do some act on the land of another.

License Laws Laws that govern the activities of real estate salespersons.

Example: Chen, an unlicensed individual, sold a farm for Lee and a house owned by Chu. Under state license laws each violation subjects Chen to a $10,000 fine and a year imprisonment, or both.

Licensed Appraiser Generally an appraiser who meets certain state requirements, but lacks the experience or expertise of a certified appraiser. *See* Certified General Appraiser, Certified Residential Appraiser.

Licensee One who holds a real estate license; a licensed salesperson or broker. *See* Licensing Examination.

Example: A pocket card is held by licensees. The employing broker displays licenses in the office.

Licensing Examination A written test given to a prospective real estate broker or salesperson to determine ability to represent the public in a real estate transaction. Most states offer examinations on at lease 5 days each year.

Example: Educational Testing Services (ETS) in Princeton, New Jersey, and American College Testing (ACT) in lowa City, Iowa,

prepare licensing examinations for most states. Some states prepare their own licensing examination.

Lien A form of encumbrance which usually makes property security for the payment of a debt or discharge of an obligation;

***Example**:* judgments, taxes, mortgages, deeds of trust, etc.

Lien Subordination A clause allowing a lien to have a higher priority than the right of the holder of a condition to foreclose.

Lien Theory A legal distinction which states that the holder of a mortgage has only a lien against the mortgaged property rather than a true title interest. See also Lien.

Lien Theory Of Mortgage A legal theory which states that the true title of a property rests in the borrower and that the lender has only a lien on the property.

Lien Waiver (Waiver Of Liens) For our purposes, a waiver of mechanic's lien rights, signed by subcontractors so that the owner or general contractor can receive a draw on a construction loan.

Lien, Junior A lien that will be paid after earlier liens have been paid. *See* Junior Mortgage, Subordination.

***Example**:* Chen obtains a mortgage loan from Solid Savings to finance the acquisition of a property. To reduce the down payment, he takes out a second mortgage with Lee, an investor. Solid Savings has a first lien and has first priority to foreclosure sale proceeds in case of a default. Lee has a junior lien and is entitled to whatever remains, up to the debt and costs, after Solid Savings is indemnified.

Lien-Theory States States whose laws give a lien on property to secure debt. Contrasted with title theory states in which the lender becomes the title owner. In either case the borrower has the right to use and enjoy the property in the absence of default; in the event of default, lenders may foreclose.

***Example**:* After closing the sale of a home in a lien-theory state, the lender acquires a first mortgage and may foreclose upon certain

default.

Lienee The owner of a property that is encumbered by a line. See also Lien.

Lienholder An estate or interest in real property, which is held for the duration of the life of some certain person. It may be limited by the life of the person holding it or by the life of some other person.

Lienor The person who has the right of lien against a property to secure the payment of a debt. See also Lien.

Life The duration of the existence of the improvements on a property. See also Economic Life, Physical Life.

Life Annuity A series of payments collectible at even intervals that last for the lifetime of a designated recipient. See also Annuity.

Life Estate An estate limited in duration to the life or lives of one or more designated persons.

Life Insurance Company A business that collects a person's savings by selling contracts (policies) paid for through periodic premiums to provide cash payment upon death.

Life Of Loan Cap (Cap Rate) A contractual limitation on the maximum interest rate that can be applied to an adjustable rate mortgage during the term of the loan. *See* adjustable rate mortgage; contrast with annual cap.

***Example**:* An adjustable rate mortgage is offered at the initial interest rate of 7.5% and has a life of loan cap of 5 percentage points. At no time during the term of the loan can the interest rate rise above 12.5%, regardless of how much the index rises.

Life Tenant One who is allowed to use property for life or the lifetime of another designated person. *See* Life Estate.

***Example**:* Chen owns a life estate in a home. As a life tenant, Chen may enjoy full ownership rights to the home during her lifetime.

Lighting Costs Costs that allow for the service distribution, light fixtures and light re-

ceptacles. Typically, the cost of lighting components are directly related to the overall quality of the structure itself.

Like-Kind Property Property having the same nature. *See* also Section 1031 and Tax-Free Exchange.

***Example**:* Under the Internal Revenue Code, apartments and land are considered like-kind property, but animals of different sexes are not.

Limitations, Statute Of The commonly used identifying term for various statutes which require that a legal action be commenced within a prescribed time after the accrual of the right to seek legal relief.

Limited Liability The restriction of one's potential losses to the amount invested. The absence of personal liability. *See* At-Risk Rules.

***Example**:* Limited liability is provided to stockholders in a corporation and limited partners of a limited partnership. Those parties cannot lose more than they contribute to the corporation, unless they agree to become personally liable. For example, if Chu buys stock in a corporation for $1,000, she cannot lose more than that amount. However, many lenders require personal guarantees of major stockholders before lending to corporations.

Limited Partnership A partnership consisting of a general partner or partners and limited partners in which the general partners manage and control the business affairs of the partnership while limited partners are essentially investors taking no part in the management of the partnership and having no liability for the debts of the partnership in excess of their invested capital.

Limiting Conditions Specifications in an appraisal report that restrict the assumptions in the report to certain situations, e.g., date and use of the appraisal, definition of value, identification of real estate and property rights being valued, definition of surveys used or not used.

Lincoln Graduate Center An organization that offers real estate education, especially appraisal courses. Address: Lincoln Graduate Center, P. O. Box 12528, San Antonio, TX 78212.

Line Of Credit An agreement whereby a financial institution promises to lend up to a certain amount without the need to file another application.

Example: Apple Homes Brokers, Inc., has a line of credit under which they can borrow up to $50,000 at 3% above the prime rate through The First National Bank.

Lineal Foot A measure of one foot, in a straight line, along the ground.

Example: Land along Campbell Road typically is sold at $100 per lineal foot. This assumes a standard depth for all lots along the road.

Lintel A horizontal board that supports the load over an opening such as a door or window.

Liquid Assets Assets readily convertible to cash.

Liquidate Selling property to secure cash.

Liquidated Damages A sum agreed upon by the parties to be full damages if a certain event occurs. See liquidated damages clause.

Liquidated Damages Clause A clause in a contract specifying the liquidated damages in the event of a breach of contract. A provision in a real estate sales contract that limits the liability of a designated party to the agreement to a specified sum if that party defaults on his obligation under the contract.

Liquidation Price The price a property will bring if sold quickly in order to raise money.

Liquidation Value The price that results from the sale of the property without allowing for a reasonable time on the market. The liquidation price may be less than market value, depending on the degree of interest in the property at the time it is liquidated.

Liquidity Holdings in or the ability to convert assets to cash or its equivalent. The ease with which a person is able to pay maturing obligations.

Example: Common stocks and U.S. savings bonds have good liquidity. Real estate and many types of collectibles generally have poor liquidity.

Liquidity Risk Uncertainty caused by the lack of a ready, organized real estate market and the length of time required to find a buyer.

Lis Pendens A notice filed or recorded for the purpose of warning all persons that the title or right to the possession of certain real property real property is in litigation: literally **"**suit pending:**"** usually recorded so as to give constructive notice of pending litigation.

List To obtain a listing.

Example*:* Lee wanted to list as many properties as possible under an exclusive right to sell so he would earn a commission no matter who sold the property.

Listing An employment contract between principal and agent authorizing the agent to perform services for the principal involving the principal's property; listing contracts are entered into for the purpose of securing persons to buy, lease or rent property. Employment of an agent by a prospective purchaser or lessee to locate property for purchase or lease may be considered a listing.

Listing Broker (Agent) The licensed real estate broker (agent) who secures a listing of the property. Contrast with selling broker (agent).

Example*:* For most sales, the listing broker and the selling broker share commissions equally. In some locales, notably for new homes, the listing broker earns only 1%, whereas the selling broker earns 3% of the selling price.

Litigation The act of carrying on a lawsuit.

Example*:* Litigation is a contest in court to enforce a right.

Littoral Part of the zone of a large body of water. Compare with riparian rights.

Littoral Property Property abutting a large body of water, such as an ocean, sea, bay, or large lake.

See also Littoral Rights.

Littoral Rights The rights of owners of littoral property to enjoy the reasonable use of the body of water to which their property abuts.

See also Littoral Property.

Livability An overall rating of a property pertaining to its ability to satisfy the needs and desires of its occupants. See also Functional Utility.

Live Load One of a variety of variable weight loads a house is subject to, such as snow on the roof and people on the floors. See also Dead Load.

Livery Of Seisin (Seizin) The appropriate ceremony at common law for transferring the possession of lands by a grantor to a grantee.

Load 1. The weight that is supported by load-bearing parts of a building such as load-bearing walls.

2. An electrical term describing the power delivered by a motor, generator, or other power source.

3. The electric current flowing through an electric circuit.

See Bearing Wall.

Load-Bearing Wall A type of soil consisting mostly of sand, clay, or slit. Often, it also contains organic matter.

Loam A thin layer provides an excellent base for grass.

Loan Administration Also called loan servicing. Mortgage bankers not only originate loans, but also "service" them from origination to maturity of the loan through handling of loan payment, delinquencies, impounds, payoffs and releases.

Loan Application The loan application is a source of information on which the lender bases his decision to make the loan.

Loan Application Fee A charge required by a loan originator to be paid by the borrower to cover the credit report, property appraisal and other incidental expenses associated with underwriting the loan. The fee is generally not refund-

able.

Example: Home Mortgage Company charges a loan application fee of $250 to process a mortgage application. The prospective property buyer/mortgage borrower brings the purchase contract to a loan officer at Home Mortgage Company.

Loan Closing When all conditions have been met, the loan officer authorizes the recording of the trust deed or mortgage. The disbursal procedure of funds is similar to the closing of a real estate sales escrow. The borrower can expect to receive less than the amount of the loan, as title, recording, service, and other fees may be withheld, or can expect to deposit the cost of these items into the loan escrow. This process is sometimes called "funding" The loan.

Loan Commitment Lender's contractual commitment to a loan based on the appraisal and underwriting.

Loan Committee A committee or one individual in a lending institution that reviews loan applications and either approves or disapproves.

Loan Constant Same as mortgage constant.

Loan Constraints Typically, one of two methods of selecting the level of funds to be advanced to a property owner. The methods are loan-to-value ratio (M) or the first-year debt service coverage ratio (DCR).

Loan Correspondent *See* Mortgage Correspondent.

Loan Coverage Ratio Same as Debt Coverage Ratio.

Loan Fee A charge made by a lender for originating the loan. Included in closing costs.

Loan Maturity The length of time the lender loans the money to the borrower. A 10-year loan has a 10-year maturity.

Loan Origination Steps involved in the loan application progress.

Loan Origination Fee *See* Origination Fees.

Loan Package The collection of documents associated with a specific loan application.

***Example**:* A loan package for a home loan may contain the application form, various verifications of borrower's income and financial resources, a credit evaluation, and an appraisal of the mortgaged property.

Loan Points *See* Discount Points.

Loan Policy A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalid title in the borrower, or loss caused by invalid title in the borrower, or loss of priority of the mortgage or deed of trust.

Loan Ratio The ratio, expressed as a percentage, of the amount of a loan to the value or selling price of real property. Usually, the higher the percentage, the greater the interest charged. Maximum percentages for banks, savings and loans, or government insured loans, is set by statute.

Loan Servicing The act of billing, collecting payment, and filing reports for a mortgage loan; may also include loan analysis, default follow-up, and management of tax and insurance escrow accounts. Often performed for a fee by mortgage bankers after loans are sold to investors.

***Example**:* Gray, a mortgage banker, originates loans and markets them in groups to large investors. On each loan originated, Gray receives a monthly fee for servicing, thereby freeing the investors of loan management burdens. The fee is 3/8 of 1% of the loan balance.

Loan Underwriting The process of approving or disapproving loan applications.

Loan-To-Value Ratio (M) The amount of the loan expressed as a percentage of the appraised value. The ratio of the outstanding loan balance divided by the total property value.

Location, Location, The **"***three most important things about real estate***"**; a popular state-

Location ment that emphasizes the importance of location with respect to the value of urban real estate.

***Example**:* Value of real estate depends largely on where it is. However, many other elements besides location also affect value.

Locational Attributes Characteristics of the area surrounding a property. Probably the most important locational factor is current neighborhood land use and potential patterns of change.

Locational Obsolescence A type of external obsolescence in which value loss is caused by a negative influence outside the property due to its location.

Locked-In Interest Rate The rate promised by a lender at the time of loan application. The promise is a legal commitment of the lender, though there may be qualifications or contingencies that allow the lender to charge a higher rate. On home loans, the lock-in is customarily provided for 1% of the amount borrowed, though often it is free of charge. On income property loans, a lock-in generally requires a commitment fee from the loan applicant.

***Example**:* When Lee applied for a mortgage loan, the lender assured her that the loan would carry a rate of 9% interest. This locked-in interest rate represented a guarantee from the lender in the event that the loan is approved and Lee follows through by accepting the loan. The lock-in will expire 45 days from the application date.

Locked-In Loan A loan that cannot be pre-paid.

Locked-In Period A mortgage clause that prohibits prepayment of the loan during a specified period of time.

Lockout When a landlord locks a tenant out of the rental unit with the intent of terminating the tenancy. Lockouts, and all other self-help eviction remedies, are illegal.

Loft Building A multi-story building with few partitions used for manufacturing or storage. Many are being converted into other uses.

Log Cabin An early-American-style house of unfinished logs.

Long-Lived Items Those parts of a building that typically last for the entire life of the building.

Long-Term Capital Gain For income tax purposes, the gain on a capital asset held long enough to qualify for special tax considerations. Note: In 2001, the highest rate for individuals and thereafter for long-term capital gains is 28%.

Long-Term Financing Same as permanent mortgage.

Long-Term Lease Generally, a commercial lease of 5 years or longer, or a residential lease longer than 1 year.

Longitude The distance in degrees east and west of the prime meridian at Greenwich, England, to the point on the earth's surface for which the longitude is being ascertained.

Lot 1. A parcel of land that is distinctly designated.

2. A portion of a city block.

3. The site on which a house is constructed.

Lot And Block A method of locating a parcel of land. *See* Legal Description.

Lot Line A line bounding a lot as described in a property survey.

Low Voltage Switching System A series of switches, transformers, relays, and auxiliary devices used to control a number of lighting circuits from remote locations.

Low Voltage Wiring Wires that carry voltage low enough to not be dangerous to humans or to be a fire hazard. Often door bell, music systems, controls, alarm systems, and telephones have low voltage wiring.

Low-Ball Offer An offer from a prospective property buyer that is much lower than the listing price. Such an offer may indicate the buyer's belief that the property will not attract many good offers and that the asking price is unrealistic. Also, it probably means the buyer is interested in the property only if it can be purchased at a bargain price.

***Example**:* Although the house was listed at $180,000, Able made a low-ball offer of $140,000. The seller was at first insulted by the low offer, yet eventually agreed to sell the home to Able for $155,000.

Low-Income Housing (Qualified) Housing that is eligible for special tax credits of up to 9% of their cost (4% in certain situations) under the 1986 tax act. Strict rules must be followed concerning tenant qualification, certification, and project financing.

LTV Loan-to-value ratio.

Lumen A measurement of light. A 100-watt bulb emits about 1,600 lumens of light.

"MARIA" Tests Five common tests used to determine if an item is a fixture.

1. **M**ethod of attachment or degree of permanence. The greater the degree of permanence, the more likely it is a fixture.
2. **A**daptability of the personal property. The better adapted, the more likely it will be considered a fixture.
3. **R**elationship between parties; e.g. lessor vs. lessee; buyer vs. seller. If a seller of land affixes something to it, it will be considered a fixture in the absence of an agreement to the contrary.
4. **I**ntention of the person who attached it. This is considered the most important consideration.
5. **A**greements establish who has right to the fixture. Parties can avoid ambiguities by specifying whether various items are fixtures or personal property.

Note: Cost is not a test for fixtures.

MACRS Modified accelerated cost recovery system. *See* Accelerated Cost Recovery System.

Made-Land Artificially formed land, either by filling or dredging.

Magic Loans Conventional mortgage loans insured by the Mortgage Guarantee Insur-

ance Company; called magic because of the initial of the company (MGIC).

MAI *Member of the Appraisal Institute. Designates a person who is a member of the american institute of real estate appraisers.*

Main Bearing Beam And Column A beam that supports floor joists.

Main Circuit The main electrical circuit that supplies current to smaller branches in the distribution system.

Main Switch An electrical switch between the point where the electric service enters the building and the main distribution box that can turn of the entire service either manually or automatically in the event of an emergency or a failure in the system.

Maintenance Activities required to compensate for wear and tear on a property. *See* Deferred Maintenance.

Example*:* Among the duties of property management is maintenance of the property. This includes routine upkeep of the building, repair and periodic painting as needed, keeping all mechanical parts in working order, and lawn maintenance.

Maintenance Fee An assessment by a homeowners' association or a condominium owners' association, to pay costs of operating the common elements.

Example*:* A condominium association assesses each owner a maintenance fee of $100 per month for lawn maintenance and insurance costs

Maintenance Reserve Money held to cover costs of maintenance.

Majority 1. The age at which one is no longer a minor and is fully able to conduct one's own affairs; majority (full legal age) is 18 to 21 years, depending on the state.

Example*:* Chen, under 18 years of age, enters into a contract to buy

land. Because he has not attained majority, he may void the contract if he chooses. Lee, the seller, is bound to the contract unless Chen voids it.

2. More than half.

Example: The bylaws of the condominium owner's association require a majority of the owners who vote to change to another management firm.

Maker A person who signs a note promising to pay a sum of money.

Mall A public area connecting individual stores in a shopping center; generally enclosed. Also, an enclosed shopping center.

Example: A large shopping mall was being developed south of town. It was designed to include over 40 stores connected by an enclosed and air-conditioned mall.

Management Agreement A contract between the owner of property and someone who agrees to manage it. Fees are generally 4-10% of the rental income. *See* Property Management.

Example: Chen has a management agreement with Lee for a 200-unit apartment complex. The contract provides that Lee will receive 5% of the rental income, and he will perform all duties concerning leasing, operating, and managing the property. He will maintain a separate bank checking account for receipts and disbursements, provide monthly accounting statements, and manage the property with competence.

Management Fee The cost of professional property management. The fee is typically set at a fixed percentage of total rental income generated by the property managed.

Example: Acme Management Company is employed by several property owners to oversee and collect rent for their properties. Acme's standard management fee is 5% of gross rental income.

Management Risk Uncertainty caused by the quality of the management operating the property.

Mandamus An order given by a superior court that forces an inferior court, public official, or other government employee to perform or refrain from certain acts. For example, the court could order a building inspector to issue a building permit even when the inspector did not want to do so.

Mandatory Arbitration A requirement that a case be submitted to arbitration instead of litigation.

Mansard Roof One having two slopes on all four sides, with the lower slope steeper than the upper, flatter sections.

Manufactured Home *See* Mobile Home, Mobile Home Park.

Margin A constant amount added to the value of the index for the purpose of adjusting the interest rate on an adjustable rate mortgage.

***Example**:* An adjustable rate mortgage is indexed to the 1 year Treasury yield and has a margin of 3 percentage points. If the index is currently 6%, the fully indexed rate on the loan is 9% (6% index plus 3% margin).

Margin Of Security The difference between the amount of the mortgage loans and the appraised value of the property.

Marginal Land Land which barely pays the cost of working or using.

Marginal Property Property that is barely profitable to use.

***Example**:* The sale of cotton that has been efficiently raised yields $100; yet the cotton cost $99.99 to raise. The land on which the cotton was raised is therefore considered marginal property.

***Example**:* A tract of undeveloped land is deemed marginal property because of lack of access to a roadway.

Marginal Tax The amount of income tax that an investor would pay on the next dollar

Bracket of income. Generally, the marginal rate is higher than the average rate because of the progressive tax rate structure.

***Example**:* Morris, a married taxpayer who files a join return, earns $90,000, on which an $18,000 federal income tax payment is required. This tax represents an average rate of 20% ($18,000/ $90,000 = 20%). If he were to earn $1,000 more, the tax would increase by $330, because he is in the 33% marginal tax bracket.

Marina A facility in a river, lake, or harbor that offers dockage, supplies, and maintenance for boats.

Marital Deduction The tax-free amount one transfers by will to one's spouse. The 1981 tax act allows an unlimited amount to be transferred without federal estate tax.

***Example**:* The concept of a marital deduction is to treat husband and wife as one economic unit. Since 1981, a federal estate tax will be due only on taxable property that passes to another generation.

Market Analysis A study of the supply and demand conditions in a specific area for a specific type of property or service. A market analysis report is generally prepared by someone with experience in real estate, economics, or marketing. It serves to help decide what type of project to develop and is also helpful in arranging permanent and construction financing for a proposed development.

Example: The developer commissioned a market analysis to evaluate the need for luxury apartments in the St. Louis suburban market. Copies of the report were supplied to prospective lenders for this type of development.

Market Approach Same as market comparison approach.

Market Approach to Value An appraisal method in which the value of a property is estimated by means of comparing it with similar properties recently sold.

Market Area A geographic region from which one can expect the primary demand for

a specific product or service provided at a fixed location.

***Example**:* A regional shopping center has a larger market area than a neighborhood shopping center.

***Example**:* A developer estimates that the market area for a subdivision covers the northeast section of the metropolitan area.

Market Comparison Approach One of 3 appraisal approaches. Value is estimated by analyzing sales prices of similar properties (comparables) recently sold.

Market Data Approach One of the three methods in the appraisal process. A means of comparing similar type residential properties, which have recently sold, to the subject property.

Market Data Approach Same as market comparison approach.

Market Delineation The process of defining the geographic extent of the demand for a specific property.

***Example**:* The market delineation for a new regional shopping center showed that shoppers are likely to be drawn from a 2-county area.

Market Extraction Method A method used to estimate depreciation in which depreciation is measured by extracting the percentage loss from market sales of similar properties.

Market Price The actual price paid, or to be paid, for a property in a market transaction. Market price differs from market value; it is an accomplished historical fact, whereas market value is and remains an estimate. Market price involves no assumption of information or prudent conduct by the parties or absence of undue stimulus or of any other condition basic to the market value concept. Contrast with market value.

***Example**:* A home was offered for sale at $100,000. It was appraised for $93,000, and actually sold for $95,000 in an arm's length transaction. The market price is $95,000.

Market Rent The rent that a comparable unit would command if offered in the com-

petitive market. Contrast with contract rent.

***Example**:* Long rents an apartment to Towns for $900 per month. Similar units are renting for $950 per month. The apartment's market rent is $950 per month.

Market Rent Equivalency Adjustment The adjustment that reflects the impact of any existing below-market leases on the market value of a property. It represents the difference between the fee simple interest and the leased fee interest, unless the leased fee interest is greater than the fee simple interest. In that case, the difference would be a non-realty interest known as the rent premium.

Market Segmentation The process of defining the socio-economic characteristics of the demand for a specific property or properties.

The process of classifying consumers or buyers into relatively homogeneous groups based on their economic, demographic and/or psychographic characteristics (such as attitudes, habits, and life-styles).

The process of differentiating the potential users of the subject property from the general population, according to defined consumer characteristics.

***Example**:* Market segmentation shows that the tenants for a new garden apartment complex are likely to be young married couples with incomes between $40,000 and $60,000.

Market Study *See* Market Analysis.

Market Survey See Market Analysis.

Market Value The theoretical highest price a buyer, willing but not compelled to buy, would pay, and the lowest price a seller, willing but not compelled to sell, would accept.

***Example**:* an appraisal of a home indicates its market value is $150,000. In a normally active market, the home should sell for this amount if allowed to stay on the market for a reasonable time. The owner may, however, deed the home to a relative for $250. The owner may also

grow impatient and sell for $140,000. Conversely, an anxious buyer may be found who pays $160,000. Finally, the owner may provide favorable financing and sell for $170,000.

Market Value Approach Appraising the value of a property by comparing the price of similar properties (comparables) recently sold. The degree of similarity of the properties and circumstances of the sale are the important characteristics to consider.

Marketability The salability of a property at a specific time and price.

Marketability Study A study to discover how a particular piece of property can be marketed.

Marketability Study An analysis, for a specific client, of the likely sales of a specific type of real estate product. Note: A market analysis or study is an effort to glean information from the market on prices, rents, and type of product that is selling. A marketability study presumes a particular product and seeks to determine its market price and rate of sales.

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.

Marketing Period The time period beginning when an owner decides to begin actively selling a property to when the sale is actually closed. The marketing period is typically an observable fact. If a marketing period that is shorter than typical is assumed in an analysis, the value found would be considered a forced, or liquidation, value rather than market value.

Markup A percentage of the cost of an item added to the cost to compute the selling price. Includes expenses and profit.

Marvin v. Marvin A leading California case establishing the rules for determining property rights of unmarried co-habitators.

Masonry Construction made from brick, cement block, or stone.

Masonry Veneer A masonry facing that is placed against a wall but not bonded to it pri-

marily for decorative purposes and for protecting the exterior surface from wear. It may also increase the insulation rating of the wall.

Mass Appraising Typically used by tax assessors, an effort to determine salient characteristics of properties in a given submarket, to allow an approximation of value for each. Sophisticated statistical techniques are used frequently in mass appraising.

Master Deed Used by a condominium developer or converter for recording a condominium development. It divides a single property into individually owned units, includes restrictions on their use and provides for ownership of common areas.

***Example**:* When a New York apartment building was converted into a condominium, the converter filed a master deed with the city to reflect separate ownership of individual units.

Master Lease A controlling lease. Contrast with sublease. Note that one cannot grant a greater interest in real estate than one has; so if a master is for a 5-year term, a sublease cannot legally exceed 5 years.

***Example**:* Chen leases 10,000 square feet of retail space to Lee. Lee then subleases the space to 5 different tenants. The lease between Chen and Lee is the master lease.

Master Limited Partnership An ownership vehicle, especially used for real estate or oil gas ventures. It is generally formed by a **"**roll up**"** of existing limited partnerships that own property, and typically has the advantage of ownership interest that are more marketable than individual limited partnerships.

***Example**:* A real estate entrepreneur has syndicated 30 properties over the past 5 years, with each as a separate limited partnership. All were brought together as one large entity, a master limited partnership, with interest that were readily marketable.

Master Mortgage Loan The mortgage debt existing on a building used for cooperative housing. While each co-op tenant-shareholder is obligated for a portion of the loan, this debt is separate from the loans that may have been used to

purchase the individual co-op shares.

***Example**:* When the Lee bought a co-op apartment, they became co-mortgagors in the master mortgage loan that was used to buy the building by the co-op organization. They are allowed to deduct a prorated share of mortgage interest on their federal income tax return.

Master Plan General plan for the future development of a community.

Material Participation A tax term introduced by the 1986 tax act, defined as year-round active involvement in the operations of a business activity on a regular, continuous and substantial basis. Three main factors to consider in determining the presence of material participation are:

- Is the activity the taxpayer's principal trade or business?,
- How close is the taxpayer to the business?,
- Does the taxpayer have knowledge and experience in the enterprise?

*Exceptions***:** Limited Partners Limited partnership interests are considered inherently passive. However, the IRS may draft regulations to prevent persons from using the limited partnership vehicle for any business enterprise simply to generate passive income to offset passive losses.

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.

Materialman A person who supplies materials used in the construction or repair of a building or other property.

***Example**:* Since the materialman was not paid for lumber, he filed a mechanic's lien against the property.

Maturity The due date of a loan.

***Example**:* A mortgage loan may have a maturity of 30 years. Periodic

payments are established so that the loan principal will amortize by the maturity date.

Example: A bond may have a maturity of 20 years. Generally, interest only will be paid, with the full principal repaid at maturity.

Maximally Productive One of four criteria in highest and best use analysis. It states that a use is the highest and best use if it produces the highest value or price.

MBA 1. Mortgage Bankers Association of America.

2. Masters of Business Administration.

Mean A statistical term for a measure of central tendency of a set of data. It is the average produced by adding together all the items of data and dividing this total by the number of data items.

Meander To follow a winding course.

Meander Lines Lines run in surveying along navigable rivers to measure the curves of the river.

Mechanic's And Material Man's Lien See Mechanic's Lien.

Mechanic Lien A lien placed on property by laborers and material suppliers who have contributed to work of improvement.

Mechanical Systems Systems which convert a building that would be a dead shell into a usable entity. They normally include the plumbing and heating systems, electrical systems, air conditioning, and other specialized systems.

Median (Strip) A statistical term for the middle number of a set of numbers when the total number of items in the set is odd, and they are arranged in ascending or descending order according to their size (arrayed). When the number of items in the set of numbers is even, the median is the average of the two middle numbers.

Mediation Non-binding alternative dispute resolution.

A process in which a neutral third person meets with the parties to a dispute in order to assist them in formulating a voluntary solution to the dispute.

Medium Textured Soil A concrete buffer or landscaped strip that divides opposing lanes of traffic on a roadway. A broad term for a variety of loams ranging from fine, sandy loams to heavy, clay loams.

Meeting Of The Minds Agreement, by all parties to a contract, to the exact terms thereof.

Example*:* To have a meeting of the minds there must be:

1. An offer and acceptance,
2. Lawful object,
3. Consideration,
4. Capable parties.

Megalopolis A larger, densely populated metropolitan area consisting of a number of major urban areas and smaller surrounding cities.

Mellow Soil that can be easily worked and possesses loamy and friable characteristics.

Mellow-Roos A form of assessment district.

Membrane A waterpoof sheet or film applied to floors or walls.

Menace A threat to commit duress.

Merchantable Title *See* Marketable Title.

Merger The fusion of 2 or more interests, such as businesses or investments.

Example: Examples of mergers are:

- conglomerates-corporations that are not customers or suppliers to each other or competitors,
- corporations-union of 2 or more by transferring property to one that survives, and issuing its shares to stockholders of the corporation

that cease to exist.

Merger Of Title A lesser interest in real property being merged (absorbed) into a greater interest.

Example: A lessee purchases the property being leased. The interest as a lessee is merged into the interest as an owner, thus ending the leasehold interest.

Meridians Imaginary north-south lines which intersect base lines to form a starting point for the measurement of land.

Mesne Profits Profits from land use accruing between two periods as for example moneys owned to the owner of land by a person who has illegally occupied the land after the owner takes title, but before taking possession.

Mesquite A type of vegetation found in the southwestern United States and Mexico where various types of mesquite (prosopsis) shrubs and small trees are predominant.

Metal Lath A heavy, coarse metal base with slits at intervals on which plaster is spread. See Flashing.

Metal Valley Meter 1. A metric unit of measurement equal to 39.37 inches.

2. A measuring device of utilities.

Metes Lineal measurements along a property boundary made to specify the exact quantity of land in a property. It is used chiefly in the phrase metes and bounds.

Metes And Bounds A term used in describing the boundary lines of land, setting forth all the boundary lines together with their terminal points and angels. Metes (length or measurements) and Bounds (boundaries) description is often used when much accuracy is required.

Metropolitan District (Area) See Standard Metropolitan Statistical Area.

Metropolitan Sta- A major city and its surroundings. One or more counties having a popu-

tistical Area (MSA) lation of at least 50,000.

Mezzanine An intermediate floor between two floors that does not have the same area as the rest of the floors.

In a theater, the partial balcony between the main floor and the first balcony.

MGIC *See* Mortgage Guaranty Insurance Corporation.

Mile lineal feet.

Mill One tenth of a cent. Used in expressing tax rates on a per-dollar basis.

***Example**:* A tax rate of 60 mills means that taxes are 6 cents per dollar of assessed valuation.

Mill Construction Construction built specifically to resist fire through the use of heavy timber and brick, masonry, and other fire-resistant materials and strategems such as incombustible fire stops and elevator hatches and the avoidance of corners and small projections that could ignite easily.

Millage Rate A tax rate applied to property. Each mill represents $1 of tax assessment per $1,000 of assessed property value.

***Example**:* The millage rate for property taxes in the Lee school district is 20 mills. A home with assessed value of $100,000 pays $2,000 a year in property taxes to the district.

Millwork The portion of a building made of wood and manufactured in a mill. Some common item are doors, windows, mantels, panel work, stairways, and cabinets.

Mineral Lease An agreement that provides the lessee the right to excavate and sell minerals on the property of the lessor or to remove and sell petroleum and natural gas from the pool underlying the property of the lessor. In return, the lessor receives a royalty payment based on the value of the minerals removed.

***Example**:* The Davis own a piece of land in Texas that is part of an area

covering a large oil reserve. Big Strike Oil Company offers them a mineral lease that pays the Davis a prorated share of oil revenues in exchange for the right to place a well at locations within the reserve area.

Mineral Rights The privilege of gaining income from the sale of oil, gas and other valuable resources found on land.

Example*:* Chen purchases a property that contains underground oil deposits. Chen may:

- develop these mineral rights by drilling a well,
- sell the rights for a price to an oil company,
- lease the rights to an oil company in exchange for a royalty.

Mineral Wool A type of insulation made by sending steam through molten slag or rock. Common types are glass, wool, rock, wood,. and slag wool.

Minerals In real estate terminology, minerals that may be mined, such as gold, silver, or iron. Mineral rights may be sold or leased separately from a property itself.

Mini-Warehouse A building separated into relatively small lockable individual units, typically with a garage-door-styled opening, that provide storage. Units are typically rented month to month and are sized from 5' x 5' to 25' x 25'.

Example*:* A typical 10' x 20' mini-warehouse can be rented for $75 per month to be used for storage of excess household goods.

Minimum Lot Area The smallest building lot area allowed in a subdivision, generally specified by a zoning ordinance.

Example*:* Lee owns land that is zoned **"**R-4.**"** If Lee develops the land, it must be used for residential purposes and lots must have a minimum lot area of ¼ acre.

Minimum Rental The minimum rental paid by the tenant who has leased premises with a

percentage lease.

Mining Lease A right to mine minerals.

Minor A person under the age of majority specified by law (18 to 21 years, depending on the state).

***Example**:* Contracts for the sale or use of real estate, entered into by a minor, are voidable by the minor. Note that the other party is bound; only the minor may void them.

Misplaced Improvements Improvements on land which do not conform to the most profitable use of the site.

Misrepresentation An untrue statement, whether unintentional or deliberate. It may be a form of nondisclosure where there is a duty to disclose or the planned creation of a false appearance. Where there is misrepresentation of material fact, the person injured may sue for damages or rescind the contract. *See* False Advertising.

***Example**:* The broker represented the homes as being structurally sound. The broker did not know that termites were destroying the wood. The buyer sued the broker for misrepresentation.

Mission House A nineteenth-century-style house that looks like the old mission churches and houses of Southern California. The doors and windows are arch-shaped.

Mission Tile A type of clay roofing tile which is laid so that units have their convex side alternately up and down.

Mistake An unintentional error made in preparing a contract; may be corrected by mutual consent of all parties without voiding contract.

***Example**:* Chen and Lee agree to a sales contract for a property located at 100 Main Street. In preparing the contract the address is listed as 100 Main Blvd. The mistake is discovered at the closing, and correction is made with the consent of both parties.

MLS *See* Multiple Listing Service.

Mobile Home A dwelling unit manufactured in a factory and designed to be transported to a site and semi-permanently attached.

Example: One option for low-cost housing is purchase of a mobile home, which generally costs much less than site-built housing. Mobile homes may be placed on the purchaser's lot or in a mobile home park for a monthly rental.

Mobile Home Park A subdivision of plots designed for sitting of mobile homes. Plots are generally leased to mobile home owners and include utilities, parking space, and access to utility roads. Many parks also include such amenities as swimming pools and clubhouses.

Mode A statistical term for the most frequent number that appears in an array of numbers. Its advantage is that it is free from the influence of the extreme numbers in an array.

Model House A house that a builder exhibits to potential buyers in order to sell other houses.

Model Unit A representative home, apartment, or office space used as part of a sales campaign to demonstrate the design, structure, and appearance of units in a development.

Example: A developer constructs a model unit in an effort to prelease units in a development. Prospective tenants are invited to tour the model unit to gain an appreciation for the design and appearance of the development.

Modernization The process of bringing a property up to current standards of design and mechanical equipment. This may require changes in the exterior and interior and the replacement of mechanical equipment with current equipment.

Modernize To alter a property by installing up-to-date equipment, making contemporary cosmetic improvements, and deleting obsolete facilities.

Example: The redeveloper modernized the apartment building by

installing dishwashers, wall-to-wall carpeting, a new gas furnace and by removing the coal storage bin.

Modular A system for the construction of dwellings and other improvements to real property through the on-site assembly of component parts (modules) that have been mass produced away from the building site.

Modular Construction Prefabricated rooms that are built in a factory and shipped to their eventual location. Today, there is less and less difference between modular construction, mobile homes, and manufactured housing.

Modular Housing Dwelling units constructed from components prefabricated in a factory and erected on the site.

***Example**:* In a modular housing project, site preparation may be performed while structural panels are being fabricated by mass production techniques in a factory. The panels are then shipped to the site and erected in place.

Moisture Barrier A layer of foil, plastic, or paper used in the construction of exterior walls, ceilings, and foundations to prevent moisture penetration into wooden members or insulation.

Moisture Equivalent A unit of measurement for the amount of water contained in soil. This is an arbitrary figure based on the amount of water that would be retained by soil at 1,000 times the force of gravity.

Moisture Proofing The process of making a building moisture proof by the installation of moisture barriers.

Moldings Usually patterned strips used to provide ornamental variation of outline or contour, such as cornices, bases, window and door jambs.

Monetary Controls Federal Reserve tools for regulating the availability of money and credit to influence the level of economic activity, such as adjusting discount rates, reserve requirement, etc.

Monetary Institution Deregulation Same as Depository Institutions Deregulation and Monetary Control Act.

Act

Monetary Policy Policies of the First Reserve System that increase or decrease the supply of money in an effort to achieve designated economic goals.

Money Market Mutual Funds Funds which invest in the "Money Market" a variety of interest bearing securities such as treasury bills and bank certificates of deposit. None is invested directly into real property or real property securities.

Monitor An elevated structure on a roof that has louvers or windows to let light and air into the building.

Monitor Roof See Monitor.

Monolithic One piece. A single block of stone or concrete.

Monterey Architecture A nineteenth-century-style, 2-story house with a balcony across the front at the second-floor level.

Month-To-Month Tenancy Lease agreement extendible or cancelable each month.

Example: Chen rents an apartment from Lee on a month-to-month tenancy basis. Chen may remain as long as he pays rent and Lee does not give notice to cancel the lease. Chen may also cancel the lease upon giving notice.

Monument A fixed object and point established by surveyors to establish land locations.

Moratorium The temporary suspension, usually by statute, of the enforcement of liability for debt.

Mortar A mixture of plaster, or lime, or cement, sand, and water used to hold stones or bricks together that hardens in place.

Mortar Joints Joints made of mortar. There are two types of mortar joints: troweled and tooled.

Mortgage An instrument recognized by law by which property is hypothecated to secure the payment of a debt or obligation; procedure for foreclosure, in event of default, is established by statute.

Mortgage Assumption Same as assumption of mortgage.

Mortgage Banker One who originates, sells, and services mortgage loans. Most loans are insured or guaranteed by a government agency or private mortgage insurer. *See* Mortgage Insurance.

***Example**:* The Mortgage Store, a mortgage banker, originates 100 loans totaling $5,000,000. They sell this package of loans to an out-of-state investor for $5,010,000. They continue to collect monthly payments from homeowners and assure that property taxes are paid and insurance is maintained. They charge the investor an annual fee of 3/8 of 1% of the loan principal, each month remitting to the investor the rest of the monthly payments from homeowners.

Mortgage Bankers Association Of America (MBA) An organization that provides educational programs and other services for mortgage bankers. Offers the Certified Mortgage Banker (CMB) designation. Publishes Mortgage Banker magazine. Address: Mortgage Bankers Association of America, 1125 Fifteenth Street NW, Washington, DC 20005.

Mortgage Banking The packaging of mortgage loan to be sold to a permanent investor with servicing retained for a fee. Mortgage bankers act as correspondents for investors. Mortgage companies may also lend their own money.

Mortgage Bonds Tax-exempt securities sold by municipal and state authorities for the purpose of providing low-interest rate mortgage loans to qualified individuals. For most programs, mortgage borrowers must be first-time home buyers with moderate income.

***Example**:* Local Housing Finance Agency, a creation of the city of Local, sold $50 million of mortgage bonds. The proceeds from the sale were used to originate loans through local mortgage lenders for first-time home buyers within the city. Interest on the bonds was tax-exempt to the bondholders, thereby allowing the agency to borrow money at an interest rate below 8%. The mortgage loans could be

originated at rates below 9% at a time when market mortgage interest rates were above 10%.

Mortgage Broker One who, for a fee, places loans with investors, but does not service such loans.

***Example**:* The Ace Development Company wants to build a shopping center. A mortgage broker charges a 1% fee for each construction loan (placed with a commercial bank) and the permanent loan (placed with an insurance company).

Mortgage Capitalization Rate (R_M) The mortgage capitalization rate that is the ratio of the first-year debt payment divided by the beginning loan balance. In some instances, the ratio may be calculated using one month's payment, but typically it is the total of the loan payment for an entire year.

Mortgage Certificate A certificate issued by the Federal Home Loan Mortgage Corporation. They are issued for an undivided interest in a large group of mortgages. The certificates are usually for 30 years and I $100,000 denominations. The payment of interest and principal is guaranteed by the Federal Home Loan Mortgage Corporation.

Mortgage Commitment An agreement between a lender and a borrower to lend money at a future date, subject to the conditions described in the agreement.

***Example**:* Lee wishes to build a home. Construction will require 6 months. Lee obtains a mortgage commitment from Home Town Savings and Loan for permanent financing of the home at the time of its completion.

Mortgage Company A company authorized to service real estate loans, charging a fee for this service.

Mortgage Constant The percentage ratio between the annual debt service and the loan principal.

***Example**:* A mortgage constant is the relationship between an annual or monthly loan requirement and the initial mortgage loan principal

expressed as a decimal or a percentage.

Mortgage Contracts With Warrants Warrants make the mortgage more attractive to the lender by providing both the greater security that goes with a mortgage, and the opportunity of a greater return through the right to buy either stock in the borrower's company or a portion of the income property itself.

Mortgage Correspondent One who services loans for a fee. Compare mortgage broker.

***Example**:* The Good Money Savings Association bought a package of 1,000 loans in another state. They arrange with a mortgage correspondent to collect monthly payments, pay real estate taxes, and assure that the property is insured. The mortgage correspondent keeps as a fee 3/8 of 1% of the mortgage balance each year.

Mortgage Deed A written document verifying that a real property has been given as security for a loan.

Mortgage Discount Amount of principal that lenders deduct at the beginning of the loan. *See* Discount Points.

***Example**:* Chen obtains a mortgage loan in the amount of $50,000. The loan is discounted by 2 points, each point equaling 1% of the principal. At closing Chen will receive $49,000, yet will owe $50,000. The $1,000 difference is the mortgage discount.

Mortgage Foreclosure See Foreclosure.

Mortgage Guarantee Insurance Co. (MGIC) A private company that insures, to lenders, loan repayment in the event of default and/or foreclosure. *See* Mortgage Insurance.

***Example**:* Chu wants to arrange a loan for 90% of the cost of the home she is buying. The lender applies to MGIC for private mortgages insurance. MGIC accepts and, for a premium, stands willing to accept any losses on the mortgages up to 25% of the principal.

Mortgage Guaranty Insurance See Mortgage Insurance.

Mortgage Insurance Insurance against financial loss available to mortgage lenders from a private mortgage insurance companies (PMICs).

A policy that guarantees repayment of a mortgage loan in the event of death or, possibly, disability of the mortgagor.

Protection for the lender in the event of default, usually covering the top 25% of the amount borrowed. *See* Private Mortgage Insurance.

Example*:* Manning obtains a mortgage loan and, for an additional monthly premium, purchases mortgages insurance. Should Manning die before loan maturity, the policy will pay the remaining balance of the loan. This protects Manning's survivors from losing the property because of inability to continue the loan payments, and also protects the mortgagee.

Mortgage Insurance Premium (MIP) The fee paid by a mortgagor to obtain mortgage insurance on a mortgage loan. The fee may be collected as a lump sum at loan closing or as a periodic amount included in the monthly payment, or both.

Example*:* To obtain a mortgage loan insured by the FHA, the borrower must pay a mortgage insurance premium equal to 3.8% of the loan amount. Depending on the loan-to-value ratio, there may be a monthly premium as well.

Mortgage Interest Money paid for the use of borrowed money through a mortgage. The rate can be fixed or variable.

Mortgage Investment Company A Company or group of private investors that buys mortgage for investment purposes.

Mortgage Lien An encumbrance on property used to secure a loan. The holder of the lien has a claim to the property in case of loan default. The priority of the claim depends on the order of recording and any subordination agreements. Thus a first mortgage generally has prior claim to all other mortgage lien holders. *See* also Second Mortgage.

Example*:* Lee obtains a mortgage loan to purchase a house. Lee signs a

note and mortgage contract. The lender obtains a mortgage lien on the house. Should Lee default on the loan, the lender may foreclose and exercise the lien to force a sale, the proceeds of which are used to satisfy Minion's debt.

Mortgage Life Insurance A type of term life insurance (or a combination of term and whole life insurance) that is structured to pay off the balance of a mortgage in the even the borrower dies.

Mortgage Loan Correspondent A person or company who negotiates and services loans for others.

Mortgage Loan Disclosure Statement The statement on a form approved by the Real Estate commissioner which is required by law to be furnished by a mortgage loan broker to the prospective borrower of loans of a statutorily-prescribed amount before the borrower becomes obligated to complete the loan.

Mortgage Loan Value (VM) The benchmark on which lenders base mortgage investments in real estate. Typically, market value and mortgage value would be identical. A lender, however, may introduce restrictions in underwriting policy that may alter this relationship.

Mortgage Note A document which states that, in addition to the property being security for the repayment of the mortgage, the borrower also personally guarantees the mortgage repayment.

Mortgage Out To obtain financing in excess of the cost to construct a project. In the mid 1980s developers could mortgage out by obtaining a permanent loan commitment based on a high percentage of the completed project's value. This enabled the developer to borrow more than the cost of developing the project. Since then, opportunities to mortgage out have been virtually eliminated by lower loan-to-value ratios, higher capitalization rates and higher construction costs.

Example: A proposed office building is projected to produce annual net operating income of $100,000. At a capitalization rate of 10%, the building is worth $1,000,000. A takeout loan commitment is

obtained for 80% of value, or $800,000. The developer requires only $750,000 to purchase the land and construct the building. The $50,000 excess represents the results of the developer mortgaging out.

Mortgage Policy (Mortgagee's Policy) A title insurance policy that guarantees to the mortgagee that the title to the property being used as mortgage security is a god title. It does not guarantee anything to the mortgagor.

Mortgage Pool A collection of loans of similar nature which are sold as a unit in the secondary market or used to back a security which is then sold in the capital markets.

***Example**:* Lenders Mortgage Company packaged a mortgage pool consisting of $50 million worth of VA guaranteed loans. The package was sold to a group of investors who each put up a minimum of $25,000.

Mortgage Relief Acquired freedom from mortgage debt, generally through assumption of mortgage by another party or debt retirement. In a tax-free exchange, mortgage relief is considered boot received. In many foreclosures, where the sole property is the sole collateral for the loan, or the borrower fails to pay anything in addition to the real estate, the transaction is treated for tax purposes as a sale for the mortgage debt. If the taxpayer's basis is less than the mortgage relief, the difference is a taxable gain.

***Example**:* Chu exchanged her mortgaged office building, receiving land worth $25,000 and mortgage relief of $75,000. The total value received was $100,000.

***Example**:* Eric owed $650,000 on a home upon foreclosure. Because his tax basis of the home was $400,000, a $250,000 gain is realized, but may be postponed if a new residence is purchased for $650,000 within 2 years.

Mortgage Residual An appraisal technique for solving for value when the amount of avail-

Technique able equity is known but the mortgage value is unknown. The mortgage value is found by subtracting income to equity from the net operating income and capitalizing this amount by the mortgage capitalization rate. The mortgage value is then added to the equity value to find the total property value.

Mortgage Servicing Maintaining the responsibilities of a mortgage, such as paying taxes and insurance and collecting payments. Servicing may be done by the lender or an intermediary for a fee.

Mortgage Value The value of the property for mortgage security purposes. It is often the market value of the property.

Mortgage Warehousing The accumulation by a mortgage banker of a portfolio of mortgages in his own account for the purpose of selling them in a package to a lending institution.

Mortgage Yield Rate (Y_M) The discount rate that equates the present value of the loan payments with the principal borrowed.

Mortgage-Backed Securities Investment securities similar to bonds representing an interest in a pool of mortgages.

Mortgage-Backed Security A bond or other financial obligation secured by a pool of mortgage loans. *See* Collateralized Mortgage Obligations, REMICs.

***Example**:* The First Mortgage Broker Company purchased $100 million worth of mortgage loans on private homes. To fund the purchase, First created a mortgage-backed security secured by the pool of mortgages and sold the security to investors.

Mortgage-Equity A technique used by appraisers as part of the income capitalization process. It recognizes the influence of mortgage terms and equity requirements.

Mortgage-Equity Technique Same as Ellwood technique.

Mortgagee The party lends money and receiving the mortgage. Some states treat

the mortgagee as the "legal" owner, entitled to rents from the property. Other states treat the mortgagee as a secured creditor, the mortgagor being the owner. The latter is the more modern and accepted view.

Mortgagee In Possession Situation in which a lender takes possession and control of a mortgaged property upon foreclosure of the loan secured by the mortgage. The lender possesses the property, collecting any income produced, until it is sold at the foreclosure sale.

***Example**:* Following nonpayment of debt service for a period of 6 months, Savings Bank filed for foreclosure of the loan. Fearing damages to the property, Savings immediately took possession under an action of mortgagee in possession.

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

Mortise A hole or notch cut into piece of wood to receive a tenon (a bar of wood) in order to join the two or a lock.

Mortise And Tenon A joint between two structures formed by fitting a tenon from one member into a mortise in another.

Mosaic Decoration using small chips of glass, ceramic, or stone pressed into mortar to form a design.

Motion to Quah Service of Summons A legal response that a tenant can file in an unlawful detainer lawsuit if the tenant believes that the landlord did not properly serve the summons and complaint.

Most Probable Selling Price The property's most likely selling price when not all the conditions required for a market value estimate are relevant.

***Example**:* An appraiser estimated a property's most likely sales price at $100,000, assuming a sale within 20 days, whereas its market value of $120,000 might require up to 6 months to realize.

Motel Originally, a group of buildings located off a highway providing motorist a place to park and sleep. Now some motels have come to have al-

most all the services of a hotel, such as restaurants, recreation, and shops.

Muck 1. A type of soil composed of very soft, decomposed organic material.

2. Material such as dirt, clay, or stone that must be excavated.

Mud Room A small room or vestibule containing an entrance from a yard or alley. It often contains a washer and dryer.

Multi-Family Structure A broad term used to describe residence that house more than one family. It has different meaning in different areas with respect to how many families there must be in order for the dwelling to be classified as multi-family

Multifamily Housing A type of residential structure with more than one dwelling unit in the same building.

Example: Multifamily housing is divided into 2 categories: 2-4 dwelling units: duplexes, triplexes, and quadruplexes 5 or more units: apartment buildings. Multifamily housing may be tenant-occupied, owner-occupied (as in a condominium or cooperative project), or mixed (as many duplexes with the owner occupying one side).

Multiple Listing A listing, usually an exclusive right to sell, taken by a member of an organization composed of real estate brokers, with the provision that all members will have the opportunity to find an interested client; a cooperative listing.

Multiple Listing Service (MLS) An association of real estate brokers that agrees to share listings with one another. The listing broker and the selling broker share the commission. The MLS usually distributes a book with all listings to its members, updating the book frequently. Prospective buyers benefit from the ability to select from among many homes from any member broker.

Example: Chen and Lee, both brokers, are members of the multiple listing service. A home that was listed by Chen under an exclusive

right to sell is sold by Lee. The two brokers share the commission.

Multiple Regression Analysis A statistical technique for measuring the effect that a number of independent variables have on one dependent variable. The technique is now being used by appraisers because of the availability of calculating equipment and computers capable of making the numerous calculations needed.

Multiplier A factor, used as a guide, applied by multiplication to derive or estimate an important value.

Example: A gross rent multiplier of 6 means that property renting for $12,000 per year can be sold for 6 times that amount, or $72,000.

Example: A population multiplier of 2 means that, for each job added, 2 people will be added to a city's population.

Municipal Corporation A village, city, or town incorporated as a political corporation under state laws.

Municipal Sewer System The sewer system owned and operated by the municipality.

Muniments Of Title Documents, such as deeds or contracts, one uses to indicate ownership.

Example: In order to register title under the Torrens system, the owner offered muniments of title.

Muntin Thin bars of wood or metal between lights of glass in a window.

Mutual Consent Agreement Usually evidenced by an offer and an acceptance. One of the for essential elements of a contract.

Mutual Savings Banks Mostly in the northeastern U.S., these state-chartered banks are owned by the depositors and operated for their benefit. Most of these banks hold a large portion of their assets in home mortgage loans.

Example: Chen deposits his savings in a mutual savings bank in New York. As a depositor-shareholder, Chen receives a proportionate distribution of the bank's earnings.

Mutual Water Company A water company organized by or for water users in a given district with the object of securing an ample water supply at a reasonable rate; stock is issued to users.

Naked Legal Title The right to sell the property if the trustor defaults. This right is given by the trustor to the trustee in a trust deed.

NAR *See* National Association Of Realtors

NAREB National Association of Real Estate Brokers.

Narrative Appraisal A summary of all factual materials, techniques and appraisal methods used by the appraiser in setting forth his value conclusion.

National Apartment Association An organization of apartment owners, with local chapters in metropolitan areas, that provides information and services for members concerning apartment rentals, lease forms, occupancy rates, and other matters. Address: National Apartment Association, 1111 14th Street NW, Washington, DC 20005.

National Association Of Corporate Real Estate Executives Membership includes those active with purchasing, selling, and managing real estate held by corporations. Address: National Association Of Corporate Real Estate Executives, 471 Spencer Drive, S, Suite 8, West Palm Beach, FL 33409.

National Association Of Home Builders An organization of home builders, providing educational, political information and research services. Publishes a monthly magazine, Builder. Address: National Association of Home Builders, 15th and M Street, NW, Washington, DC 20005.

National Association Of Independent Fee Appraisers An organization of real estate appraisers that offers these professional designations: IFA-Member, IFAS-Senior member, IFAC-Appraiser-counselor. Address: National Association of Independent Fee Appraisers, 7501 Murdoch Avenue, St. Louis, MO 63119.

National Association Of Master Ap- An association that offers the Master Senior Appraiser (MSA) designation. Requires education but little or no experience.

praisers Address: National Association of Master Appraisers, P. O. Box 12528, San Antonio, TX 78212.

National Association Of Real Estate Brokers An organization mostly of minority real estate salespersons and brokers who are called Realtists. Address: National Association of Real Estate Brokers, 9th floor, Suite 900, 1101 14th Street, NW, Washington, DC 20005.

National Association of Real Estate Investment Trusts An organization specializes in real estate investments.

Address: NAREIT, 1129 20th Street, Suite 705, Washington, D.C., 20036.

National Association Of Real Estate License Law Officials Membership is composed of commissioners from state real estate licensing agencies.

Address: National Association Of Real Estate License Law Officials, 2580 South 90th Street, Omaha, NE 68124

National Association Of Realtors (NAR) An organization of Realtors, devoted to encouraging professionalism in real estate activities. There are over 600,000 members of NAR, 50 state associations, and several affiliates. Members are required to abide by the Code of Ethics of the NAR. Address: National Association of Realtors, 430 North Michigan Avenue, Chicago, IL 60611.

National Association Of Review Appraisers And Mortgage Underwriters An organization that awards the certified review appraiser (CRA) designation.

Address: National Association Of Review Appraisers And Mortgage Underwriters, 8715 Via De Commercio, Scottsdale, AZ 85285.

National Flood Insurance Program *See* Flood Insurance.

National Realty Committee A group whose membership is primarily composed of large, high-profile owners and developers. Their paramount concern is the legislative arena, especially the government's policy toward real estate finance, taxation, and investment. Address: National Realty Committee, 1250 Connecticut Avenue, Suite 630, Washington, DC 20036.

National Society Of Real Estate Appraisers An affiliate of the National Association of Real Estate Brokers that offers the professional designations RA, CRA, MREA.

Address: National Society of Real Estate Appraisers, 1265 East 105th Street, Cleveland, OH 44108.

Natural Finish A clear finish such as a varnish that does not significantly change the original surface, color or grain.

Natural Resources Resources created by nature such as minerals, oil, gas, timber, fish, water and wildlife.

Natural Vacancy Rate The average vacancy rate for a rental property market that would result if supply and demand were in balance. The level to which vacancy rates adjust over the long term. A benchmark by which current vacancy rates in the market are considered high or low.

Example: During a period of rapid population growth, apartment vacancy rates fell to less than 1%. The natural vacancy rate for the local market was 5%. Because of the unusually low vacancy rate, rent soared and plans were started on new apartment developments in the area.

Navigable Waters A general term that may mean a body of water able to carry commerce or a body of water large enough to ebb and flow.

Negative Amortization An increase in the outstanding balance of a loan resulting from the failure of periodic debt service payments to cover required interest charged on the loan. Occurs when monthly installment payments are insufficient to pay the interest accruing on the principal balance, so that the unpaid interest must be added to the principal due.

Negative amortization will occur if the indexed interest rate is increased.

Example: A loan is originated at 15% interest with a maturity of 30 years. The interest rate may be adjusted each 6 months, but monthly payments remain a constant $632. After 6 months, the interest rate is

raised to 16.5%, which would require a monthly payment of $692 to fully amortize the loan. At the new interest rate, $687 is required to pay interest. The $55 difference between the payment and interest due is added to the principal in month 7 as negative amortization.

Negative Cash Flow Situation in which a property owner must make an outlay of funds to operate a property.

Negative Easement An easement prohibiting a use of property, rather than permitting one.

Negative Leverage A situation in which the rate paid on a mortgage is greater than the rate generated by an investment on an unleveraged basis. Same as reverse leverage.

Negligence A person's carelessness (that is, failure to use ordinary or reasonable care) that results in injury to another person or damage to another person's property.

Negotiable Capable of being negotiated, assignable or transferable in the ordinary course of business.

Negotiable Capable of being negotiated; assignable or transferable in the ordinary course of business.

Negotiable Instrument A promise to pay money, transferable from one person to another.

Example: Chen gave Lee a negotiable instrument that contained a promise to pay $1,000 on July 22 of this year. Lee sold the note for $900 cash to Chu by endorsing and delivering it. Chu became a holder in due course.

Negotiation The process of bargaining that precedes an agreement. Successful negotiation generally results in a contract between the parties.

Example: Nelson wishes to purchase a property from Newman. Nelson is willing to pay up to a certain price and desires certain conditions placed on the sale. Newman will accept anything over a certain price and may be willing to help finance the purchase for a higher price. In negotiation Nelson and Newman attempt to come to an agreement

over the price and conditions. When they agree, a sales contract is executed.

Neighborhood A district or locality characterized by similar or compatible land uses. Neighborhoods are often identified by a place name and have boundaries composed of major streets, barriers, or abrupt changes in land use.

***Example**:* Residential neighborhoods are often identified with a subdivision, an elementary school attendance zone, a major public facility, such as a college, or a small town within a larger urban area. Homes in the neighborhood are of similar style, age, and value.

***Example**:* Commercial neighborhoods are generally associated with a major road, shopping center, or central business district.

***Example**:* Industrial neighborhoods are generally identified by common use of a transportation linkage.

Neighborhood Analysis The objective analysis of observable and/or quantifiable data indicating discernible patterns of urban growth, structure and change that may detract form or enhance property values.

Neighborhood Life Cycle A generalized pattern that describes the physical and social changes that residential areas experience over time. *See* also Abandonment, Filtering Down, Urban Renewal, Land Use Succession.

Net Acre An acre that may be used for construction after space has been allowed for streets, sidewalks and other off-site improvements.

Net After Taxes The net income from property after income tax is paid.

Net Before Taxes Net income before payment of income tax but after payment of property taxes.

Net Cash Proceeds Of Resale The amount of money a property owner receives when his property is sold after the commission, other selling expenses, mortgages, and other debts that are outstanding at the time of the sale are paid not including income or capital gains taxes caused by the sale.

Net Ground Lease A lease of unimproved land in which the lessee agrees to pay the

owner's expenses such as ad valorem taxes and assessments.

Net Income The gross income of income property minus the vacancies and allowable expenses equals the net income. Also the net profit of a business.

Net Income Multiplier (NIM) A factor that, when applied by multiplication to a property's net operating income, results in a property value estimate.

***Example**:* A duplex generates $20,000 of gross rental income and requires $8,000 of operating expenses, providing $12,000 of net operating income. If similar properties in the area typically sell for 10 times net operating income, this duplex would be worth $120,000 (10 x $12,000) using the net income multiplier.

Net Leasable Area In a building or project, floor space that may be rented to tenants. The area upon which rental payments are based. Generally excludes common areas and space devoted to the heating, cooling, and other equipment of a building.

***Example**:* A building with 10 floors, each containing 3,000 square feet of space, may have a net leasable area of 25,000 square feet. Elevators, hallways, etc., absorb the remaining 5,000 square feet.

Net Lease A lease whereby, in addition to the rent stipulated, the lessee (tenant) pays such expenses as taxes, insurance, and maintenance. The landlord's rent receipt is thereby **"**net**"** of those expenses.

***Example**:* Lee leases retail space from Chen on a net lease. Chen can expect to receive the full rent without deducting for operating expenses, which are paid by Lee. In practice, various levels of net leases are often used to designate arrangements where the tenant pays only some types of expenses and the landlord pays other types.

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) Income from property or business after operating expenses (see operating expense) have been deducted, but before deducting income taxes

and financing expenses (interest and principal payments, annual debt services).

Net Present Value (NPV) A method of determining whether expected performance of a proposed investment promises to be adequate. *See* also Internal Rate Of Return, Present Value Of One.

***Example**:* A proposed land investment requires $10,000 of cash now, and is expected to be resold for $25,000 in 4 years. For the risks involved, the investor seeks a 20% discount rate (same as compounded rate of return). The $25,000 amount to be received in 4 years, when discounted by 20% annually, is worth $12,056 now. Since the investment costs $10,000, the net present value is $2,056.

Net Profits Money remaining after deducting all expenses and charges from income.

Net Rentable Area The net rentable area of a multiple tenancy floor is the sum of all rentable areas of that floor.

Net Rental Rental over and above the expenses of the property.

Net Sales Areas The square footage in a retail or department store used only for display and sale of goods.

Net Spendable Income Same as after-tax cash flow.

Net Usable Area Floor space that can be occupied by tenants.

Net Worth The assets of a business minus the liabilities equals the net worth. The value of a business as of a given date.

Net Yield The return on an investment after subtracting all expenses. *See* also Current Yield, Yield To Maturity.

***Example**:* Equity paid for an investment is $10,000. Net income is $1,000. Therefore, the investment generates a $1,000 net yield.

New England Co- An early-American-style, 21/2-story box-like house that is generally

lonial symmetrical, square, or rectangular with side or rear wings. The traditional material is narrow clapboard siding. The roof is usually the gable type covered with shingles.

New England Farmhouse An early-American-style house that is simple and box-shaped. The traditional material for the exterior siding is white clapboard. A steep pitched roof is used to shed heavy snow.

New Town A large mixed-use development designed to provide residences, general shopping, services, and employment. The basic concept of a new town is to construct a community in a previously undeveloped area under a central plan, to avoid unplanned development. Some European and South American countries use new towns to attract population into less developed regions.

***Example**:* The popularity of new towns reached a peak in the early 1970s under financial assistance from the federal government. Possibly the most famous modern new towns in the U.S. are Columbia, Maryland and Reston, Virginia. New towns have been developed to serve as national capitals, such as Washington DC; Brasilia, Brazil; and Canberra, Australia.

Newel The central post in a circular stairway around which the steps wind. See also Newel Post.

Newel Post The upright post at the bottom of a stairway that supports the handrail.

NLA Net Leasable Area.

No Bid Decision by the Veterans Administration, when a loan it has guaranteed goes into default, to pay the guarantee amount to the lender instead of acquiring the property in foreclosure. The result is that often the lender obtains the property at the sale. The VA guarantees 60% of the loan amount or a fixed amount (currently $27,500), whichever is lower.

***Example**:* A VA no bid is usually a losing proposition for a lender holding the loan. The VA resorts to the practice when it determines the property has declined enough in value to make paying the

guarantee the less expensive alternative. This leaves the lender to look to the property to cover its losses on the loan in excess of the VA contribution.

No Bonus Clause A provision in a lease that restricts the tenant from receiving any of the proceeds when the property is taken by condemnation. Without this clause, the tenant may be able to claim a portion of the compensation because he or she has a leasehold interest in the property.

No Money Down General term referring to real estate acquisition strategies based on seller-provided financing and/or existing loan assumption and minimal use of cash down payments. It is a method of achieving maximum profits from real estate investments.

***Example**:* Allen purchased three houses using a no money down strategy. In one transaction, Allen assumed the existing mortgage of $55,000, gave the seller a note for an additional $30,000 and transferred ownership of an automobile worth $5,000 to finance the $90,000 house with no cash down payment.

NOI *See* Net Operating Income.

Nominal Consideration Consideration having a minimal relationship to the actual value of the contract or property conveyed.

Nominal Interest Rate The interest rate that appears on the real estate promissory note. Note the effective rate. Also called the note rate.

Nominal Loan Rate Same as face interest rate.

Nominal Size The commercial size given a piece of lumber or other material by the trade, other than its actual size. For example, the actual size of a 2 x 8 can be 1 1/2 x 7 1/4

Nominee One who, in a limited sense, acts for or represents another.

***Example**:* Lee, with consent, used her secretary's name as the grantee to property she bought. Her secretary was considered her nominee.

Simultaneously, her secretary deeded the property to Lee. There was a mortgage on the property. Lee acquired the property from the nominee subject to the mortgage. By doing so, Lee is not personally liable for the mortgage loan.

Non-Basic Employment Employment in those activities in a community that do not bring in money from outside the community.

Non-Bearing Partition A wall that supports only its own weight and does not carry any load.

Non-Combustible Material of which no part will ignite and burn when subjected to fire in accordance with ASTM E-136 test Non-combustibility of Elementary Materials.

Material having a structural base of non-combustible material as defined in item No. 1 above, with a surfacing material not over 1/8 inch thick which has a flame spread rating of 50 or less tested in accordance with ASTM-84 test Surface Burning characteristics of Building Materials or ASTM E-162 test Surface Flammability of Materials Using a Radiant Heat Energy Source.

Non-Conforming Use A use that does not currently conform to the zoning regulations of an area. It is a use that was lawfully established prior to the zoning and maintained but does not now conform because of a change of zoning ordinance.

Non-Conformity A property that does not conform in usage or physical appearance to its neighboring properties.

Non-competition clause A clause in a lease giving a retail tenant an exclusive right to operate a particular business without competition from any of the other tenants.

Noncontrollable expenses Items such as real estate taxes, insurance, and labor-union wages over which the property management has no control.

Non-Freehold Estate An estate in real estate without seisin (ownership). The most common form is a leasehold estate.

Non-Metallic Cable A cable whose wires, in addition to their own insulation, are wrapped with a paper tape, covered with a heavy fabric or plastic, and then treated to be made fire resistant.

Non-Operating Income Money that a business earns from sources other that the operation of the business itself; money from investments, capital gains, etc.

Non-Realty Interests Property rights that might be purchased with real estate, land, buildings and fixtures that are either tangible or in tangible personal property such as furniture in a hotel or the franchise (business) value of the hotel.

Non-Recourse Loan A type of loan where the borrower is not held personally responsible for the repayment of the loan. The lender's security is limited to the property that is put up as security for the loan.

Non-Recurring Expense An expense that usually is not repeated, such as a loss by fire or theft.

Non-Residential Property Property that is not used as a permanent dwelling, including property types such as office, industrial, retail, hotel and special purpose properties.

Nonconforming Use A use that violates zoning regulations or codes but is allowed to continue because it began before the zoning restriction was enacted.

> ***Example****:* Carter owns a commercial building constructed in 1920. In 1935, the city enacted a zoning ordinance that prescribes residential use for the area in which the building is located. Under nonconforming use, the building may remain, but Carter is restricted in the extent to which he may improve or restore the building.

Nondisturbance Clause An agreement in mortgage contracts on income-producing property that provides for the continuation of leases in the event of loan foreclosure.

> ***Example****:* The tenant was concerned that he would be evicted if the landlord went bankrupt. He insisted on a nondisturbance clause so the lease would continue in the event of foreclosure.

An agreement in a sales contract, when the seller retains mineral rights,

that provides that exploration of minerals will not interfere with surface development.

Example: When the seller negotiated the oil and gas lease, she was assured by the oil company that the property could be conveyed with a nondisturbance clause.

Nonexclusive Listing Same as open listing.

Noninstitutional Lender Lenders on real estate loans other than banks, insurance companies, and savings and loan associations.

Nonjudicial Foreclosure A method of foreclosure utilizing the power of sale in a trust deed, rather than the court system.

Nonrecourse No personal liability. Lenders may take the property pledged as collateral to satisfy a debt, but have no recourse to other assets of the borrower.

Example: Abel purchases a property with a nonrecourse loan. Should Abel default, the lender may foreclose and acquire the property but is barred from seeking a judgment against other properties held by Abel.

Nonrecurring Closing Costs Costs that are one-time charges paid at the close of escrow.

Normal Curve A statistical term meaning a bell-shaped curve which represents the normal distribution of certain measurements that might be drawn from any large sample of a population.

Normal Distribution A statistical term referring to the distribution of data that can be expected in a large random sample, usually represented by a normal curve.

Normal Wear And Tear Physical depreciation arising from age and ordinary use of the property.

Example: An appraiser estimates that a certain type of carpeting, subject to normal wear and tear, should have a physical life of 5 years.

Nosing The rounded outer face of a stair tread.

Notarize To witness a signature on a document and to place a notary public's seal on that document.

Notary Public An official of the state who witnesses an acknowledgment by a person who has signed a document.

Note A signed written instrument acknowledging a debt and promising payment.

Note Rate This rate determines the amount of interest charged on an annual basis to the borrower--also called the "accrual rate", "contract rate" or "coupon rate."

Notice Official communication of a legal action or one's intent to take action. *See* also Public Offering, Public Sale.

***Example**:* A landlord may be required to give a tenant 30 days' notice before terminating the lease.

***Example**:* A lender may be required to give a debtor notice that a default has occurred before initiating foreclosure proceedings. *See* Notice Of Default.

***Example**:* Recording a deed serves to give constructive notice to the public of one's ownership of a property.

Notice Of Action A recorded notice of a pending suit, such as notice that a property may be subject to a lien or that the title is defective.

Notice Of Cessation A notice stating that work has stopped on a construction project. Done to accelerate the period for filing a mechanic's lien.

Notice Of Completion A document which is recorded when an improvement is completed on a property.

Notice Of Default A document that is recorded and delivered to the borrower when a default has occurred under a deed of trust.

Notice Of Non-Responsibility A notice provided by law designed to relieve a property owner from responsibility for the cost of work done on property or materials furnished therefore; notice must be verified, recorded and posted.

Notice Of Recission A notice filed to void notice of default of a mortgage or deed of trust.

Notice To Quit A notice to a tenant to vacate rented property.

Notorious Possession Generally acknowledged possession of real estate. One of the requirements to gain ownership of real estate through adverse possession.

Example*:* A squatter, who was in notorious possession of land, was thought by neighbors to be the owner of record.

Novation The substitution of a new obligation for an existing one with the intent to extinguish the original contract. A new contract which will takes the place of an existing one.

NOW Accounts Negotiable order of withdrawal, and interest-bearing checking account permitted for the first time by savings and loan associations and banks as of 1982.

NPV *See* Net Present Value.

Nuisance A land use whose associated activities are incompatible with surrounding land uses.

Example*s*: Zoning laws and private deed restrictions are used to prevent the development of nuisances, such as: ◆ activities that produce noxious fumes or air pollution in residential areas ◆ commercial uses that generate large volumes of automobile traffic in residential areas ◆ junkyards in highly visible areas ◆ activities considered socially offensive, such as sale of pornographic materials, in residential areas

Nuisance Value The amount that someone would pay for a property, not for its own sake but because it is a nuisance as currently run or is actually damaging the prospective buyer.

Null And Void That which cannot be legally enforced, as with a contract provision that is not in conformance with the law.

***Example**:* Lee sells a property and places in the deed a covenant that the property may never be sold to someone of a minority race. Since this provision is in defiance of the U.S. Constitution, it could never be enforced and is thereby null and void.

Nunc Pro Tunc **"**Now for then.**"** A means of correcting a court order erroneously entered, after the fact.

Nuncupative Will An oral statement made in anticipation of immediate and pending death.

Oath An attestation by a person which binds him or her legally and morally. Usually attesting to the truth of something, as an affidavit, or the validity of one's signature. A promise to tell the truth. Also, a promise to carry out a duty with high morality (oath of office) An oath has religious connotations and usually involves the word **"**swear**"** and may contain the phrase **"**so help me God**"** or require the one taking the oath to put his or her hand on a bible. An affirmation (see which) is still legally binding.

Object The subject of an agreement.

Obligatory Advances Disbursements of money that the lender is required, under the terms of the loan, to make over the period of the construction loan.

Obligee The person in whose favor an obligation is entered into.

***Example**:* Able promises to manage the property of Lee, an out-of-town investor. In this arrangement, Lee is the obligee; Able is the obligor.

Obligor The person who binds himself or herself to another; one who has engaged to perform some obligation; one who makes a bond.

***Example**: See* Obligee.

Observed Condi- The physical condition of a property ascertained by a detailed inspec-

tion tion.

Observed Condition Method An appraisal method of estimating depreciation. The appraiser makes three separate estimates-one each for physical deterioration, functional obsolescence and economic obsolescence-and then adds the three together to produce a final estimate of depreciation.

Observed Depreciation The three forms of depreciation that are observed by the appraiser using the observed condition method of estimating depreciation.

Obsolescence Loss in value due to reduced desirability and usefulness of a structure because its design and construction become obsolete; loss because of becoming old-fashioned and not in keeping with modern needs, with consequent loss of income.

Obsolete Being no longer useful or desirable.

Occupancy The state of being in possession of a property; to physically occupy a property.

Occupancy Agreement, Limited One that allows a prospective buyer to obtain possession under a temporary arrangement, usually prior to closing.

***Example**:* Chen, the seller, signs a limited occupancy agreement with Lee that allows Lee possession of the property at rent of $25 per day up to 30 days or the day of closing, whichever occurs first.

Occupancy Level Percentage of currently rented units in a building, city, neighborhood, or complex. Contrast with vacancy rate.

***Example**:* Today the Holiday Hotel has 90 of its 100 rooms booke

d and filled. Its occupancy level is 90%. Conversely, its vacancy rate is 10%.

Occupancy Rate The percentage of the total available units of a property that are actually occupied.

Occupancy, Cost Of The cost of occupying a property, which usually includes rent, utilities, and repairs.

Off-Site Costs Expenditures related to construction that are spent away from the place of construction.

***Example**:* Lee is developing a subdivision. Certain off-site costs are incurred, such as the costs of extending roads, sewers, and water lines to the site. Site costs include landscaping and other site improvements.

Off-Site Improvements The portions of a subdivision or development that are not directly on the lots to be sold.

***Example**s:* Access streets, curbs, sewers, and utility connections are common

Offer A proposal subject to another's acceptance to do a specified deed when the other party in turn performs a specified deed. Part of the process of making a binding contract that consists of an offer and acceptance.

Offer An expression of willingness to purchase a property at a specified price.

***Example**:* Lincoln places a property on the market. Lee makes an offer to buy the property for $150,000. Lincoln may accept the offer, reject the offer, or propose a counteroffer.

Offer And Acceptance *See* Agreement Of Sale.

Offer of Dedication Making property available for public use.

Offer To Purchase The proposal made to an owner of property by a potential buyer to purchase the property under stated terms.

Offeree The person to whom an offer is made.

Offeree One who receives an offer. Generally a buyer offers a purchase contract to an owner, which makes the owner the offeree. When the seller offers a contract to a buyer, the buyer is the offeree.

***Example**:* Lee offers Smith a contract in which Lee offers to pay $120,000 for a property. Smith is the offeree.

Offeror A person making an offer.

Offeror One who extends an offer to another.

Example: Lee offers Smith $120,000 for a property. Lee is the offeror.

Office Building A structure primarily used for the conduct of business, such as administration, clerical services, and consultation with clients and associates. Such buildings can be large or small and may house one or more business concerns.

Example: From a large office building in downtown, the XYZ Corporation controlled its nationwide system of factories and outlets.

Office Of Interstate Land Sales Registration A division of the U.S. Department of Housing and Urban Development that regulates offerings of land for sale across state lines. *See* Interstate Land Sales Act.

Example: Lee subdivides a large land parcel in Arizona and wishes to market the lots to investors across the nation. Lee is required to register the offering with OILSR and follow certain procedures intended to inform buyers of the characteristics of their investment.

Office Of Thrift Supervision A federal agency created by FIRREA to regulate and supervise federally chartered savings and loan associations. The OTS takes over the thrift regulatory duties exercised by the Federal Home Loan Bank Board prior to passage of the Act. The new agency is part of the Treasury Department.

Office Park A planned development specially designed for office buildings and supportive facilities, such as restaurants. Some office parks, such as a research park or a medical services park, are designed to attract specific tenants.

Example: After several large corporations located in the new office park, the park became a major employment center for the city.

Offset 1. A ledge that makes a change in the thickness of a wall.

2. To balance.

3. A printing process.

Offset Statement Statement by owner of property or owner of lien against property setting forth the present status of liens against said property.

Oil And Gas Lease An agreement that gives the right to explore for oil, gas, and sometimes other minerals and to extract them from the ground. Provisions include the granting of subsurface and surface rights, lease duration, extension terms, royalties, surface damages, assignments, and warranties. *See* Mineral Rights.

***Example**:* In an oil and gas lease, the owner is to receive $100 per acre as a bonus payment, and one eighth of the value of minerals found on the property.

OILSR Office of Interstate Land Sales Registration.

On Center A measuring term meaning the distance from the center of one structural member to the center of a corresponding structural member, such as studs or joists.

On Rail Property services by a railroad.

On-Site Improvements Physical improvements that are constructed within the boundaries of a parcel of land.

Once-In-A-Life-Time Tax Exclusion A forgiveness of a portion of the tax due on the sale of a residence by a senior citizen. As the term denotes, the exclusion can be taken only once.

One Form of Action Rule The requirement that the only remedy allowed the holder of a secured obligation is to foreclose on the security.

One-Hour Door A door that is fire resistant and will contain a fire for a minimum of one hour.

One-Hour Wall A wall that is fire resistant and will contain a fire for a minimum of one hour.

One-Hundred-Percent Location The particular spot in an urban area where land value and rents are the highest; the "best" location.

Example: Broadway and 42nd Street was thought of as the highest-priced property, the 100% location, in New York City. Other locations could be judged as percentages of that property's value.

One-Two- Three Financing A method of creative financing by which the buyer (1) assumes an existing loan. (2) secures a second loan from a third party lender, (3) takes a third loan from the seller.

Open And Notorious Possession See Notorious Possession.

Open Channel A drainage course designed to carry major storm sewer flow on the surface. It is generally used only where no other feasible method of drainage is possible.

Open House A method of showing a home for sale whereby the home is left open for inspection by interested parties.

Example: A broker advertises an open house to promote the sale of a listing. On the specified date, prospective buyers may inspect the house during the hours of the open house.

Open Housing A condition under which housing units may be purchased or leased without regard for racial, ethnic, color, or religious characteristics of the buyers or tenants.

Example: The intent of government anti-discrimination laws applied to housing is to provide open housing under which anyone with sufficient funds may purchase or rent available housing units.

Open Housing Law Congress passed a law in April 1968 which prohibits discrimination in the sale of real estate because of race, color, or religion of buyers.

Open Listing An authorization given by a property owner to a real estate agent wherein said agent is given the nonexclusive right 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.

Open Mortgage A mortgage that has matured or is over-due and is therefore open to foreclosure at any time.

Example: Towns sells a property to Lee. Towns provides financing for the sale in the form of a 5-year, interest-only loan. At the end of 5 years, Lee does not pay the principal and Towns allows the loan to become an open mortgage. This arrangement allows Lee to pay off the loan at any time or Towns to call the loan at any time.

Open Plan House design having a minimum of walls and partitions.

Open Space Land, within a developed area, that is left undeveloped and serves as an amenity to surrounding occupants.

Example: A 20-acre planned unit development contains 12 acres that are covered by structures and pavement. The remaining 8 acres are left in open space.

Open-End Clause A clause in a mortgage that permits the amount of the loan to be expanded during the life of the mortgage without the necessity of writing a new mortgage. It may also provide that the interest rate of the additional money be adjusted to the then current rate.

Open-End Mortgage A mortgage permitting the mortgagor to borrow additional money under the same mortgage, with certain conditions, usually as to the assets of the mortgage.

Open-End Trust Deed or Mortgage A deed of trust containing a clause that permits the borrower to obtain additional advances of money secured by the same deed of trust, if the lender permits.

Open-Ended Mortgage A mortgage containing a clause which permits the mortgagor to borrow additional money after the loan has been reduced without rewriting the mortgage.

Operating Expense Ratio The mathematical relationship derived by dividing operating expenses by potential gross income.

Examples: Apartments generally have operating expense ratios between 30% and 50%; this figure may be exceeded where the lessor pays utilities or in low rent areas. Office buildings often have higher operating expense ratios (40% to 60%), because more intensive management and maintenance, such as cleaning services, are provided.

Operating Budget Statement of income, expenses. Expenses consist of fixed costs and a reserve fund for variable expenses. A property manager develops an operating budget to indicate the cash yield to expect.

Operating Expenses Amounts paid to maintain property, such as property Taxes, hazard Insurances, Management, Maintenance, Utilities, and replacement Reserves (TIMMUR). Excludes financing expenses and depreciation.

Examples: The following are expenses incurred in operating a property: Operating expenses: ◆ maintenance ◆ management ◆real estate taxes ◆ hazard and liability insurance ◆utilities ◆ supplies.

The following are not categorized as operating expenses: ◆ debt service, principal payments, interest, loan fees, participation payments ◆ depreciation ◆income taxes.

Operating Income Same as net operating income.

Operating Lease A lease between the lessee and the sublessee who actually occupies and uses the property. *See* Sublease.

Operating Leverage Automatic increases in the net operating income or cash flow of income-producing real estate when income and expenses increase at the same rate; further enhanced when expenses are fixed.

Operating Statements An accounting of the income and expense of a business or property over a given period of time.

Operative Words Words in a deed or lease that affect the transaction that is the subject of

the document.

Opinion Of Title A certificate, generally from an attorney, as to the validity of title to property being sold. *See* Title Abstract.

Example: Based upon the attorney's opinion of title, the title insurance company insured title to the property.

Opportunity Cost A term used in economics; when taking a particular action, the loss of the value of the next-best action.

Example: Jim had to choose between two investment properties because he did not have the resources to buy both. Each cost the same; the better one offered a 10% return of investment, the other only 9%. Jim's opportunity cost of the better one (which he bought) was measured as the 9% return of the one he did not buy and, therefore, had to do without.

Optimum Use See Highest and Best Use.

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

Option For Additional Space An option granted to a tenant to rent additional space at a stipulated time and for stipulated terms.

Option Listing A listing giving the listing broker the opportunity to buy the listed property, usually less the commission.

Option To Purchase A contract that gives one the right (but not the obligation) to buy a property, within a certain time, for a specified amount, and subject to specified conditions.

Example: Marco needs two adjacent parcels of land for a project he wishes to build. He can obtain an option to purchase one of them; if he is able to buy the other, he can use his option to buy the first one. If he cannot buy the other, he can let the option expire.

Optionee Receiver of an option. Usually a potential buyer.

Optionor Giver of an option. Usually a potential seller.

Or More Clause A clause in a loan document allowing the borrower to pay additional sums at any time.

Oral Contract A verbal agreement; one which is not reduced to writing.

Ordinance A city or county law.

Ordinary And Necessary Business Expenses A tax term that allows a current deduction for business expenses. Contrasted with capital expenditures and unreasonable expenses.

Example: Each day the apartment manager enjoyed a 3-martini lunch with his friend. He claimed a tax deduction for the lunch expense. The Internal Revenue Service contests the deductions because they were not ordinary and necessary business expenses.

Ordinary Annuity A series of equal payments, each payment occurring at the end of each equally spaced period.

Ordinary High Water Mark The high water mark, which is distinguished by erosion, destruction of vegetation, etc.

Ordinary Income Defined by the Internal Revenue Code to include salaries, fees, commissions, interests, dividends, and many other items. Taxed at regular tax rates. Contrasted with long-term capital gains, which receive more favorable tax treatment.

Example: Chen would prefer to convert ordinary income into long-term capital gains. He wants to change the nature of property he has from inventory to investment.

Ordinary Loss For income tax purposes a loss that is deductible against ordinary income. Usually more beneficial to a taxpayer than a capital loss, which has limitations on deductibility.

Example: The sale of inventory at loss results in an ordinary loss, whereas the sale of an investment at a loss results in a capital loss.

ORE, OREO Other real estate, other real estate owned. Generally, foreclosed property

held by lending institutions. An account at banks or savings and loan associations that includes property other than real estate used for bank operations.

***Example**:* The Office of Thrift Supervision (OTS) monitors real estate loans at lending institutions and places foreclosed real estate on the ORE list. When ORE exceeds 2% of an institution's assets, the OTS takes steps to reduce losses and safeguard the institution.

Orientation Placing a house on its lot with regard to its exposure to the rays of the sun, prevailing winds, privacy from the street and protection from outside noises.

Original Cost The initial sum paid to build or purchase a property by its present owner, (whether or not the present owner is the first owner) and is normally used as a basis for depreciation (exclusive of that portion of the cost which is for that portion of the cost which is for the land).

Original Equity The amount of cash initially invested by the underlying real estate owner. Distinguished from sweat equity, capital calls.

***Example**:* Lee paid $25,000 cash as original equity and borrowed $75,000 to purchase a $100,000 vacation home. His laborious efforts to remodel added $20,000 through sweat equity, and inflation raised the value by another $10,000.

Origination Fees Charges to a borrower to cover the costs of issuing the loan, such as credit checks, appraisal, and title expenses.

***Example**:* The lender issued a $50,000 mortgage loan and charged a 1% origination fee ($500).

Orthographic Projection A drawing of a building without perspective and used as the basis for building plans. The lines that are parallel in the building are parallel on the drawing.

Ostensible Authority That authority which a third person reasonably believes an agent possesses because of the acts or omissions of the principal.

Other People's Money Borrowed funds invested in a money-making venture. This term implies that debt can be used to maximize investment profits or minimize risk of personal loss.

***Example**:* Through the use of other people's money, Lee was able to amass a sizable portfolio of investment properties. His principle was to borrow as much as possible and invest the proceeds in new properties.

Ouster The means of removing a co-tenant from possession of property.

Outlawed Claim A claim which the claimant can not pursue in court because he delayed beyond the time allowed by the Statute of Limitations.

Outstanding Balance The amount currently owed on a debt.

***Example**:* Whitman borrowed $10,000. She then paid $1,200 of interest and $500 toward principal. Her outstanding balance is $9,500 ($10,000 minus $500).

Over Age 55 Home Sale Exemption In taxation, an individual over age 55 can sell a principal residence at a gain and exclude up to $125,000 of the gain from taxation. Allowed regardless of the purchase of another home. Must have used the property as a principal residence for 3 of the last 5 years.

***Example**:* Chen, over age 55, sells his principal residence, which he has lived in for the last 3 years, at a $150,000 gain. He may exclude $125,000 of the gain from taxation. The rest of the gain is taxable as a capital gain.

Over-Improvement An improvement which is not the highest and best use for the site on which it is placed by reason of excess size or cost.

Overage In leases for retail stores, amounts to be paid, based on gross sales, over the base rent. *See* Percentage Lease.

***Example**:* Lee leases retail space in a shopping center. The lease calls for a base rent of $2,500 per month plus 5% of gross sales over $10,000. The first month, Lee has sales of $20,000. In addition to the

$2,500 base rent, Lee pays an overage of $500 {.05 x ($20,000 - $10,000)}.

Overage Income Rental income called for in a lease that is above the minimum rental. The tenant is required to pay this extra rent when specified conditions exist such as sales over a certain amount or profits over an agreed amount.

Overage Rent A rent paid in addition to a fixed base rent. It is usually based on a variable figure such as a percentage of sales or an index. Because it is less certain than the fixed base rent, it is usually discounted at a higher rate.

Overall Capitalization Rate A single year's cashflow ratio that is calculated by dividing the net operating income (NOI) by the total value of the property. When calculated, using NOI for the first year of operations, it is sometimes referred to as a **"**current yield.**"** However, it is not a yield rate that considers NOI over the entire holding period, nor does it consider resale proceeds. Thus it should not be confused with an overall yield rate. Frequently used to find the value of a property by dividing the first year's net operating income by the overall capitalization rate. The inverse of the overall capitalization rate is the net income multiplier. Also called overall cap rate. *Same as overall rate of return.*

Overall Rate The ratio between annual net operating income and value or sales price in the Ellwood formulation, designated by the symbol R.

Overall Rate Of Return The percentage relationship of net operating income divided by the purchase price of property. *See* Capitalization Rate.

Example*:* Property that sells for $1,000,000 is anticipated to produce a net operating income of $100,000 per year. The indicated overall rate of return is 0.10 or 10%.

Overall Yield Rate (Y_O) The discount rate that equates the present value of the net operating income and resale proceeds with the purchase price. Sometimes referred to as a free and clear yield because it does not consider financing.

Overbuilding A situation in a given area where there has been more real estate con-

struction than the market can economically support.

Example: In many cities in the 1980s, office space was overbuilt: there was more space than potential tenants wanted to rent; as a result, much space either went unrented or rented at unusually low rates.

Overhead Easement The right to use the area above the land for power lines, aviation, etc.

Overimprovement An improvement that is not the highest and best use for a property; an improvement that is excessive in cost or size to the land value.

Overpass The bridging on one road or highway over a railway or other road or highway.

Override A fee paid to someone higher in the organization, or above a certain amount.

Example: In the agreement the salesman was required to pay an override of 10% of his gross commissions to the managing broker.

An estate carved out of a working interest in an oil or gas lease.

Example: The overriding royalty required 2% of the production of the well be paid to the attorney who negotiated the oil lease.

Overstory The part of a forest that has the tallest trees.

Owner Financing Same as seller financing.

Owner Occupant A tenant of a residence who also owns the property.

Example: Davis lives in a home that he also owns. Lee owns a home but rents it to Smith. Davis is an owner occupant, Lee is an absentee owner, and Smith is a rental tenant.

Owner Occupied Property that is physically occupied by the owner.

Owner Of Record The person(s) who, according to the public records, is/are the owner(s) of a particular property.

Example: An attorney searching the title found Helen to be the owner

of record, even though she had assigned her interest to anonymous foreign investors who were the beneficial owners.

Owner Will Carry Mortgage A term used to indicate that the seller is willing to take back a purchase money mortgage.

Ownership The right of one or more persons to possess and use property to the exclusion of all others. A collection of rights to the use and enjoyment of property.

Ownership Form Methods of owning estate, which affect income tax, estate tax, continuity, liability, survivorship, transferability, disposition at death and at bankruptcy.

Example: Ownership forms include: corporation, joint tenancy, limited partnership, partnership, Subchapter S corporation, tenancy by the entireties, tenancy in common, tenancy in severalty.

Ownership In Severalty *See* Tenancy In Severalty.

Ownership Interest *See* Fee Simple Estate, Leased Fee Estate, Leasehold Estate.

Ownership Rights To Realty Possession, enjoyment, control, and disposition. *See* also Fee Tail, Interest, Tenancy.

Example: By virtue of title to the property, Lee enjoys full ownership rights to realty. This enables Lee to use the property, lease out the property, pledge it as security on loans, and sell the property within the restrictions of the law.

P & I *See* Principal and Interest (payment).

Package Loan Loan secured by both real and personal property, usually appliances and other fixtures.

Package Mortgage A loan where the security is both real and personal property.

Package Trust A trust deed secured by both real property and personal property (appli-

Deed or Mortgage ances, furniture, etc.).

Pad Site An individual freestanding site for a retailer, often adjacent to a larger shopping center.

Palladian Style Windows A window style found in many American Georgian Colonial style buildings, based on the windows designed by Andrea Palladio in Renaissance Italy.

Panel Board A portion of an electrical system onto which the electric meter, main switch and protection devices are mounted.

Panel Heating A heating system that places the electric coils, steam pipes and other heating devices into walls or ceilings to serve as heating panels and transmit heat by radiation.

Panelized Floor System A type of floor system that is premanufactured in a mill or on the job site and then set in place over the joists as an integrated unit.

Panelized Roof System A type of roof system that consists of mill-manufactured or on-site prefabricated integrated units which are installed as part of the roof system.

Panic Selling An illegal practice of telling residents of an non-integrated neighborhood that the neighborhood is about to become integrated and convincing them to sell their property **"**before it is too late.**"** Historically, some operators would then buy the property and sell it to minorities at a profit.

See also as Blockbusting.

Paper Credit given, evidenced by a written obligation that is backed by property.

Example*:* Lee sells his property for $100,000. He receives $20,000 cash and $80,000 of paper that is payable over 20 years at 10% interest.

Paper Profit An increase in value above original cost or basis that would be realized if the property were sold; however, the property is not offered for sale.

Example*:* Jean purchased a tract of land for $100,000 that was recently

appraised at $150,000. Her paper profit is $50,000.

Par The face amount of a mortgage with no mortgage with no premium or discount.

Par Value Market value, nominal value.

Par Value Market value, nominal value.

Paramount Title Title which is superior or foremost to all others.

Parapet The part of the wall of a house that rises above the roof line.

Parcel A piece of property under one ownership; a lot in a subdivision.

Parging A coating of cement applied to the surface of masonry wall to waterproof it.

Parol Oral, verbal.

Parol Evidence Oral evidence, rather than that contained in documents. The parol evidence rule states that when parties put their agreement in writing, all previous oral agreements merge into the written agreement. The written agreement cannot be contradicted by oral testimony, unless there was a mistake or fraud.

Example*:* Carter agrees to buy a house from Lee, and both sign a written agreement. Carter later argues that Lee said he'd pay all the loan discount points. Under the parol evidence rule, courts will interpret the contract as it is written.

Parquet Floor Hardwood flooring consisting of small pieces laid in a decorative pattern.

Partial Interest Ownership of a part of the ownership rights to a parcel of real estate.

Example*s*: Mineral rights, easements on another's property, etc.

Infrequently used to describe an undivided interest in property shared with several other owners.

Partial Reconveyance Deed A deed used to reconvey a portion of land encumbered by trust deed.

Partial Release Clause A clause in a blanket mortgage or trust deed allowing for reconveyance of title of part of the property when part of the loan is paid off.

Partial Taking Acquisition by condemnation of only part of the property or some property rights.

Partially Amortized Loan One that requires some payments toward principal but does not fully retire the debt, thereby requiring a balloon payment.

Example: A 30-year amortization schedule is provided for a loan that balloons in 10 years. Originally $100,000 of principal at 10% interest, this partially amortized loan balance will be reduced to $90,311 when it matures.

Participation Sharing of an interest in a property by a lender. In addition to interest on mortgage loans on income properties, a small percentage of gross income is required, sometimes predicated on certain conditions being fulfilled, such as minimum occupancy or a percentage of net income after expenses, debt service and taxes.

Participation (Or Participating) Mortgage One that allows the lender to share in part of the income or resale proceeds.

Example: A loan is given on an office building. In addition to a fixed payment of principal and interest, the lender is entitled to 2% of gross rental income. This is a participation loan in which the lender participates in the income stream provided by the property.

Participation Certificates Mortgage securities, rather than mortgages. The advantage of the Certificate is that it is readily marketable or pledgeable.

Parties (Party) Those entities taking part in a transaction as a principal, e.g., seller, buyer, or lender in a real estate transaction.

Partition The division of real property between those who own it with undivided interest.

Partition Action Court proceedings by which co-owners seek to sever their joint ownership.

Partnership A decision of the California Supreme Court has defined a partnership in the following terms: **"**A partnership as between partners themselves may be defined to be a contract of two or more persons to unite their property, labor or skill, or some of them, in prosecution of some joint or lawful business, and to share the profits in certain proportions.**"** A voluntary association of two or more persons to carry on a business or venture on terms of mutual participation in profits and losses.

Party Wall A wall erected on the line between two adjoining properties, which are under different ownership, for the use of both properties.

Pass-Through Expenses charged to a tenant as a result of expense stop provisions in a lease.

Pass-Through Certificates (Or Securities) Interests in a pool of mortgages sold by mortgage bankers to investors. Money collected as monthly mortgage payments is distributed to those who own certificates. Often guaranteed by Ginnie Mae.

Example*:* A mortgage banker sells $5,000,000 of pass-through certificates in $10,000 denominations, supported by an equal amount of VA and FHA mortgages. Monthly collections of interest and principal are remitted to certificate holders, except for 44/100 of 1% of the annual principal, kept by the mortgage banker as a servicing fee.

Passive Activity Income Under the 1986 tax act, is generated by:

1. Any trade or business conducted for profit in which the taxpayer does not materially participate.
2. Any rental activity, whether or not the taxpayer materially participates. Rental activities are presumed to be passive. These include all activities that generate income from payments for the use of property rather than for the performance of services. Rental

activities include long-term rentals of apartments, net leased property, office equipment, and automobiles. In contrast, the rental of hotel rooms or transient apartments and short-term car rentals are not passive because of the extent of services provided. Because rental real estate is a passive activity, owners may not use losses to shelter other types of income.

These are exceptions:

1. Phase-out for property acquired before October 22, 1986, the enactment date of the 1986 tax act. Losses on property acquired before then were allowed as follows: 1987-65%, 1988-40%, 1989-20%, 1990-10%.

2. Property acquired after the October 22, 1986, date is not eligible for the phase-out.

3. Real estate dealers.

"Active**"** participants in rental real estate are allowed to shelter up to $25,000 per year of losses against nonpassive income. A less stringent definition of active participation is provided as compared to material participation.

4. Mortgage interest on principal or second residence is not subject to these rules even when the residence is rented out.

5. A closely held C corporation (other than a personal services corporation) may use passive losses and credits to offset its net active income,, but not portfolio income. An S corporation may not apply passive losses and credits against other income.

Example*:* Paul bought an apartment complex in 1988, which generated a $30,000 tax loss. If Paul meets the test of an active investor, up to $25,000 of the loss may be used to offset active or portfolio income. If not, the entire loss remains suspended until Paul earns passive income.

Passive Income Generally, income from rents, royalties, dividends, interest, and gains from the sale of securities. New meaning created by the Tax Reform Act of 1986, distinguishes passive income or loss from active income and portfolio income. *See* Passive Activity Income.

Passive Income Generator A business or investment that produces passive income which can be used to offset passive losses.

***Example**:* Perry owns rental real estate which provides a tax loss. Under the 1986 tax act, the loss may be offset by passive income, but not by portfolio income or active income. Without a passive income generator to offset the loss, the loss will be carried forward in a suspense account.

Passive Investor One who invests money but does not manage the business or property.

See Passive Income, Portfolio Income.

***Example**:* Lee has neither time nor skills to manage the property that he wants to invest in. He forms a partnership with a real estate syndicator who will devote time and expertise to manage the property for profit. Lee contributes money but not effort, so he is a passive investor.

Passive Solar Heating A system of features incorporated into a building's design to use and maximize the effects of the sun's natural heating capability. *See* Active Solar Heating.

***Example**:* Passive solar heating systems use some type of collection and storage element, such as a water-filled partition, which is exposed to the sun during the day and radiates heat to the structure at night. Other features, such as south-facing windows, site orientation, roof overhangs, are included to enhance the effects of the sun's heat.

Patent Instrument used to convey title to government land.

Patent Defect A defect plainly visible or as would be discovered by the exercise of ordinary care. A patent defect in a legal description is one which cannot

be corrected on its face, and a new description must be used

Payback Period The amount of time required for cumulative estimated future income from an investment to equal the amount initially invested. It is used to compare alternative investment opportunities.

***Example**:* Purchase of an apartment building requires an equity investment of $20,000. Annual cash flow is expected to be $2,000. The payback period for the investment is 10 years.

Payee Receiver of pay (consideration).

Payer To giver or offer.

Payment Adjustment Date With regard to an adjustable rate mortgage, the date the borrower's monthly principal and interest payment may change.

Payment Cap A contractual limit on the percentage amount of adjustment allowed in the monthly payment for an adjustable rate mortgage at any one adjustment period. Generally it does not affect the interest rate charged. If the allowable payment does not cover interest due on the principal at the adjusted rate of interest, negative amortization will occur.

***Example**:* An adjustable rate mortgage has a payment cap of 7% a year. The monthly payment in year 1 is $500. When the interest rate is adjusted in year 2, the new payment would be $550 to pay interest and amortize the principal However, due to the payment cap, the maximum payment for year 2 is $535.

Payment Rate With respect to an adjustable rate mortgage, the rate at which the borrower repays the loan—reflects buydowns or payment caps.

Payment To Amortize $1 The periodic payment necessary to repay a $1 loan with interest paid at a specified rate over a specified time on the outstanding loan balance; column six of the compound interest tables.

Payoff The payment in full of an existing loan or other lien.

Payoff Escrow An escrow, specifically for the purpose of paying off an existing lien. Usually part of an existing escrow, and called a sub escrow.

Penalty Money one will pay for breaking a law or violating part or all of the terms of a contract.

***Example**:* Penalties are often imposed for: prepaying a loan, failing to complete a contract of sale, breaking a lease.

Penny The term applied to nails, serves as a measure of nail length and is abbreviated by the letter **"**D**"**.

Pent Roof A short, hood-like roof between the windows of the first and second floor.

Penthouse A luxury housing unit located on the top floor of a high-rise building.

Per Annum Yearly, annually.

Per Autre Vie A life estate given for the life of a person other than the grantee of the life estate.

Per Diem Daily.

Per Stirpes A legal method of distributing an estate to include the descendants of a deceased legatee, whose share is apportioned among linear descendants.

***Example**:* A person dies intestate. State Law requires a per stirpes distribution of assets. The decedent had 4 children. Three are surviving; the fourth child died as an adult and left 5 children. The estate is divided into 4 equal parts. Each surviving child of the decedent gets one fourth, and the 5 orphaned grandchildren, as a group, share one fourth.

Percentage Lease Lease on 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.

Percentage Rent Rent payable under a percentage lease. Typically the percentage applies to sales in excess of a pre-established base amount of the dollar sales volume.

Percolation Rate The speed at which water is absorbed by the soil.

Percolation Test A procedure to measure the drainage characteristics of the soil on a lot. Required in the proper design of septic tank drainfields.

***Example**:* Carter is developing a subdivision in the county. As part of site preparation, Carter runs percolation tests on the soil. From this information, the engineer can determine the proper size of the lots and placement of septic tanks.

Percolation Test Determines how quickly water will seep through the soil. Should be made before a septic tank is installed.

Perfect Escrow An escrow, not yet closed, where all of the conditions necessary for closing have been completed.

Performance In contract law, the completion of duties and obligations specified in a contract.

***Example**:* Patty, the tenant, and Bruce, the landlord, agreed upon the terms of the lease. The lease expired after the performance of the parties.

Performance Bond One issued by an insurance company; posted by a party who is to perform certain work. If the work is not performed, the insurer promises to complete the work or pay damages up to the amount of the bond. Contrast with completion bond.

***Example**:* The contract requires the contractor to put up a $10,000 performance bond. If the contractor fails to do the job, the property owner has assurances of compensatory payment from the insurance company.

Perimeter The total boundary of a site or the distance around a building.

Perimeter Heating Baseboard heating, or any system in which the heat registers are located along the outside walls of a room, especially under the windows.

Periodic Interest Rate Cap With respect to an adjustable rate mortgage, limits the increase or decrease in the note rate at each rate at each rate adjustment, thereby limiting the borrower's payment increase or decrease at the time of adjust-

ment.

Periodic Tenancy A leasehold estate continuing from period-to-period until the landlord or the tenant gives notice.

Permanent Financing Same as long-term or take-out financing.

Permanent Mortgage A mortgage for a long period of time (over 10 year).

***Example**:* The savings and loan association promises to originate a 25-year self-amortizing permanent mortgage when construction is completed. A permanent mortgage commitment is often needed before a construction loan can be arranged.

Permeability The ability of soil to absorb water.

Permit A document, issued by a government regulatory authority, that allows the bearer to take some specific action.

***Example**:* An occupancy permit allows the owner of a building to occupy or rent the building.

***Example**:* A building permit allows a builder to construct or modify a structure.

Perpetuity The condition of being never ending. Most states attempt to outlaw perpetuities because of potential problems. A perpetual income stream may cause bankruptcy. A deed that keeps property in a family in perpetuity can cause financial hardship.

***Example**:* A bank offers to pay a 10% interest rate in perpetuity. A $10,000 deposit should receive $1,000 annual income for as long as the deposit remains in the account.

Person In law, an entity having legal responsibility. Legally, a natural person is a human being who has reached majority. (Compare with minor.) An artificial person may be a corporation; in some instances partnerships, governments, and certain other bodies are considered persons.

***Example**:* When negotiating a contract it is important to deal with a person, other wise the contract may be unenforceable.

Personal Property Any property which is not real property. Property that is movable, not fixed to land. *See* Chattel.

***Example**s*: The following are personal property:

◆ appliances not permanently attached to real property, ◆ cash and securities, ◆ furniture and household items, ◆mobile homes not permanently affixed to a site, ◆ vehicles.

Personal Residence The dwelling unit that one claims as one's primary home. This dwelling establishes one's legal residence for voting tax, and legal purposes.

***Example**:* Mr. Pierce owned houses in several different cities, with the one in San Francisco serving as his personal residence.

Personalty Property that is movable, not real property. See also Personal Property.

Pervious Soils Loose, porous, coarse-grained soils that allow the infiltration of water.

Photovoltaic The process of converting light directly into electricity using specially designed silicon cells.

***Example**:* The house has a photovoltaic system which supplies power to the filter pumps of the swimming pool.

Physical Characteristics The tangible aspects of real estate.

Physical Depreciation Or Deterioration The loss of value from all causes of age and action of the elements. Loss in value brought about by wear and tear, disintegration, use and actions of the elements.

***Example**:* Sources of physical depreciation: breakage, deferred maintenance, effects of age on construction material, normal wear and tear.

Physical Factors Tangible aspects of a community that may affect a property's value.

Example: Examples of physical factors include location, natural geographic boundaries, topography, soil conditions, climate, natural resources, water availability and transportation.

Physical Life The projected typical life of an improvement that is correctly maintained and cared for.

Physically Possible One of four criteria in highest and best use analysis. For a use to be the highest and best use, the size, shape and terrain of the property must be able to accommodate the use.

Pier A column of masonry, usually rectangular in a horizontal cross section, used to support the structural members.

Piggyback Loan A combination of the construction loan with the permanent loan commitment.

Example*:* The permanent lender would issue a commitment at a 15% rate, effective upon completion of construction. As assurance that the loan will be borrowed even if rates are lower later, the commitment is piggybacked to the construction loan, and must be drawn down upon retiring the construction loan.

One mortgage held by more than one lender, with one lender holding the rights of the others in subordination.

Example*:* A loan is made for 90% of the home price; 80% of the price is supplied by a savings and loan association, 10% by an individual, who then has a piggyback loan.

Piggyback Mortgage The piggyback agreement allows the S&L to have priority in foreclosure.

Pilaster A mortgage loan made by two or more lender s on the same property. One lender is usually an institution, and the other, a private lender.

Pile A rectangular column attached to the exterior side of a wall, often of the same color and material.

A timber; a concrete-filled, steel tube; or some other vertical support member driven into the ground to serve as foundation.

Pipeline Easement The right to build a pipeline on, over, or under land owned by others.

Pitch 1. The incline or rise of a roof. The steeper the pitch of the roof, the longer the life expectancy.

2. A black substance made of resins and used for waterproofing.

PITI *See* Principal, Interest, Taxes and Insurance Payment.

Pivot Sprinkler A type of automatic irrigation system consisting of a mechanically moved pipe connected to a water source around which it rotates, typically consisting of 1,320 feet of pipe, which irrigates an area of 128 acres.

Plain English Written without legal jargon.

Plaintiff The court action, the one who sues; the complainant.

Plank A heavy piece of unfinished lumber that is typically 2" to 4" thick and at least 8" wide.

Plank And Beam Construction One of the three common methods of framing in which beams are placed up to eight feet apart and covered with planks.

Plank Flooring A type of flooring that is made from planks of lumber.

Planned Development Project A subdivision consisting of separately owned parcels of land together with membership in an association which owns common area. Sometimes the owners of separate interests also have an undivided interest in the common area.

Planned Unit Development (PUD) A zoning classification that allows flexibility in the design of a subdivision. Planned Unit Development zones generally set an overall density limit for the entire subdivision, allowing the dwelling units to be clustered to provide for common open space. *See* also Cluster Housing, Common Areas.

Planning Commission An agency of the city or county appointed to study and recommend steps for orderly growth of the community.

Planting Easement An easement for the growing and maintaining of plants for safety and beautification on property owned by others.

Plaster Walls Walls constructed by applying three coats of plaster over lath that has been attached to the studs or furring strips.

Plat A map of land made by a surveyor showing the boundaries, buildings, and other improvements..

Plat Book A public record containing maps of land, showing the division of the land into streets, blocks, and lots and indicating the measurements of the individual parcels.

Plate A horizontal structural member placed across the top of the studs in a frame wall. On the top floor, it also serves as the place where the attic joists and roof rafters rest and are fastened.

Platform Frame Construction One of the three common methods of framing (also called Western platform framing). It is characterized by subflooring that extends to the outside edges of the building to provide a platform upon which exterior walls and interior partitions are erected. It is the most common type of framing system used for houses.

Pledge The depositing of personal property by a debtor with a creditor as security for a debt or obligation.

Pledge Account Mortgage A type of home purchase loan under which a sum of cash contributed by the owner is set aside in an account pledged to the lender. The account is drawn down during the initial years of the loan to supplement periodic mortgage payments. The effect is to reduce the payment amounts in early years. *See* Graduated Payment Mortgage. Compare With Collateral.

Example*:* Chen obtains a pledged account mortgage. The loan principal is $40,000 and Chen makes a down payment of $10,000. $5,000 of

this amount is put in a pledged account. Chen makes payments based on a mortgage principal of $45,000 but the payments are reduced in the first 3 years by drawing upon the $5,000 pledged account.

Pledgee One who is given a pledge or a security.(*See* definition of Secured Party)

Pledgor One who offers a pledge or gives security.(*See* definition of Debtor)

Plenum A large duct or air chamber in which hot air from the furnace builds up pressure, which forces air out through the ducts to the registers.

Plot Map Shows the location of the house on the lot. Used in new construction.

Plot Plan A diagram showing the proposed or existing use of a specific parcel of land.

Plottage Creating plottage value of land by assembling small, adjacent parcels of land into a larger, more useful parcel.

Example*:* Three small, old adjacent buildings were acquired for $25,000 each, then demolished for $50,000. The resulting large, clear tract of land was estimated to be worth $1 million; the plottage value was $200,000.

Plottage Increment The appreciation in unit value created by joining similar ownerships into one large single owner ship.

Plottage Value Increment in the value of land comprised by assemblage of smaller plots into one ownership.

Plumbing System The piping and fixtures necessary to carry water, wastes and other fluids to and from a building. Piping consists of a large part of the cost of the plumbing system and may or may not be constructed to last for the life of the building. Water is carried under pressure through pipes, whereas waste pipes depend on gravity.

Plywood Sheating The first layer of tight covering made of plywood that is applied to the outside of a building. It serves as a base to which the outside siding is fastened.

Plywood SubFlooring A layer of plywood that is laid on top of the floor joists to which the finished flooring is attached.

PMI *See* Private Mortgage Insurance.

Pocket Card Required for salespersons and brokers in most states. Issued by the state licensing agency, it identifies its holder as a licensee and must be carried at all times.

Pointing A process of troweling mortar into the joints between bricks.

The material used to fill the joints.

Points Prepaid interest demanded by lender when loan is negotiated. It is a premium for the privilege of borrowing at the stated interest rate. Points are charged to increase the effective yield, to obtain the market yield, and to close the gap between the market interest rate and fixed interest rate.

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

Pollution The contamination of water, air, soil and food, also excessive noise.

Pooling Joinder of two or more property owners to share the minerals found on any of their properties. Commonly used in oil and gas leases.

Portfolio Income Interest, dividends, royalties (unless earned in the ordinary course of business) and gains from the sale of property that generates this type of income. Under the Tax Reform Act of 1986 this type of income cannot be used to offset passive activity losses. *See* Passive Income.

Portico An open space covered with a roof that is supported by columns.

Positive Cash Flow Same as cash flow.

Positive Leverage The use of borrowed funds that increases the return on an investment.

Example*:* See leverage.

Possession The holding, control, or custody of property for one's use, either as

owner or person with another right. *See* also ownership rights to realty, title.

Example: Actual possession: within immediate occupancy Adverse possession: see definition Constructive possession: as stated in the public record.

Possibility Of Reverter The term shows no estate(interest) in property, but only the chance that an estate will exist at a future time. If a property were sold on the condition that it be used for a park, and, if not used for a park, would revert back to the seller, the seller would have a possibility of reverter.

Potable Water that is suitable for drinking.

Potential Gross Income The amount of income that could be produced by a real property assuming no vacancies or collection losses. Does not include miscellaneous income. Contrast with cash flow, net operating income.

Example*:* An office building has 10,000 square feet of rentable space and rents for an average of $12 per square foot. Potential gross income for the building is $120,000 per year. Concessions on the ground floor that contribute $1,000 of annual revenue, and a 5% vacancy and collection allowance are not included in potential gross income.

Potential Gross Income Multiplier The ratio calculated by dividing the sales price of a property by its potential gross income.

Power Of Attorney A written instrument whereby a principal gives authority to an agent. The agent acting under such a grant is sometimes called an attorney in fact.

Power Of Sale A right given to the trustee to sell the property under a deed of trust if the borrower defaults. A mortgage can also contain a power of sale clause.

Prairie House An early-twentieth-century-style house with a long, low roof line, continuous row of windows and an unornamented exterior. Designed to sat-

isfy the physical and psychological needs of the inhabitants, it is unlike the traditional concept of a house that is a box subdivided into smaller boxes (rooms), each with some doors and windows. Architectural development is credited to Frank Lloyd Wright.

Pre-Engineered Building A building made of prefabricated parts that are assembled at the construction site.

Pre-Hung Door A door that is purchased already attached to its frame which eliminates hanging the door at the site.

Precast Concrete A plain or reinforced concrete element cast in other than its final position in the structure.

Precedent What has come before. Legally, cases previously decided with similar fact patterns used as a basis for subsequent decisions.

Preclosing A rehearsal of the closing whereby instruments are prepared and signed by some or all parties to the contract. Used when closings are expected to be complicated.

***Example**:* Preclosings are used when there are many parties to an agreement. This sometimes occurs when there are multiple loans to be arranged and/or multiple buyers or sellers, as when syndicating property or converting an apartment complex to a condominium.

Preexisting Use *See* Nonconforming Use.

Prefabricated Constructed, as building components, in a factory prior to being erected or installed on the construction site.

Constructed, as a house, of prefabricated components. *See* Modular Housing.

***Example**:* The subdivision is developed with prefabricated housing. The roof, exterior walls, and interior partitions are prefabricated in a factory in Dallas.

Prefabricated House A house manufactured and sometimes partly assembled before delivery to building site.

Preferred Stock A class of corporate stock entitled to preferential treatment such as priority in distribution of dividends.

Prelease To obtain lease commitments in a building or complex prior to its being available for occupancy.

***Example**:* As a requirement for obtaining a permanent mortgage, a developer must prelease 50% of the space in the office building.

Preliminary Change of Ownership A report, usually filed concurrently with recording a change in ownership, triggering re-assessment.

Preliminary Title Report A search of title to a given property to establish what, if any, requirements are necessary to convey good and marketable title.

Premises Land and tenements; an estate; the subject matter of a conveyance.

***Example**:* In selling the property, Carter deeds the premises to Lee. Lee later leases the premises to Wang.

Premium The cost of an insurance policy.

***Example**:* Annual or monthly premiums are generally required for hazard insurance, liability insurance, and life insurance. Title insurance premiums are paid only once.

The value of a mortgage or bond in excess of its face amount.

***Example**:* When the face rate of a mortgage exceeds the prevailing market interest rate, the mortgage may be worth a premium over its face value.

Prepaid Expenses Amounts that are paid prior to the period they cover.

***Example**:* Jean pays the full premium on a 3-year insurance policy. When her accountant prepares her financial statement, the proportionate value of the unused premium is presented as a prepaid expense.

Prepaid Interest Interest paid in advance of the time it is earned.

***Example**:* Prior to 1968, up to 5 years of prepaid interest could be deducted from taxable income; until 1976 up to one year could be deducted. Since then prepaid interest has not been deductible. An exception is for points paid to purchase one's residence, provided that the practice and amount is customary in the local area.

Prepaid Items Of Expense Prorations of prepaid items of expense which are credited to the seller in the closing escrow statement.

Prepaid Rental Listing Services Businesses that sell lists of available rental units.

Prepayment Provision can be made for the loan payments to be larger than those specified in the note. The controlling language is usually **"**$xxx a month or more.**"** If the payments state a definite amount, then one must look to the prepayment privilege in the trust deed.

Prepayment Clause A clause in a mortgage that gives a mortgagor (borrower) the privilege of paying the mortgage indebtedness before it becomes due. Sometimes there is a penalty for prepayment, with waiver of the interest that is not yet due.

***Example**:* The prepayment clause in the mortgage allows the unpaid principal to be retired by the owner with a 1% penalty.

Prepayment Penalty The charge payable to a lender by a borrower under the terms of the loan agreement if the borrower pays off the outstanding principal balance of the loan prior to its maturity.

Prepayment Privilege The right of a borrower to retire a loan before maturity.

***Example**:* A loan on commercial property is closed (no pre-payment privilege) for the first 5 years. Afterwards it can be prepaid without penalty.

Presale Sale of proposed properties, such as condominiums, before construction begins.

***Example**:* The developer presold 40% of the condominium units at a $5,000 discount for each unit before construction began. Based on the presales, the developer was able to get a favorable construction loan.

Prescription The securing of an easement on property by using it under certain conditions for a given period of time.

Prescriptive Easement The right to use another's property acquired by long, continuous use which must have been continuous, open, exclusive and for a period of time set by state statute.

Present Value (PV) The current value of a payment or series of future payments found by discounting the expected payments by a desired rate of return in order to compensate for the time value of money.

Present Value Annuity of $1 Per Period A compound interest factor typically calculated for an annual interest rate that is used to discount a series of equal future cash flows in order to arrive at a current present value of the total stream of income; column five of the compound interest tables.

Present Value Of Annuity The value now of a level stream of income to be received each period for a finite number of periods. *See* Ordinary Annuity.

Present Value Of One The value today of an amount to be received in the future, based on a compound interest rate.

Present Worth Of One The present value of a lump sum payment to be received at some specified time in the future based on an appropriate discount rate.

Prestressed Concrete Concrete that is given extra strength by imbedding wire that is stretched up under tension in the unset concrete without the use of casings. When the concrete hardens, the cables are cut and they release their tension and compact the concrete into a stronger product.

Presumption A rule of law that courts and judges shall draw a particular interface from a particular fact, or from particular evidence, unless and until the truth of such inference is disapproved.

Pretax Income The amount earned from a business or investment before deducting income taxes.

***Example**:* Pretax income of $50,000 was earned from a mini-warehouse operation, according to its accountant. Income taxes of $15,000 reduced the after-tax income to $35,000.

Price In real estate, the sum of money for which a property is sold or listed (asking price).

Price Per Square Foot A unit of comparison in the direct sales comparison approach. Gives a good indication of the value of a subject property only after ensuring that each sale represents the same ownership interests and that adjustments have been made for differences in the locational and physical characteristics of the subject and the comparable properties.

Price-Level-Adjusted Mortgage A loan whose payment is adjusted according to the rate of inflation. The payments are generally quite low, typically 3 to 5% annually of the debt. This type of mortgage is not commonly used in the U.S.

***Example**:* A price-level-adjusted mortgage is made for $100,000. Monthly payments in the first year are $400. After the first year, the principal balance is reduced to $98,000. The inflation rate for the year was 10%. The principal balance is adjusted to $107,800 and the payments for the second year are increased to $440 per month.

Prima Facie Latin meaning first sight, a fact presumed to be true until disproved.

Primary Data Information gathered by the appraiser that is not available in a published source; vs. **"**secondary data**"** which are from other published sources.

Primary Lease A lease between the owner and a tenant whose interest, all or in part, has been sublet.

Primary Metropolitan Statistical Area A classification of the U.S. Census Bureau applied to cities with the following classifications. Within a metropolitan area with a population of one million or more, there may be areas that would qualify as metropolitan areas on their own, yet are linked to other cities in close proximity.

These individual areas are called Primary Metropolitan Statistical Areas, while the metropolitan area containing these PMSAs is called a Consolidated Metropolitan area containing these PMSAs is called a Consolidated Metropolitan Statistical Area (CMSA).

***Example**:* Dallas and Fort Worth, Texas, are each classified as Primary Metropolitan Statistical Areas, while the Dallas-Fort Worth area is a Consolidated Metropolitan Statistical Area.

Primary Mortgage Market That portion of the credit market that originates mortgage loans, including institutional lenders, such as savings and loan associations and banks, and mortgage bankers and brokers. Contrast with secondary mortgage market. The primary mortgage market originates and services mortgage loans. Many of these loans are packaged and sold in the secondary mortgage market.

Prime Contractor *See* General Contractor.

Prime Lending Rate The lowest interest rate on short-term loans charged by a commercial bank to its most creditworthy customers.

Prime Rate The lowest commercial interest rate charged by banks on short-term loans to their most credit-worthy customers. The prime rate is not the same as the long-term mortgage rate, though it may influence long-term rates. Also, it is not the same as the consumer loan rate that is charged on personal property loans and credit cards. Mortgage rates and consumer loan rates are generally higher than the prime rate, but exceptions occur at times.

***Example**:* The Chemical Bank and the Chase Manhattan Bank offer a prime rate of 7%. Texaco is a prime customer and at that rate may borrow loans up to 270 days. Chemical Bank offers construction loans at 4 points over the prime rate.

Prime Tenant In a shopping center or office building, the tenant who occupies the most space. Prime tenants are considered creditworthy and attract customers or traffic to the center. *See* also Anchor Tenant.

***Example**:* Chen is developing an office building with 40,000 square feet of leasable space. Of this, 20,000 square feet are preleased to a prime tenant, Wang. The credit rating and prestige of the prime tenant allow Chen to obtain financing and prelease the remaining space to other tenants.

Primer A first coat of sealant or paint that is applied to a surface to seal and fill wood, plaster, or masonry.

Principal The one who owns or will use property.

***Example**:* The principals to the lease are the landlord and tenant; principals to a sale are the buyer and seller.

One who contracts for the services of an agent or broker, the broker's or agent's client.

***Example**:* Gray wishes to purchase a shopping center. Gray engages Smith, a mortgage broker, to arrange financing. Smith arranges a loan in the name of the principal, Gray. The loan is payable as interest only for 5 years, with the principal payable as a balloon payment at the end of year 5.

The amount of money raised by a mortgage or other loan, as distinct from the interest paid on it.

***Example**:* Chen arranged a loan with $100,000 principal on his home. The first monthly payment is $1,200 including $1,000 interest and $200 that amortized the principal.

Principal And Interest Payment (P&I) A periodic payment, usually paid monthly, that includes the interest charges for the period plus an amount applied to amortization of the principal balance. Commonly used with amortizing loans. *See* Mortgage Constant, Amortization.

***Example**:* A $1,200 annual principal and interest payment is required by a $10,000 face value amortizing mortgage at a 10% interest rate. $1,000 of the first year payment is required for interest; $200

reduces the outstanding balance to $9,800.

Principal Broker The licensed broker responsible for the operations conducted by the brokerage firm.

Example: As principal broker, Chu receives a 10% override on all sales commissions earned by the other agents.

Principal Meridian One of the prime meridians used in the government rectangular survey method of land description to locate range lines.

Principal Note The promissory note which is secured by the mortgage or trust deed.

Principal Residence The place one lives in most of the time. May be a single-family house, condominium, trailer, or houseboat. To defer capital gain taxes on the profit from a home, the home must be used as the taxpayer's principal residence.

Example: Chu spends 10 months each year living in a rented apartment in downtown Seattle. She spends 2 months in a home she owns in San Diego. The rented apartment is her principal residence.

Principal, Interest, Taxes And Insurance Payment (PITI) The periodic (typically monthly) payment required by an amortizing loan that includes escrow deposits. Each periodic payment includes a principal and interest payment plus a contribution to the escrow account set up by the lender to pay insurance premiums and property taxes on the mortgaged property.

Example: Chen's monthly PITI payment is $950. This includes $750 for principal and interest, $150 for ad valorem taxes, and $50 for insurance.

Principle of Anticipation *See* Anticipation, Principle of.

Principle of Balance *See* Balance, Principle of.

Principle of Change *See* Change, Principle of.

Principle of Conformity *See* Conformity, Principle of.

Principle of Contribution *See* Contribution, Principle of.

Principle of Highest and Best Use See Highest and Best Use.

Principle of Increasing and Decreasing Returns *See* Increasing and Decreasing Returns, Principle of.

Principle of Progression *See* Progression, Principle of.

Principle of Regression *See* Regression , Principle of.

Principle of Substitution *See* Substitution, Principle of.

Principle of Supply & Demand *See* Supply & Demand, Principle of.

Principle of Surplus Productivity *See* Surplus Productivity, Principle of.

Principle of Valuation *See* Valuation, Principle of.

Prior Lien A lien which is senior or superior to others.

Priority Legal precedence; having preferred status. Generally, upon foreclosure, lenders are repaid according to priority.

Example*:* Chen's home was foreclosed and sold for $25,000. Unpaid taxes and attorney's fees were accorded priority, and paid in full. The rest of the sales proceeds was applied against the first mortgage. There was nothing for the second mortgage, because it was lower in

priority.

Priority Of Lien The order in which liens are given legal precedence or preference.

Private Covenants Agreements made between property owners to restrict the use of their properties, resulting in mutual advantage. The restrictions are binding on future owners of the property.

Private Mortgage Insurance Default insurance on conventional loans, provided by private insurance companies. *See* Mortgage Insurance.

***Example**:* Lee wishes to obtain a home purchase loan covering 90% of value. The lender requires Lee to acquire private mortgage insurance as a condition for granting any loan for more than 80% of value.

Private Offering An investment or business offered for sale to a small group of investors, generally under exemptions to registration allowed by the Securities and Exchange Commission and state securities registration laws.

***Example**:* The syndicator prepared a private offering of the equity in the apartments. Up to 35 persons are allowed to participate in the purchase. If more persons are allowed, the syndicator must register a public offering with the state securities commissioner or the U.S. Securities and Exchange Commission (SEC).

Private Property Property that is owned by a person, partnership, corporation or other organization but not by the government.

Privity Mutual relationship to the same rights of property, contractual relationship.

Privity Of Contract The relationship which exists between the persons who are parties to a contract.

Pro Rata An equal amount, according to the fraction held by each.

***Example**:* A owns 40%, B owns 30%, C owns 20%, and D owns 10%. A $100 pro rata distribution is paid to the owners: A received $40, B received $30, C received $20, D received $10.

Pro Rata In proportion; according to a certain percentage or proportion of a whole.

Pro-Forma Statement From Latin pro forma, "according to form". Financial statements showing what is expected to occur.

Probability A statistical term for the likelihood that an event will take place.

Probate A court hearing to dispose of the property of the deceased person.

Probate Sale Property that is sold from an estate under the supervision of the probate court.

Proceeds From Resale Same as resale proceeds.

Procuring Cause That cause originating from a series of events that, without break in continuity, results in the prime object of an agent's employment producing a final buyer; the real estate agent who first procures a ready, willing, and able buyer for the agreed upon price and terms and is entitled to the commission.

Profit 1. A broad term for income produced by an investment or business enterprise.

2. The difference between the cost of an item and what it is sold for.

3. Excess of revenues over expenses for a transaction.

Profit And Loss Statement A financial document showing the profit or loss of a business during a given period of time.

Profitability index The ratio of the present value of future cash flows at a specified discount rate divided by the initial cash outlay. It is similar to the net present value except that the initial cash outlay is divided into the present value of future cash flows instead of subtracted form the present value of future cash flows. A profitability index greater than one is acceptable.

Profits A Prendre A right to take a part of the soil, gravel, minerals, or produce of land owned by another.

Progress Payments Scheduled, periodic, and partial payment of construction loan funds to a builder as each construction stage is completed.

***Example**:* For the $100,000 construction loan, the progress payment were $20,000 upon buying the lot and a like amount upon pouring the foundation, roofing, wiring, and completion of all work.

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.

Projection The use of extrapolation or extension of the past into the future by means of a mechanical formula based on the assumption that past conditions will continue on into the future.

Projection Period The time duration for estimating future cash flows and the resale proceeds from a proposed real estate investment.

***Example**:* A 10-year projection period is typically used in a discounted cash flow analysis of income-producing real estate.

Promisee One who was promised for by promisor.

Promisor One who promises to do or refrain from doing something specified. Also Promiser.

Promissory Note Following a loan commitment from the lender, the borrower signs a note promising to repay the loan under stipulated terms. The promissory note establishes personal liability for its repayment.

Proper Interest Rate The rate of interest that will attract capital into the investment market.

Property Everything capable of being owned and acquired lawfully. The rights of ownership. The right to use, possess, enjoy, and dispose of a thing in every legal way and to exclude everyone else from interfering with these rights. Property is classified into two groups, personal property and real estate.

Property Line The recorded boundary of a plot of land.

Property Management The operation of property as a business, including rental, collection, maintenance, etc.

***Example**:* The following tasks are often required in the ownership of property:

◆ Property management ◆ accounting and reporting, ◆ leasing, ◆ maintenance and repair, ◆ paying taxes, ◆ provision of utilities and insurance, ◆ remodeling, ◆ rent rate setting and collection, Investment management ◆ acquisition and disposition, ◆ development and rehabilitation feasibility, ◆ financing, ◆ income tax accounting.

Property Manager A person or organization who performs specified functions on behalf of a property's owner which often include renting, collecting rents, making repairs and any other functions an owner would be expected to perform.

Property Profile A report showing current ownership of property. Usually issued by a title company without charge.

Property Report Required by the Interstate Land Sale Act for the sale of subdivisions of 50 lots or more, if the subdivisions are not otherwise exempt. Filed with HUD's Office of Interstate Land Sales Registration (OILSR).

***Example**:* A subdivider wishes to sell lots in a 55-lot development, through an interstate commerce promotional plan. She is required to file a property report with OILSR.

Property Residual Technique In appraisal, a method for estimating the value of property based on estimated future income and the reversionary value of the building and land. *See* Income Approach.

Property Tax A government levy based on the market value of private owned property. Sometimes referred to as ad valorem tax or real estate tax.

***Example**:* Tax assessor assesses a property tax at the rate of $.50 per $100 of market value. Lee pays a tax of $500 on a property valued at $100,000.

Property Value The monetary worth of interests held in real estate arising from property

ownership. A property may have several different values depending on the interest or use involved. Common methods of estimating property value include the cost approach, direct sales comparison approach and income approach.

Proposition 13 A referendum passed by California voters limiting the government's power of re-assessment unless ownership of the property changes.

Proprietary Lease In a cooperative apartment building, the lease a corporation provides to the stockholders which allows them to use a certain apartment unit under the conditions specified.

Example*:* The Coopers purchase a unit in a cooperative on Fifth Avenue. Their ownership provides 450 shares of stock in the cooperative and a proprietary lease to a unit in the apartment building.

Proprietorship A form of business ownership, usually unincorporated and owned by one person.

Prorate To allocate between seller and buyer their proportionate share of an obligation paid or due; for Example, to prorate real property taxes or insurance.

Proration Adjustments of interest, taxes, and insurance, etc., on a pro rata basis as of the closing or agreed upon date. Fire insurance is normally paid for three years in advance. If a property is sold during this time, the seller wants a refund on that portion of the advance payment that has not been used at the time the title to the property is transferred. For example, if the property is sold two years later, seller will want to receive 1/3 of the advance premium that was paid. Usually done in escrow by escrow holder at time of closing the transaction.

Proration Of Taxes To divide or prorate the taxes equally or proportionately to time of use, usually between seller and buyer.

Prospect A person considered likely to buy. A prospective purchaser.

***Example**:* All of the persons who request further information about the advertised property are considered prospects.

Prospective Value The value of a property upon completion of construction but prior to lease of the tenant space.

The value of a property when it is expected to reach stabilized occupancy levels.

Prospectus A printed descriptive statement about a business or investment that is for sale, to invite the interest of prospective investors.

***Example**:* A syndicator prepared a prospectus that disclosed all material facts about the property being offered. Before it is approved by the SEC or state securities commissioner, it is called a red herring. If it need not be approved, it is called a descriptive memorandum.

Proximate Cause That cause of an event which, in a natural and continuous sequence unbroken by any new cause, produced that event, and without which the event would not have happened. Also, the procuring cause.

Proximity Damage A portion of the damages to a property that result when some other part of the property is taken by condemnation. Specifically, it is the damages to the remaining untaken property arising from being near whatever is being constructed on the portion that is being taken, such as a noisy highway, high-voltage power line, gas or oil transmission fine, etc.

Proxy A person who represents another, particularly in some meeting. Also, the document giving to another the authority to represent.

***Example**:* Chen could not be at the cooperative apartment association's annual meeting, so he cast his vote by proxy.

Public Domain Land Land that is owned by the federal government.

Public Housing Government-owned housing units made available to low-income individuals and families at no costs or for nominal rental rates. Contrast with low-income housing.

***Example**:* The Metropolitan Housing Authority operates several public housing projects for those who cannot afford decent housing on the rental market.

Public Lands Acreage held by the government for conservation purposes. Public lands are generally undeveloped, with limited activities such as grazing, wildlife management, recreation, timbering, mineral development, water development, and hunting.

***Example**:* Many western states, such as Alaska and Nevada, have large amounts of public lands. A part of this area is held by the federal government and is dedicated to national parks, wilderness, and wildlife refuges. Some oil and mineral exploration is allowed under lease to private firms.

Public Offering Soliciting the general public for the sale of investment units. Generally requires approval by the SEC and/or state securities agencies. Contrast with private offering.

***Example**:* The syndicator who wishes to sell limited partnership interests to over 35 investors should register this public offering with the SEC or state securities commissioner.

Public Records Usually refers to land transaction records kept at the county courthouse. Records which by law impart constructive notice of matters relating to real estate transactions.

***Example**:* Documents that are evidence of real estate transactions should be taken to the county courthouse to be officially entered in the public record. Recording gives constructive notice of a document's existence.

Public Restriction A limitation placed on the use of property by the government, usually zoning laws.

Public Sale An auction sale of property with notice to the general public.

***Example**:* After foreclosure, a public sale was effected. It was

advertised in the local newspaper in advance. The property was auctioned off on the courthouse steps to the highest bidder.

Public Space A legal, open space on the premises accessible to a public way or street, such as a yard, court, etc. devoted to public use and abutting the premises.

Public Trustee The county public official whose office has been created by statute to whom title to real property in certain states, e.g., Colorado, is conveyed by Trust Deed for the use and benefit of the beneficiary, who usually is the lender.

Public Utility A company that supplies a necessary service, such as electricity, water, gas or telephones which may be privately owned but are subject to the control of a Public Utilities Commission.

Publication A formal declaration made by a testator at the time of signing a will that it is the last will and testament.

PUD *See* Planned Unit Development.

Pueblo Or Adobe House An early-twentieth-century house that is made of adobe brick or some other material made to look like adobe brick.

Puffing Overstating the qualities of a property.

Example: **"**This house has the most efficient floor plan of any home in the word**"** is an example of a salesperson's puffing.

Punch List An enumeration of items that need to be corrected prior to a sale.

Example: The buyer refuses to close the purchase until the builder fixes the leaky roof and replaces the defective carpeting—the 2 items on the buyer's punch list.

Pur Autre Vie For the life of another. An estate one person grants to another, only for the duration of the life of a third person.

Example: Chen grants a life estate to Lee to use Chen's ranch until Lee's wife dies. Lee has a life estate pur autre vie.

Purchase Agreement Same as contract of sale.

Purchase And Installment Saleback Involves purchase of the property upon completion of construction and immediate saleback on a long-term installment contract.

Purchase And Leaseback Involves the purchase of property and immediate leaseback to the seller.

Purchase Capital The amount of money used to purchase real estate, regardless of the source.

***Example**:* The equity owner supplied $25,000 and the mortgage lender provided $75,000, totaling the $100,000 of purchase capital that was required to complete the transaction.

Purchase Money Loan A loan funded by the seller or a third party lender to secure all or part of the purchase price of the property.

Purchase Of Land, Leaseback And Leasehold Mortgages An arrangement whereby land is purchased by the lender and leased back to the developer with a mortgage negotiated on the resulting leasehold of the income property constructed. The lender receives an annual ground rent, plus a percentage of income from the property.

Purchase-Money Mortgage Or Trust Deed A trust deed or mortgage given as part or all of the purchase consideration for real property. In some states the purchase money mortgage or trust deed loan can be made by a seller who extends credit to the buyer of property or by a third party lender (typically a financial institution) that makes a loan to the buyer of real property for a portion of the purchase price to be paid for the property. In many states there are legal limitations upon mortgages and trust deed beneficiaries collecting deficiency judgments against the purchase money borrower after the collateral hypothecated under such security instruments has been sold through the foreclosure process. Generally no deficiency judgment is allowed if the collateral property under the mortgage or trust deed is residential property of four units or less with the debtor occupying the property as a place of residence.

Purpose Of Appraisal An appraisal term for the type of value being estimated in an appraisal, such as market value, insurable value, salvage value or investment value.

Pyramid Zoning A type of zoning ordinance which permits all the uses in the most restricted classification in those classifications that are considered to be lower. Residential is often the highest classification, below which are commercial and then industrial zones. Residential and commercial uses would be permitted in the lower industrial zone.

Quadrangle A square-shaped land area, 24 miles on each side used in the government rectangular survey method of land description. Each quadrangle contains 16 townships.

Example: See example for government rectangular survey.

Quadrangular Survey System Township and Range Survey System.

Quadrant 1. A pie-shaped, 90-degree quarter of a circle.

2. One of the four areas created by intersecting roads.

Quadro A house having four separate units connected by party walls. Each unit has a front entrance. Often, the front entrances face in different directions.

Qualified Thrift Lender A lender who specializes in home mortgage finance under the rules established by FIRREA. One requirement is that the lender hold at least 70% of its portfolio in residential mortgage loans and mortgage-backed securities. Qualified lenders are eligible for advances from the district Federal Home Loan Bank.

Example: Under the new rules, commercial banks and credit unions, in addition to savings and loan associations, can enjoy the privileges of affiliation with the Federal Home Loan Banks by becoming qualified thrift lenders.

Quantity Survey A highly technical process in arriving at cost estimate of new construction and sometimes referred to in the building trade as the "price take-off" method. 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. These factors are all added together to arrive at the cost of a structure. It is usually used by contractors and experienced estimators.

Quantity Survey Method A method of estimating the cost of a new building or the replacement cost of an existing building by making a detailed estimate of quality and quantity of necessary materials as well as labor costs to install them.

Quarry Tile Quarter An unglazed, machine-made ceramic tile.

In public land survey, a quarter of a full section of 640 acres, having 160 acres.

Quarter Round A molding that presents a profile of a quarter circle.

Quarter Section One quarter of a section. A quarter section (commonly called a quarter) contains 160 acres.

Quasi Similar to but not actually.

Quasi-Contract An implied contract or an obligation similar to a contract, which is invoked by the courts to prevent undue enrichment of either party to a transaction.

Quay A wharf built parallel to navigable water and used for loading and unloading ships.

Queen Anne House A nineteenth-century-style house that is unique-looking, multistory, and irregular in shape with a variety of surface textures, materials, and colors. The term Queen Anne has come to be applied to any Victorian house that cannot be otherwise classified.

Queen Post One of the two vertical posts in a roof truss.

Question Of Law Given the facts, what laws, if any, are applicable; decided by a judge,

even in a jury trial.

Quiet Enjoyment Right of an owner to the use of property without interference of possession.

Quiet Title A court action brought to establish title; to remove a cloud on the title.

Quiet Title Suit (Or Action) A suit in court to remove a defect, cloud on the title, or suspicion regarding legal rights of an owner to a certain parcel of real property.

Example: In an action to quiet title, the landowner of record brought the adverse possessor to court, which required him to establish his claim or be forever barred from claiming the property.

Quietus Final disposition of a claim or debt.

Quilt Insulation A type of insulation that comes in blankets that are stitched like a quilt to give them added strength.

Quitclaim Deed A deed to relinquish any interest in property which the grantor may have, without any warranty of title or interest.

Quoin A square or nearly square cut stone with beveled edges set in the corners of masonry and stone houses.

R- Thermal Resistance A measure of ability to retard heat flow. "R" is the numerical reciprocal of U (a measure of heat flow).

Raceway A conduit, usually made of metal or plastic, that carries electric wires with outlets at frequent intervals.

Racial Steering The process of influencing a minority's choice of housing. The agent recommends neighborhoods that he feels would be best for the prospective minority buyer. The process is often illegal, no matter how well-intentioned the agent is.

Radiant Heating A method of heating, usually consisting of coils, or pipes placed in the floor, wall, or ceiling.

Radiator An exposed fixture, usually made out of cast iron, that transfers heat from the heating system by means of convection and radiation.

Radon A colorless, odorless, naturally occurring gas produced by natural radioactive minerals in the ground which can be a health hazard when trapped in a structure in large amounts.

Rafter One of a series of boards of a roof designed to support roof loads.

Rail A horizontal member used as a guard, such as a porch rail synonymous with stile, it is also part of a door or window that runs horizontally.

RAM *See* Reverse Annuity Mortgage.

Ramp 1. An inclined walkway or passageway that has no steps often used to provide access for handicapped people.

2. An exit or entrance to a limited access highway.

Ranch House Originally a low, rambling, one-story house typical of the western United States; now used to describe almost any one-story house.

Random Shingles Shingles of uniform lengths but different widths.

Random Width Plank Wood Flooring Flooring made of planks of different widths.

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

Range Hood A hood that collects air and smoke from an oven or range.

Range Lines Lines parallel to a principal meridian, marking off the land into 6-mile strips known as ranges; they are numbered east or west of a principal meridian in the Government Rectangular Survey. *See* Baseline.

Rate Adjustment Date With respect to an adjustable rate mortgage, the date the borrower's note rate may change.

Rate Index An index used to adjust the interest rate of an adjustable mortgage loan.

For example: the change in U.S. Treasury securities (T-Bills) with a 1year maturity. The weekly average yield on said securities, adjusted to a constant maturity of one year, which is the result of weekly sales, may be obtained weekly from the Federal Reserve Statistical Release H.15 (519). This change in interest rates is the "index" for the change in the specific Adjustable Mortgage Loan.

Rate Of Interest Same as interest rate.

Rate Of Return The percentage relationship between the earnings and the cost of an investment. *See* Internal Rate Of Return, Overall Rate Of Return.

***Example**:* Nick deposits $100 in a savings account. At the end of the year Nick receives a payment of $10. Nick's rate of return is 10%.

Rate Of Return Of Investment Same as recapture rate.

Ratification The adoption or approval of an act performed on behalf of a person without previous authorization, such as the approval by a principal of previously unauthorized acts of an agent, after the acts have been performed.

Ratio Extraction In the direct sales comparison approach, a process in the adjustment process in which different appraisal ratios are calculated for comparable properties. The ratios serve as a check on the comparableness of the properties.

Raw Land Acreage with no added improvements, such as landscaping, drainage, streets, utilities, and structures.

***Example**:* The developer bought 50 acres of raw land upon which to develop a subdivision.

Ready, Willing, And Able Buyer One who is fully prepared to enter into the contract, really wants to buy, and unquestionably meets the financing requirements of purchase.

***Example**:* A home is listed with a broker who finds a ready, willing, and able person who agrees to buy under the terms of the listing. The

seller refuses to sell. The broker has earned a commission because she fulfilled the requirements of the listing.

Real Estate Generally refers to the physical land and improvements. In law, land and everything more or less attached to it. Ownership below to the center of the earth and above to the heavens. Distinguished from personal property. Same as realty.

Real Estate Agent *See* Agent.

Real Estate Board An organization whose members consist primarily of real estate brokers and sales persons.

Real Estate Broker *See* Broker.

Real Estate Commission State agency that enforces real estate license laws.

***Example**:* The Real Estate Commission is usually comprised of between 5 and 15 members who are appointed for a term (2 to 6 years) by the governor, generally confirmed by the state senate. They enforce the real estate laws and regulations, subject to judicial authority. The real estate commissioner, a full time employee of the Real Estate Commission, conducts the routine activities of licensing, collecting fees, and other matters.

Real Estate Commissioner The public official charged with enforcing the real estate laws as they apply to licensees, subdivisions, and real estate related activities.

Real Estate Educators Association A professional organization primarily composed of persons who teach real estate in junior colleges and proprietary license preparation schools. Address: Real Estate Educators Association, One Illinois Center, #200, 111 East Wacker Drive, Chicago, IL 60601-4298.

Real Estate Investment Trust (REIT) A real estate mutual fund, allowed by income tax laws to avoid the corporate income tax. It sells shares of ownership and must invest in real estate or mortgages. It must meet certain other requirements, including minimum number of shareholders, widely dispersed ownership, asset and income tests. If it distributes 95% of its income to shareholders, it is

not taxed on that income, but shareholders must include their share of the REIT's income in their personal tax returns.

***Example**:* During the early 1970s, many real estate investment trusts were created. They raised money from investors for investment in mortgages and real estate equities. An individual could buy shares on the stock market in such a trust. Its unique feature is to allow small investors to participate, without double taxation, in large real estate ventures. The trust is not subject to corporate income tax as long as it complies with the tax requirements for a REIT.

Real Estate Market The potential buyers and sellers of real property at the current time, and the current transaction activity for real property. It includes markets for various property types, such as housing market, office market, condominium market, land market.

***Example**:* The local rent estate market is very active. There have been a record number of sales and there still are many properties on the market.

Real Estate Mortgage Investment Conduit (REMIC) The Tax Reform Act of 1986 created a new entity, the REMIC. The purpose of a REMIC is to hold a fixed pool of mortgages and issue interests in itself to mortgage investors. A REMIC may be a partnership, corporation, trust, or separate pool of assets. REMICs are intended to become the exclusive means for issuing multiple-class mortgage backed securities in a form that avoids the corporate double tax. Substantially all of a REMIC's assets must be qualified mortgages (mortgages secured by real estate) but it may also hold some short-term liquid assets that produce interest income, and assets held in a special reserve fund, and foreclosed properties. All interests in a REMIC must be classified as regular or residual. Regular interests entitle the holder to interest and principal income, through debt, stock or some other ownership form. Residual interests provide income that is more contingent in nature. A REMIC will not, in general, be a taxable entity, although it must comply with tax requirements and is subject to a 100% tax on prohibited transactions. Regular interest holders will be taxed as if their interests were

debt obligations subject to their share of the REMIC's income on an accrual basis. Gain or loss on the sale of a regular interest will be ordinary to the extent of their share of original issue discount. Residual interest holders generally receive their share of REMIC income as ordinary. (Although the Tax Reform Act of 1986 makes no distinction in rates for capital gains after 1987, the character of capital gains remains in the tax code, perhaps paving the way for a rate distinction in the future.)

Real Estate Owned Property acquired by a lender through foreclosure and held in inventory. Commonly referred to as REO.

Example*:* Because of a large number of recent mortgage foreclosures, the bank's real estate owned has grown to 5% of all assets, or $25 million.

Real Estate Recovery Fund A fund derived from a portion of licensee fees held to compensate members of the public who have been defrauded by licensees unable to respond to judgments.

Real Estate Salesperson *See* Salesperson.

Real Estate Settlement Procedures Act (RESPA) A law that states how mortgages lenders must treat those who apply for federally related real estate loans on property with 1-4 dwelling units. Intended to provide borrowers with more knowledge when they comparison shop for mortgage money.

Example*:* Within 3 days after Chen applies for a loan on a house he wants to buy, the lender is to provide a good faith estimate of settlement (closing) costs, and a booklet about RESPA. In addition, one day before closing, the borrower is entitled to review the closing papers, including all amounts that are known at that time.

Real Estate Syndicate An organization of investors usually in the form of a limited partnership who have joined together for the purpose of pooling capital for the acquisition of real property interests.

Real Estate Trust A special arrangement under federal and state law whereby investors

may pool funds for investments in real estate and mortgages any yet escape corporation taxes.

Real Property In the strict legal sense, land, appurtenances, that which is affixed to the land, and that which by law is immovable. It usually denotes the "bundle of rights" i.e., the agrregate of rights, powers and privileges inherent in the ownership.

Real Property Loan Law Article 7 of Chapter 3 of the Real Estate Law under which a real estate licensee negotiating loans secured by real property within a specified range is required to give the borrower a statement disclosing the costs and terms of the loan and which also limits the amount of expenses and charges that a borrower may pay with respect to the loan.

Real Property Sales Contract A land contract.

Realize Gain In a tax-free exchange, a gain that has occurred financially, but is not necessarily taxed. *See* Boot, Recognized Gain, Section 1031.

***Example**:* Chen's land has a tax basis of $10,000. Its market value is $75,000. He exchanges the land, tax-free under Section 1031, for Lee's warehouse, which was appraised at $75,000. Chen's realized gain is $65,000. None of Chen's realized gain is recognized, because he did not receive boot.

Realtist A member of the National Association of Real Estate Brokers, a group comprised of mainly minority brokers.

Realtor A real estate broker holding active membership in a real estate board affiliated with the National Association of Realtors

Realtor Associate A licensed salesperson (not broker) who is a member of the National Association of Realtors.

***Example**:* Downing passed the salesperson's licensing exam and is sponsored by a Realtor Broker. Upon being sworn in to the national and state association, Downing is appropriately described as a

Realtor Associate.

Realtors National Marketing Institute An affiliate of the National Association of Realtors; mainly concerned with educational programs and literature for members. Address: Realtors National Marketing Institute, 430 North Michigan Avenue, Chicago, IL 60611.

Realty Same as real estate.

Reappraisal Lease A lease where the rental level is periodically reviewed by independent appraisers. Often, the lessor and lessee will each select an appraiser; if they do not agree on a value, they will choose a third appraiser.

***Example**:* In the 20-year reappraisal lease, Big Buy Foods agrees to pay the landlord an annual rent of 12% of the property value. Every 5 years the property will be reappraised to determine the rent.

Reasonable Equivalent Value A term used in bankruptcy matters to determine whether an adequate price for foreclosed property has been obtained.

Reassessment The process of revising or updating the value estimate of property for ad valorem tax purposes.

***Example**:* Local property tax assessors are required to periodically conduct a reassessment of all property. Value estimates are revised based on recent sales and other data, and tax assessments are based on the new estimates.

Rebate A refund resulting from a purchase or tax.

***Example**:* To encourage sales of the condominium project, the developer offered a $2,500 rebate to each purchaser. 2. A kickback of a charge, often illegal if done without knowledge of all parties.

***Example**:* The broker accepted a $50 rebate from the insurer each time he sold a home carrying a homeowner's warranty.

Rebuttable Presumption That which a court will hold to be true until contradicted by evidence.

Recapture The rate of interest necessary to provide for the return of an investment. Not preceding owner. This particular instrument or transfer is commonly used when the performance or debt is satisfied under the terms of a deed of trust, when the trustee conveys the title he has held on condition back to the owner.

Recapture Clause In a contract, a clause permitting the party who grants an interest or right to take it back under certain conditions.

***Example**:* Carter grants a lease to Frank's Furniture, with rent set at 6% of retail sales. The lease contains a recapture clause whereby Carter can regain the property unless sales are over $1 million per year.

Recapture Of Depreciation Same as depreciation recapture.

Recapture Rate In appraisal, a term used to describe the rate of recovery of an investment in a wasting asset. This rate is added to the discount rate to derive a capitalization rate in appraisal terminology. May be based on the straight-line, sinking fund, or annuity method.

***Example**:* A building with a 50-year estimated useful life has a 2% straight-line recapture rate. At a discount rate of 10%, the capitalization rate is 12%.

Recasting The process of adjusting a loan arrangement, especially under the threat of default. *See* Workout.

***Example**:* Pope owns an apartment building with a mortgage loan requiring debt service of $25,000 per year. Because of a period of high vacancies, Pope's net operating income falls to $20,000 per year. To eliminate the negative cash flow, Pope appeals to the lender to recast the loan by extending the maturity and reducing the interest rate for the next 2 years.

Reciprocity Mutual agreement to accept, such as a state's acceptance, as valid the real estate license one has earned in another state.

***Example**:* In the absence of reciprocity, Moore must take a new examination to obtain a real estate license in the state to which she moves. With reciprocity she needs only to present her previously earned license.

Recission The cancellation of a contract and restoration of the parties to the same position they held before the contract was entered into.

Reclamation The changing of unusable land into developable sites by irrigation, draining wetlands, replanting forests and ranges, etc.

Recognized Gain In a tax-free exchange, the portion of gain that is taxable. A realized gain will generally be recognized to the extent of boot received. *See* Section 1031.

***Example**:* Chen's land has a tax basis of $10,000. It is worth $75,000. He exchanges the land under Section 1031 for Lee's warehouse worth $70,000 and $5,000 of cash. Of Chen's $65,000 realized gain, $5,000 will be recognized.

Reconciliation In appraisal, the process of adjusting comparables to estimate the value of the subject being appraised.

Reconstructed Operating Statement An operating statement prepared by an appraiser for use in the income approach of an appraisal including all items of income and expense that directly related to a property, with the exception of interest on borrowed money and depreciation.

Reconveyance The transfer of the title of land from one person to the immediate preceding owner. This instrument of transfer is commonly used to transfer the legal title from the trustee to the trustor (borrower) after a trust deed debt has been paid in full.

***Example**:* The reconveyance took place after Chen paid off the loan; Chen promptly recorded the reconveyance instrument.

Recorded Map A map or survey of a property that is recorded. It often includes a whole subdivision.

Recorder See Registrar of Deeds.

Recording The process of placing a document on file with a designated public official for public notice. This public official is usually a county officer known as the County Recorder who designates the fact that a document has been presented for recording by placing a recording 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. Claims against property usually are given a priority on the basis of the time and the date they are recorded with the most preferred claim going to the earliest one recorded and the next claim going to the next earliest one recorded, and so on. This type of notice is called **"**constructive notice**"** or **"**legal notice.**"**

Recording The process of recording a copy of certain legal instruments, such as deeds, mortgages, leases, liens, etc., to make public record of the document to benefit all concerned.

Recourse The ability of a lender to claim money from a borrower in default, in addition to the property pledged as collateral.

Example*:* Ross obtains a mortgage loan from Local Savings. Should Ross default on the loan. Local Savings may foreclose and force the sale of the mortgaged property. Should the sale fail to satisfy the unpaid loan principal, Local Savings has recourse to other assets of Ross.

Recovery Fund Generally administered by the Real Estate Commission. Requires licensees to contribute, then reimburses aggrieved persons who are unable to collect from brokers for wrongdoings.

Example*:* A typical state's recovery fund law requires all new licensees to contribute $10 to the fund. Anytime the fund account balance drops below $500,000, all licensees will be assessed. Payments from the fund to an aggrieved person may not exceed $10,000; total payments on behalf of any licensee may not exceed $25,000. The

recovery fund pays only when the broker does not.

Rectangular Survey Same as government rectangular survey method.

Recurring Closing Costs Repeated expenses paid by the borrower at close of escrow, such as tax reserves, hazard insurance, and prepaid interest.

Red Herring A proposed prospectus that has not been approved by the Securities and Exchange Commission (SEC) or state securities commission. *See* Public Offering.

Redeem To buy back; repurchase; recover.

Redemption Buying back one's property after a judicial sale.

Redemption Period The period during which a former owner can reclaim foreclosed property. *See* Equity Of Redemption.

Example: Chu's property was foreclosed. If she acts within her state's redemption period, she can reclaim her property by paying the debt and legal fees.

Redemption, Equity Of Same as equity of redemption.

Redevelop The process of demolition of the existing improvements and construction of new improvements on a site. The new improvements are often of a different type from the old.

Example: Since the old building has outgrown its usefulness, the owner plans to redevelop the site as the location of a new office tower.

Rediscount Rate The rate of interest charged to member banks when they borrow from the Federal Reserve System. Also called discount rate.

Example: The First and Citizens Bank borrows funds from the Federal Reserve for one day and is charged interest at the rediscount rate.

Redlining The illegal practice of refusing to originate mortgage loans in certain neighborhoods on the basis of race or ethnic composition.

***Example**:* A savings and loan association may be accused of practicing redlining if it is found that no loans have been originated in predominantly nonwhite neighborhoods. The term derives from the alleged practice of drawing a red line on a map around certain neighborhoods to designate them as off limits for loan approvals.

Reduction Certificate A document in which the mortgagee (lender) acknowledges the sum due on the mortgage loan. Used when mortgaged property is sold and the buyer assumes the debt.

***Example**:* Chen buys Lee's home and agrees to assume the existing mortgage. They obtain a reduction certificate from the mortgage lender stating that the remaining balance is $34,567.89.

Reevaluation Lease Same as reappraisal lease.

Referral The act of suggesting the use of a certain broker.

***Example**:* Smith receives several listings based on referrals from former customers.

***Example**:* A broker agrees to pay a 1% referral fee to out-of-state brokers who suggest families that are moving into the area.

Refinance The renewing of an existing loan with the same borrower and lender. (2) A loan on the same property by either the same lender or borrower. (3) The selling of loans by the original lender.

Refinancing The paying-off of an existing obligation and assuming a new obligation in its place. To finance anew, or extend or renew existing financing.

Reformation Rewriting an agreement to conform to the intent of the parties.

Regency House An English-style 2- or 3-story symmetrical house with a hip roof. A small octagonal window over the front door is traditional.

Regional Shopping Center A type of shopping center containing 300,000 to 900,000 square feet of shopping space and at least one major department store.

Register A fixture installed at the end of an air duct that directs and controls the

flow of air into the room.

Registered Land Land whose title has been registered in a special land court found in states that use the Torrens System of title registration.

Registrar The person who is to maintain accurate official records, such as for deeds, mortgages, and other recorded documents.

Example: After closing, the buyer brought the deed to the registrar of deeds for recording in the county records.

Registrar Of Deeds The person in charge of recording title instruments; often called a recorder.

Regression A statistical technique used to estimate mathematical models of economic and other processes. It is used to find a mathematical expression which best fits the relationship between a group of random variables as indicated by a sample of data.

Example: An appraiser wants to find the relationship between sales prices for homes and their physical characteristics. Data are collected on the prices of a group of homes and their size, number of rooms, location and age. Linear regression is used to analyze the relationship expressed by the data. The regression model can then be used to estimate prices for other similar houses on the market.

Regression Analysis A statistical technique used to analyze the effect independent variables (size, number of rooms, location, etc.) have upon dependent variables such as sales price. Also used to predict the sales price of houses.

Regression, Principle of The worth of a better property is adversely affected by its presence among lesser properties.

Regulation D A regulation of the Securities and Exchange Commission that sets forth conditions necessary for a private offering exemption.

Example: Syndicator Stuart wants to sell 35 limited partnership interests in an office building. He applies for an exemption under

Rule 146 of Regulation D to avoid the need of registering a public offering; he thereby saves over $100,000 and avoids a 4-month delay.

Regulation Q A federal law that specified the maximum interest rates that banks and savings and loan associations could pay on various types of deposits. It was phased out by the Depository Institutions Deregulations and Monetary Control Act of 1980.

Example*:* Under Regulation Q, Hometown Savings could offer no more than a 5% yield on its passbook accounts. Today, it can offer any rate required to attract deposits.

Regulation Z A federal regulation requiring creditors to provide full disclosure of the terms of a loan. Compliance is compulsory for anyone who arranges credit for more than 5 sales of residential real estate in a year. Terms of the loan must be disclosed. The interest rate must be stated as an annual percentage rate (APR). *See* also Rescind, Rescission.

Rehabilitate To restore a structure to a condition of good repair.

Example*:* An old building has deteriorated to the point of prohibiting profitable operation. The owner faces the choice of demolition of the structure and rebuilding or rehabilitation to restore the building to a competitive position.

Rehabilitation Restoring an old building to its original condition, without making any changes in its floor plan or style.

Rehabilitation Tax Credit The Tax Reform Act of 1986 provides a 20% tax credit for rehabilitating certified historic structures, and 10% credit for other buildings that were placed in service after 1936. However, there are certain conditions or requirements that are imposed.

Reinforced Concrete Concrete reinforced and strengthened by the addition of steel bars, mesh, rods, etc.

Reinstate To cure a default under a note secured by a deed of trust.

Reinstatement 1. Payment of a note, mortgage, deed of trust, etc., to bring it from default to good standing.

2. Restoring the previously used entitlement of a veteran to enable the veteran to purchase property under a VA program. (Also called Restoration of Eligibility).

Reinsurance The transferring of a portion of the liability to other insurers. Example: Insurer A insures for $200,000. A insures for $100,000 and reinsures the "second" $100,000 through B insurer. The "first" $100,000 is called "primary liability".

Reinvestment Rate The interest rate an investor is assumed to be able to earn on intermediate cash flow in the projection of a terminal value. *See* Financial Management Rate Of Return.

REIT A Real Estate Investment Trust is a business trust which deals principally with interest in land—generally organized to conform to the Internal Revenue Code. It is an unincorporated business association, with a minimum of 100 owners, which is allowed to pass profits through to investors without paying corporate tax. The investors have limited liability.

Relation Back A legal fiction dating an act to a previous occasion. See also nunc pro tunc.

Release The act of relinquishment, concession, or giving up of a right, claim, or privilege, by the person in whom it exists or to whom it accrues, to the person against whom it might have been demanded or enforced.

Release Clause This is a stipulation that upon the payment of a specific sum of money to the holder of a trust deed or mortgage, the lien of the instrument as to a specifically described lot or area shall be removed from the blanket lien on the whole area involved.

Release Deed An instrument executed by the mortgagee or the trustee reconveying to

the mortgagor or trustor the real estate which secured the loan after the debt has been paid in full.

Release of Liability An agreement by the lender to terminate the personal obligation of the borrower.

Release Of Lien To free real estate from a mortgage. *See* Partial Release.

***Example**:* Reynolds owns 100 acres of land that is mortgaged for $10,000. If she pays the $10,000, the land will be released from the lender's lien on the property.

Reliction Gaining title to land by the gradual receding of water.

Relief from Forefiture An order by a court in an unlawful detainer (eviction) lawssuit that allows the losing tenant to remain in the rental unit, based on the tenant's ability to pay all of the rent that is due, or to otherwise fully comply with the lease.

Relief Map A map that shows the topography of an area.

Relocation The moving of people, businesses and personal property by a local, state or federal agency when the property in which they are located is taken for public use.

Relocation Clause A lease stipulation that allows the landlord to move the tenant within the building.

***Example**:* The landlord of an office building requires relocation clauses in all leases for space that does not include an entire floor. When a new client wishes to lease an entire floor, the landlord may relocate tenants in such a way as to provide the desired space.

Relocation Network A geographically diversified group of independent real estate brokerage companies, generally not members of a franchise, that share information with one another concerning potential customers.

***Example**:* A broker in Atlanta, Georgia, lists a home for sale which is owned by a family who is moving to Dallas, Texas. The broker, who is a member of a certain relocation network, finds a counterpart

member/broker in Dallas and refers the family to the Dallas broker. If they buy a home through the Dallas broker, the Atlanta broker will receive a referral fee.

Relocation Service A company which contracts with other firms to arrange the relocation of employees from one city to another. The service generally handles the sale of the employee's home and purchase of a new home. Furniture-moving services may be included also.

***Example**:* The Chu Company wishes to open a new office in Denver. Most of the staff for the new office will be relocated from Los Angeles. Chu hires a relocation service to sell the employees' homes and to help them find new homes in the Denver area.

Remainder An estate which takes effect after the termination of the prior estate, such as a life estate.

Remainder Depreciation The possible future loss in value of an improvement to real property.

Remainder Estate See Remainder.

Remainderman The person who is to receive possession of the property after the death of a life tenant.

Remaining Economic Life The time period over which an improvement is expected to add value above the value of the land as if vacant and valued at its highest and best use.

REMIC *See* Real Estate Mortgage Investment Conduit.

Remodeling Changing the plan, form or style of a structure.

Renegotiable Loan Loans with short-term due dates that may be extended or rewritten.

Renegotiable Rate Mortgage A loan secured by a long term mortgage which provides for renegotiation, at pre-determined intervals, of the interest rate (for a maximum variation of five percent over the life of the mortgage.)

Renegotiate To legally revise the terms of a contract.

***Example**:* Chen owes $10,000 to Lee at 7% interest. Chen and Lee renegotiate so that Lee agrees to lend $15,000 at 13% interest instead of the original loan.

Renegotiation The process of trying to agree on new terms to an existing contract, lease, mortgage, etc., requiring agreement by both parties.

Renewal Option The right, but not the obligation, of a tenant to continue a lease at specified term and rent.

Renovate General term applied to the process of upgrading an existing improvement. Usually there is an attempt to keep the same general appearance of the building with new materials or to return the building to its original appearance.

***Example**:* The city bought several dilapidated homes in the neighborhood. They plan to renovate the homes by bringing them up to the current housing code standards. the renovated homes will be sold to city residents.

Renovation A general term for substantially improving a Proeprty through rehabilitation, modernization and remodeling.

Rent A charge for the use of space. *See* Contract Rent, Economic Rent.

Rent Bid Models A conceptual tool used to explain how land is allocated in competitive markets. the model is based on the assumption that space is controlled by the activity which offers the highest bid for the site.

***Example**:* A simple rent bid model of urban land is formulated. The model predicts that commercial uses will occupy land near the city center, while residential land will spread around the core.

Rent Concession *See* Concession.

Rent Control Government regulations or ordinances that limit the amount of rent that can be charged for a unit. Usually restricted to residential property.

***Example**:* Since the 1940s, apartment owners in New York City have

been restricted by law in the rent that they may charge. Rent control laws have been adopted by Boston, Washington, D. C., Los Angeles, and many cities in New Jersey, among others.

Rent Multiplier *See* Gross Rent Multiplier.

Rent Subsidy A payment made by a government agency or charitable organization on behalf of people who are unable to pay the total amount of rent for a property.

Rentable Area Same as net leasable area.

Rental Rate The periodic charge per unit for the use of a property. The period may be a month, quarter, or year. The unit may be a dwelling unit, square foot, or other unit of measurement.

Example: The rental rate for the 2-bedroom apartments is $750 per month. The rental rate for office space is $18 per square foot per year.

Rental Value The amount of money a tenant is warranted in paying for the right to occupy or use a property for a given time under certain prescribed or assumed conditions.

Rent-Free Period A portion of the term of a lease when no rent is required. It is offered by a landlord as a rental concession to attract tenants.

Example: In order to attract tenants to the new office building, the landlord is offering a 3-month rent-free period to all tenants who sign a 2-year lease.

Rent-Up Period The time it takes for newly constructed properties to be fully occupied.

Rent withholding The tenant's remedy of not paying some or all of the rent if the landlord does not fix defects that make the rental unit uninhabitable within a reasonable time after the landlord receives notice of the defects from the tenant.

REO Real Estate Owned, a category of property used to describe real property acquired through foreclosure by financial institutions.

Repair and deduct remedy The tenant's remedy of deducting from future rent the amount necessary to repair defects covered by the implied warranty of habitalibility. The amount deducted cannot be more than one month's rent.

Repairs Work performed to return property to a former condition without extending its useful life, as distinguished from capital improvements. In income property, repairs are an operating expense for accounting and tax purposes.

Example: Patching a hole in the roof (but not replacing the roof) and mending (but not rebuilding) a fence are repairs.

Replacement Cost The cost to replace the structure with one having utility equivalent to that being appraised, but constructed with modern materials, and according to current standards, design and layout.

Replacement Reserve An amount set aside from net operating income to pay for the eventual wearing out of short-lived assets. *See* Reserve Fund.

Example*:* Singer buys new apartments, each containing $1,000 worth of carpeting and appliances that have a 10-year useful life. Each year she deposits $100 in a replacement reserve account to pay for recarpeting in 10 years.

Report According to the Uniform Standards of Professional Appraisal Practice, any communication, written or oral, of an appraisal, review or analysis; the document that is transmitted to the client upon completion of an assignment.

Comment: Most reports are written, and most clients mandate written reports. Oral report guidelines are included to cover court testimony and other oral communications of an appraisal, review or consulting service.

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

Request For Notice Of Default Document which is recorded by the holder of a junior loan so he may be notified if buyer defaults on other loans.

Res Judicata Prohibiting a civil matter from being relitigated. The civil equivalent of double jeopardy.

Resale Sale of a property at the termination of the holding period. The resale price can be estimated by a growth rate or by a terminal cap rate applied to the net operating income occurring the year following the holding period.

Resale Price In a projection of real estate investment performance, the assumed selling price a property could fetch at the end of the projection period. *See* Resale Proceeds.

Resale Proceeds The amount a former owner receives upon a sale after paying transaction costs, remaining debt, and, sometimes, income taxes. Same as proceeds from resale.

Rescind To withdraw an offer or contract. Regulation Z allows a 3-day period in which to rescind certain credit transactions.

***Example**:* Chen offers to buy a certain house from Lee. Before Lee accepts, Chen rescinds the offer and, therefore, is not obligated to follow through on the purchase.

Rescission The cancellation of a contract and restoration of the parties to the same position they held before the contract was entered into.

Rescission Of Contract The abrogation or annulling of contract; the revocation or repealing of contract by mutual consent by parties to the contract, or for cause by either party to the contract.

Reservation A right retained by a grantor when conveying property.

Reserve Money set aside from earnings for future taxes, maintenance or to pay future claims or possible liabilities.

Reserve For Depletion An amount that is set aside to compensate for the reduction in value of property from which minerals or other valuable components have been extracted.

Reserve For Depreciation An amount that is set aside to compensate for the anticipated reduction in value or the recapture of investment in real estate improvements.

Reserve For Replacement Money set aside to provide for the necessary replacement of short-lived items that wear out from normal wear and tear, carpets or refrigerators, before the main structure wears out.

Reserve Fund An account maintained to provide funds for anticipated expenditures required to maintain a building. A reserve may be required by a lender in the form of an escrow to pay upcoming taxes and insurance costs. A replacement reserve may be maintained to provide for replacement cost of short-lived components, such as carpets, heating equipment, or roofing. Deposit of money into such a fund does not achieve a tax deduction.

***Example**:* A property management firm anticipates that property taxes will be due in 6 months, insurance must be renewed in 21/2 years, and carpeting must be replaced in 6 years. Accordingly, they establish a reserve fund by depositing a portion of monthly revenues in an account. Moneys from the fund will be used at the appropriate time to meet the future expenditures.

Reserve Price In an auction or other bidding procedure, an established amount below which the seller is not obligated to accept a winning bid.

***Example**:* Before the auction, a reserve price of $45,000 was set for the home. Since the highest bid was only $39,000, the seller could withdraw the property from the sale.

Residence The place where one lives, particularly the dwelling in which one lives. *See* Domicile.

***Example**:* Lee owns several houses, one of which is Lee's residence, another is a vacation home, and the others are income properties rented to tenants.

Resident Manager One who supervises the care of an apartment complex while living in

one of the units in the complex.

Example: Carter employs Dawns as a resident manager. Dawns's duties include showing vacant units to prospective tenants, making sure the building is kept clean, and providing entry to repair persons. In return, Downs receives an apartment rent-free.

Residential Pertaining to housing. *See* Residential Property.

Residential Broker One who lists and sells houses or condominiums. Contrast with commercial broker.

Example: Lee earned a livelihood as a residential broker selling single-family housing.

Residential Member A professional designation once offered by the American Institute of Real Estate Appraisers. It is being exchanged or phased out in favor of the SRA designation offered by the Appraisal Institute.

Example: Chu passed several examinations, prepared demonstration appraisal reports, and acquired several years of experience in the appraisal of residential property. She has been awarded the RM designation, which acknowledges her skills as a residential appraiser. She may exchange that for the SRA designation.

Residential Mortgage Loan A loan on a one-to-four family dwelling located within California. Persons engaged solely in business, commercial or agricultural mortgage lending are exempt. See California Residential Mortgage Lending Act.

Residential Property In real estate brokerage terminology, owner-occupied housing.

Example: Chu is in residential real estate. She secures listings for single-family housing and sells homes.

In income taxation terminology, rental units used for dwelling purposes, not of a transient (hotel, motel) nature. To qualify as residential, at least 80% of a building's income should be derived from dwelling units.

Example: Residential rental property owners may be subject to different

methods of depreciation (accelerated cost recovery) and/or depreciation recapture than commercial property owners.

Residential Sales Council Affiliate of the Realtors National Marketing Institute of the National Marketing Institute of the National Association of Realtors that provides educational and promotional materials for members, most of whom are involved in residential real estate sales or brokerage. Address: Residential Sales Council, 430 North Michigan Avenue, Chicago, IL 60611.

Residential Service Contract An insurance contract or home warranty, generally for one year, covering the plumbing, mechanical, and electrical systems of a home. It is available in most areas upon the purchase of an existing home. Either the buyer or seller can pay for the contract.

Example: Ricky and Rebecca Miller purchase a home. The sellers paid $300 for a residential service contract. Three months later, the air-conditioner compressor breaks and costs $800 to repair. The Millers must pay the $100 deductible, and the contract covers the balance of the cost of repair.

Residual Value or income remaining after deducting an amount necessary to meet fixed obligations.

Example: After deducting operating expenses, debt service, and income taxes from gross income, the equity investor is entitled to the residual. Note: There is no assurance that a residual will exist. In appraisal, a portion of stabilized net operating income is deducted to support the value of the improvements. The residual net operating income is then left to support the value of the site.

Residual Process An appraisal technique that is part of the income approach to value. A portion of the net operating income is allocated either to the site or the improvements. The remaining income is capitalized into an estimated value of that portion of the property the remaining income is attributed to.

Residual Tech- A method of estimating the value of a building or land, given values of

niques one and rate of return. *See* Building Residual Technique, Land Residual Technique.

Resilient Tiles Tiles with dense, non-absorbent surfaces that spring back into place when dented, such as linoleum, vinyl asbestos, vinyl, rubber and cork.

Resolution Trust Corporation (RTC) A federal agency created by FIRREA to manage and resolve insolvent savings and loan associations placed into its conservatorship or receivership. The agency is supervised by the Federal Deposit Insurance Corporation.

Example: The RTC is charged with liquidating the assets left over from the "S&L crisis," the problem that prompted passage of FIRREA. The agency is funded through special appropriations and proceeds from the sale of seized assets. Presumably, the agency will be dissolved once all assets are sold.

RESPA *See* Real Estate Settlement Procedures Act.

Respondeat Superior In agency law, the doctrine that a principal is liable for the acts of an agent.

Example: A real estate agent misrepresented the facts about property that was offered for sale. The injured party sued the agent and the broker. The broker was held liable under the doctrine of respondeat superior.

Restitution Compensating one for damages suffered.

Restore To return a building to its original quality and appearance. While modern materials are used, the emphasis is on faithful reproduction of the original style.

Example: The Lee bought an old Victorian-style home which had been converted into a duplex. They plan to restore the home by removing partitions, refinishing the hardwood floors, repairing the fireplaces, and making other improvements to return the building to its original style.

Restraint On Alienation A limiting condition on the right to transfer property. If the condition is against public policy or is unreasonable, courts will void the condition.

***Example**:* The deed that Chen received when she bought property specifies that she may not resell the property to certain ethnic minorities. Since the clause is illegal, she went to court to remove this restraint on alienation.

Restriction A limitation on the use of real property. Property restrictions fall into two general classifications—public and private. Zoning ordinances are examples of the former type. Restrictions may be created by private owners, typically by appropriate clauses in deeds, or in agreements, or in general plans of entire subdivisions. Usually they assume the form of a covenant, or promise to do or not to do a certain thing.

Restrictive Covenant A covenant or deed restriction that limits the property rights of the owner.

***Example**:* A restrictive covenant was placed on property to prevent the sale of alcoholic beverages on the land for the next 50 years.

Retail Gravitation The drawing power of a shopping center; generally, the larger the center, the greater its ability to draw from distant areas.

Retainage In a construction contract, money earned by a contractor but not paid to the contractor until the completion of construction or some other agreed-upon date.

***Example**:* The general contractor earns $5,000 upon pouring the foundation, plus $15,000 upon completion of the frame, plus $10,000 upon completion of the roof. Of each payment, 10% is held back as retainage. It is paid after a certificate of occupancy is issued.

Retaining Wall A wall used to confine dirt, water, mud, etc.

Retaliatory Eviction An act by a landlord, such as raising a tenant's rent, seeking to evict a tenant, or otherwise punishing a tenant because the tenant has used the repair and deduct remedy or the rent withholding remedy, or has as-

serted other tenant rights.

Example: Six months after Chen moved into an apartment, the heating system stopped operating. The landlord failed to repair the system, and Chen filed a formal complaint with the city housing code enforcement office. When the landlord received notice from the city to repair the system, he evicted Chen in a retaliatory eviction. The eviction was stopped in court.

Retire (A Debt) To pay off the principal on a loan, thereby fulfilling the obligation under the loan contract. *See* also Amortization.

Example: When Smith made the last monthly payment on his mortgage loan, he retired the debt.

Example: Jones arranged to retire her home improvement loan by paying an amount equal to the remaining principal balance.

Retrospective Value The value of the property as of a previous date.

Return Profit from an investment; the yield.

Return On Equity *See* Equity Dividend, Equity Yield Rate.

Return On Investment Interest earned by investors for the use of their money for a period of time.

Reuse Appraisal An appraisal, to estimate the projected resale value of property in a redevelopment project. It considers the effect of the redevelopment project upon the value and the planned permitted uses often property after the redevelopment project is completed.

Revaluation See Reassessment.

Revaluation Clause *See* Reappraisal Lease.

Revenue Stamps Stamps that are affixed to deeds (and, in some states, other documents affecting real estate) and that indicate the payment of the state's deed transfer (or other transfer) tax. Federal revenue stamps have not been

used since 1968, but many states have substituted their own.

***Example**:* A state requires $1 of revenue stamps to be attached to deeds for each $1,000 of purchase price. There were $50 of stamps on Dan's deed, so appraisers assumed he paid $50,000 for the land, though he could have paid less.

Reverse Annuity Mortgage A type of mortgage, designed for elderly homeowners with substantial equity, by which a lender periodically (monthly, for Example) pays an amount to the borrower. The loan balance increases with interest and periodic payments, causing negative amortization.

***Example**:* Roper, age 70, who retired from his job, owns his home free and clear of any liens. His pension is inadequate to pay expenses. He seeks a reverse annuity mortgage that will pay him $200 per month. At a 15% interest rate, he will owe $55,043 in 10 years.

Reverse Equity Mortgage A mortgage where the lender makes payment to the owner of property, based on the owner's equity and life expectancy.

Reverse Leverage A situation in which financial benefits from ownership accrue at a lower rate than the mortgage interest rate. *See* Leverage.

***Example**:* Net-leased property is purchased for $100,000 with a $75,000 mortgage at 12% interest and $25,000 of equity. The net rent is $10,000 per year; interest expense is $9,000 per year. The $1,000 difference (cash flow) provides a 4% return to the equity owner. In the absence of debt, the owner would receive a 10% return. Reverse leverage works against the property owner.

Reversion The right to future possession or enjoyment by the person, or his heirs, creating the preceding estate. (For example, at the end of a lease.)

Reversion Factor A factor that is used to discount the value of a single payment received in the future to present value, reflecting appropriate discount rate and the specified time period, also known as the present worth of one factor.

Reversionary Fac- The mathematical factor that indicates the present worth of one dollar to

tor be received in the future. Same as present value of one.

***Example**:* The reversionary factor for 30 years at 12% is .03338. The present value of the receipt of land that will be worth $50,000 in 30 years is $1,690 (.03338 x $50,000).

Reversionary Interest The interest a person has in property upon the termination of the preceding estate.

***Example**:* Chen is the remainderman in property that was granted to Lee for life. Chen has a reversionary interest in the property.

Reversionary Value The value of property at the expiration of a certain time period.

***Example**:* A lease will expire in 30 years. The landlord estimates that the reversionary value of the property will be $50,000; that is. the property can be sold in 30 years for $50,000.

Revocable Deed A deed wherein the grantor reserves the right to take back the interest granted. Sometimes called a **"**Tennant Deed**"** after the case involving the parties who created it.

Revocation An act of recalling a power of authority conferred, as a revocation of a power of attorney, a license, an agency, etc.

***Example**:* The revocation of Chen's broker's license, caused by his fraudulent acts, prevented him from earning a living in real estate.

Rezoning An action to change the designation of a subject parcel or group of parcels on the zoning map. The effect of a rezoning is to change the permitted uses for the affected parcels. *See* Downzoning.

***Example**:* Brown, whose property was zoned for low-density residential, petitioned the city for a rezoning to allow construction of an apartment building.

Rider An amendment to a contract.

Ridge The horizontal line where two sloping roof surfaces meet.

Ridge Board The highest structural point in a frame house.

Ridge Tile A tile that is partially curved and used to cover the ridge of a roof.

Ridge Vent Ventilator opening at the ridge of a roof.

Right Of First Refusal The opportunity of a party to match the terms of a proposed contract before the contract is executed.

***Example**:* In some states, tenants whose apartments are converted to condominiums are given a right of first refusal for the unit when it is sold. This means the tenant may purchase the unit at the same price and terms of any outside purchaser.

Right Of Redemption Same as equity of redemption.

Right Of Survivorship Right to acquire the interest of a deceased joint owner; distinguishing feature of a joint tenancy.

Right, Title And Interest A term used in deeds to denote that the grantor is conveying all of that to which grantor held claim.

Right-Of-Way The right to use a particular path for access or passage; a type of easement.

The areas of subdivisions dedicated to government for use for streets, roads, and other public access to lots.

Rights Legally enforceable claims to any interest or title in property.

Rigid Conduit A stiff pipe used to cover and protect electric wiring. The pipe is installed first, and the wire is drawn through it.

Rigid Insulation A type of insulation that is manufactured in sheets and other non-flexible forms, either structural or non-structural.

Riparian Owner One who owns land bounding upon a lake, river, or other body of water.

See also Littoral.

Riparian Rights The right of a landowner whose land borders on a stream or watercourse to have reasonable usage and enjoy the water which is adjacent to or

flows over the owners land provided such use does not injure other riparian owners.

Riprap A wall of loosely placed rocks, stones, wood or concrete beam used to prevent erosion by hindering the flow of water.

Rise The measure of a slope; its vertical ascent in relation to a horizontal measurement. For example, a road might rise two feet for each 100 feet of horizontal distance creating 2% vise.

Riser 1. The part of a stair that is the vertical board under the stair top.

2. In plumbing systems, the vertical pipe that supplies steam to the radiators in the upper rooms.

Risk Uncertainly or variability. The possibility that returns from an investment will be greater or less than forecast. Diversification of investments provides some protection against risk. Insurance can offer protection against certain risks.

Example: Types of risk in real estate: ◆ business risk—rents, vacancies, or operating expenses vary from projected amounts, ◆ interest risk—property may be subject to a higher rate mortgage than the market rate, ◆ market rental rate—a long-term lease may lock the owner into low rents, ◆ principal risk—resale proceeds may be less than anticipated.

Example*:* Owners insure buildings against risk of loss caused by fires, storms, and other hazards by taking out a hazard insurance policy.

Risk Analysis A study made, usually by a lender, of the various factors that might affect the repayment of a loan.

Risk Factors The portion of the return on an investment that is attributed to the investment risk. It is extra return bought by an investor as compensation for whatever risk of loss of invested capital or projected income there is in the investment.

Risk Rating A process used by lenders to decide on the soundness making a loan and

to reduce all the various factors affecting the repayment of the loan to a qualified rating of some kind.

Rod A linear unit of measurement equal to 16.5 feet.

Example: A certain lot has 165 feet, or 10 rods, of road frontage.

Roll Roofing Roofing material that consists of fiber that is saturated with asphalt, commonly supplied in 36-inch-wide rolls that contain a total of 108 square feet. Sometimes it is coated with mineral aggregates.

Rollover Loan A type of mortgage loan, commonly used in Canada, in which the amortization of principal is based on a long term but the interest rate is established for a much shorter term. The loan may be extended, or rolled over, at the end of the shorter term at the current market interest rate.

Example: Chen obtains a rollover loan. The amortization term is 30 years. The interest rate is 14% for 2 years. After 2 years, Chen must renew the loan at the going interest rate or refinance with a new loan.

Roman Tile A roofing tile that is tapered and channel shaped.

Roof Gable - A roof sloping on two sides. Gambrel- A roof double pitched on two sides.

Roof Beams Framing members in a plank and beam framing system that support the roof planks.

Roof Boards They run from the ridge beam down to the top of the outside wall.

Roof Flashing Boards or sheathing that are nailed to the rafters and to which the roof covering or shingles, tiles or other material are fastened. See also Sheathing.

Roof Pitch Material used to cover the upper exterior portion of a house to make it watertight.

Roof Sheathing The slope of the roof expressed in a ratio of vertical drop to horizontal distance. A 6-inch pitch or 6 in 12 pitch or 6 to 12 pitch means the roof rises 6 inches for each 12 inches of horizontal distance.

Roof Vent A ventilation mechanism for an attic or roof cavity.

Roofing Flashing placed over roof intersections and where chimneys, vent pipes, and other items protrude through a roof. It seals the joint and makes it weather-tight.

Rotunda A circular room or building, usually having a domed roof.

Round Timber Timber left in its natural round form, such as poles, log siding, and piles.

Row House Single-family dwelling units attached to one another by common walls, generally with a common facade. *See* Townhouse.

Rowland v. Christian A leading California case changing the previous concepts of invitee, and trespasser in the law of negligence applied to real property.

Royalty Money paid to a property owner for extraction of some valuable resource from the land.

> ***Example****:* Jones owns a 500-acre ranch in west Texas. An oil company negotiates a lease with Jones to explore for oil on the ranch. Under the agreement, Jones will receive a royalty in proportion to the number of barrels of oil pumped from the ranch.

RRM Renegotiated Rate Mortgage.

Rubble Rough stones of irregular shape and size; also called field stone.

Rubblework Masonry walls made of rubble.

Rules of Construction The logical process by which a court will interpret ambiguities in documents or agreements.

Run With The Land An expression indicating a right or restriction that affects all current and future owners of a property. Contrasted to an agreement, between a current owner and other parties, that is not passed on to future owners in a deed.

> ***Example****:* A covenant, written into the deed, prohibits the property from

being used as a liquor store. The restriction runs with the land, and all future owners are restrained from violating the covenant.

Rural Pertaining to the area outside the larger and moderate sized cities and surrounding population concentrations. Generally characterized by farms, ranches, small towns, and unpolluted regions. Compare with suburb.

***Example**:* Garrison grew up on a farm in a rural area of Indiana. She later moved to Chicago and lived in a suburban town nearby. Garrison invested in rural land, hoping to be able to return at retirement.

Rural Areas On the fringe of urban development, that are in the process of being developed for urban uses.

Rural-Urban Fringe Land on the outskirts of a city that is undergoing transition from rural to urban.

Rustic Siding A type of side in especially designed to look rustic.

R-Value A measure of the heat conductivity of material. The higher the R value, the better the material serves as insulation from heat transfer. R value generally applies to insulating materials, roofs, exterior walls, and windows and doors.

***Example**:* The walls in a building have an estimated R value of 20. Fiberglass insulation with an R value of 34 was installed in the walls to make the building more energy efficient.

R-Value (Resistance To Heat Flow) A standard measurement for the effectiveness of insulation. R = resistance to heat flow. The higher the **"**R**"** value, the better the insulation.

Saddle The threshold of a door. A strip that is fastened to the floor under the door to cover the joining of the flooring.

Safe Rate An interest rate provided by relatively low-risk investments such as

high-grade bonds or well-secured first mortgages. *See* Financial Management Rate Of Return.

Safety Clause A clause in a listing protecting the broker from having buyer and seller wait until the listing expires to make a deal, thereby avoiding the payment of commission. The clause states that if the property is sold during a specified period after the expiration of the listing (or any extension thereof) to a buyer provided during the listing period by the broker, the commission shall be paid.

Safety Glass Glass made by laminating two sheets of single- or double-strength glass to a strong plastic sheet.

Sale And Lease-back A financial arrangement where at the time of sale the seller retains occupancy by concurrently agreeing to lease the property from the purchaser. The seller receives cash while the buyer is assured a tenant and a fixed return on buy's investment.

Sale-Leaseback-Buy-Back A sale and leaseback transaction in which the leaseholder has the option to buy back the original property after a specified period of time.

Sales Analysis Grid Table of relevant data on comparable properties.

Sales Assessment Ratio The ratio of the assessed value of a property to its selling price.

Sales Comparison Approach Same as market comparison approach.

Sales Contract A contract by which buyer and seller agree to terms of sale.

Sales Data Method of Depreciation Method of estimating depreciation wherein building values abstracted from sales are compared to current costs new.

Sales Price The amount of money required to be paid for real estate according to a contract, or previously paid.

Example: The sales price consisted of $30,000 cash plus the buyer's assumption of a $70,000 mortgage, for a $100,000 total.

Salesperson Same as agent. One who is licensed to deal in real estate or perform any other act enumerated by state real estate license laws, while under the supervision of a broker licensed by the state.

***Example**:* A salesperson arranges a 90-day listing on a house, which is accepted by the broker. Another salesperson shows the home to a prospective buyer. The sale is closed, and commissions are collected by the broker and shared with the salespersons.

Salvage Value In computing depreciation for tax purposes, the reasonably anticipated fair market value of the property at the end of its useful life and must be considered with all but the declining balance methods of depreciation.

***Example**:* An appraiser estimates the useful life of a building at 40 years; she also estimates that the building's salvage value would be $10,000 in 40 years. Consequently, all but $10,000 of the building cost is to be depreciated over 40 years.

SAM *See* Shared Appreciation Mortgage.

SAMDA Contractor A middleman who is responsible for the management and disposition of a specific group of assets controlled by the Resolution Trust Corporation. The responsibility is created by the *Standard Assets Management and Disposition Agreement* (SAMDA) entered into by the contractor and the RTC.

***Example**:* All assets held by the RTC are managed through SAMDA contractors. Each contractor has responsibility for a specific portfolio of real properties, loans, and/or securities. Actual property management, loan servicing, and marketing operations are performed by subcontractors employed by the SAMDA contractor.

Sand Granular rock or mineral fragments resulting from natural abrasion of rock which have a diameter ranging from 1 mm (coarse) to .005 mm (very fine).

Sandwich Lease A leasehold interest which lies between the primary lease and the oper-

ating lease.

Sanitary Sewer The pipe system that carries the domestic waste to a sewerage treatment plant or other disposal area. See also Storm Sewer, Septic System.

Sash Wood or metal frames containing one or more window panes.

Sash Cord, Sash Chain The cord or chain that attaches the counterbalance weights to each double-hung window sash.

Satisfaction Discharge of mortgage, trust deed or judgment lien from the records upon payment of the evidenced debt.

Satisfaction Piece An instrument for recording and acknowledging final payment of a mortgage loan.

Example: After the mortgage loan was paid off, the borrower received a satisfaction piece, which she promptly recorded, officially.

Savings And Loan Associations (S&Ls) Depository institutions that specialize in originating, servicing, and holding mortgage loans, primarily on owner-occupied, residential property.

Example: Traditionally, savings and loan associations were distinguished from commercial banks by their emphasis on long-term home mortgage loans, separate regulations and deposit insurance mechanisms, and their affiliation with the Federal Home Loan Bank System. Passage of FIRREA in 1990 destroyed most of these divisions. Today all depository institutions are eligible for affiliation with the Home Loan Bank System if they are willing to specialize in home mortgages.

Saw-Tooth Roof A series of single pitched roofs that used to be used in factories, resembling the sharp edge of a saw with a window usually placed in each for light and ventilation. It is not used in modern construction.

SBA *See* Small Business Administration.

Scale The proportional relationship between the dimensions of a drawing, plan, or model to the dimensions of the physical object it represents.

***Example**:* A subdivision plan is prepared at a scale in which 1 inch equals 1,000 feet. A distance of 1 inch on the drawing is intended to signify 1,000 feet on the site.

***Example**:* A scale model of a building has a scale of 1 to 25. Each inch on the model represents 25 inches on the actual building.

Scarcity The number of properties in relation to the demand. One of the four essential elements which create value.

Scarcity Deposit A deposit or a fee that the landlord requires the tenant to pay at the beginning of the tenancy to protect the landlord, for example, if the tenant moves out owing rent, or leaves the rental unit damaged or less clean than when the tenant moved in.

Scenic Easement An encumbrance on the title to a property to preserve it in a more-or-less natural or undeveloped state. *See* Easement.

Scheduled Gross Income Maximum income that can be derived from rent schedules. Does not account for vacancy factor.

Scienter Knowledge of facts being misrepresented. An essential element of fraud.

Scrap Value The value of a building based on the value of the material alone. For example, walls have value for their bricks and wood.

Scratch Coat The first coat of plaster applied to the lath which is scratched to provide a bond for the next coat.

Screen An improvement whose primary purpose is to hide or conceal something from view.

A sheet of woven fabric or metal material that is used to cover doors and windows to keep out insects.

Scribing Fitting woodwork to an irregular surface.

Scuppers Openings in the wall above the roof that allow water to run off the roof.

Sea Level The level of the sea at mean tide.

Seal An Impression made to attest the execution of an instrument.

Seasonal Fluctuations Fluctuations in economic activity that occur every year at about the same time.

Seasonal Homes Homes intended for seasonal or other than year-round occupancy.

Seasoned Loan A loan that has been in existence long enough to show a pattern of payments.

Seasoned Mortgage A mortgage that has been in existence for a period of time during which the borrower has a record of making timely payments.

SEC Securities and Exchange Commission.

Second Home A residence that is not one's principal residence. Under the Tax Reform Act of 1986, a taxpayer may deduct interest on 2 personal residences.

***Example**:* Senator Goodwill maintains his principal residence in Hometown, Iowa, and a second home in Washington, DC He is allowed to deduct interest paid on both as an itemized deduction.

Second Mortgage A subordinated lien, created by a mortgage loan, over the amount of a first mortgage. Second mortgages used at purchase to reduce the amount of a cash down payment or in refinancing to raise cash for any purpose. *See* Subordination.

***Example**:* A house costs $100,000. Available financing is a mortgage loan covering 80% of value, or $80,000. The required cash down payment is $20,000. A second mortgage is available for an additional $10,000 of value, reducing the down payment to $10,000. The second mortgage will generally carry a higher interest rate than the first mortgage to reflect the inferior position and greater risk of the second mortgage.

Secondary Data See Primary data.

Secondary Em- Employment in a non-base activity.

ployment

Secondary Financing A loan secured by a junior mortgage or trust deed on real property. These can be third, fourth, fifth, sixth mortgages or trust deeds on and on ad infinitum.

Secondary Mortgage Market Place where existing loans are bought and sold.

Secret Profit Any compensation given to an agent beyond that accounted for the principal.

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

Section 1031 The section of the Internal Revenue Code that deals with tax-deferred exchanges of certain property. General rules for a tax-deferred exchange of real estate are: The properties must be: 1) exchanged or qualify as a delayed exchange. 2) like-kind property (real estate for real estate). 3) held for use in a trade or business or held as an investment. *See* also Boot.

***Example**:* Under Section 1031, Huang trades her appreciated land for Lee's shopping center. Equities are the same. Hang's adjusted tax basis in the land becomes her adjusted tax basis in the shopping center.

Section 1034 The section of the Internal Revenue Code dealing with sales of personal residences. Generally, there is no recognized gain or loss on the sale of a personal residence, provided another one is purchased within 2 years of the sale date of the old one. The new one must cost at least as much as the adjusted sales price of the old one (sales price, less expenses of sale, less fixing-up expenses).

***Example**:* Under Section 1034, Chen can defer tax on the $10,000 gains on the home he sold for $65,000 by buying a new one that costs more.

Section 1221 The part of the Internal Revenue Code that defines a capital asset. It actually states what is not a capital asset.

Example*:* Under Section 1221 the following are *not* capital assets:

- inventory (such as lots of a subdivider),
- receivables collected in the course of business (such as notes received from the sale of lots by a subdivider),
- copyrights and the like held by the creator or certain other parties,
- certain U.S. securities,

The following are capital assets:

- the personal residence that one owns,
- raw land held as an investment,
- mortgages held as investments.

Note: The importance of capital gains has been diminished by the Tax Reform Act of 1986 which applies the same tax rate to capital gains after 1987 as it does to ordinary income. However, there remain important distinctions as to capital loss limitations, so Section 1221 remains relevant.

Section 1231 The section of the Internal Revenue Code that deals with assets used in a trade or business. Generally, gains on Section 1231 assets are taxed at capital gains rates (except for depreciation recapture) and losses are tax deductible as ordinary income. *See* also Section 1245, Section 1250.

Example*:* Section 1231 assets include:

◆ vehicles used in business, ◆ machinery used in business, ◆ hotels, office buildings, warehouses, apartments.

Section 1245 The section of the Internal Revenue Code dealing with gains from personal property on which depreciation had been claimed. Generally, gains are taxed at capital gains rate except to the extent of depreciation

claimed. Note: The Tax Reform Act of 1986 provides the same tax rate for ordinary income as for capital gains after 1987. Therefore the nature of the gain has diminished in importance, though Section 1245 remains in the Internal Revenue Code.

Section 1250 The section of the Internal Revenue Code dealing with gains from real estate on which accelerated depreciation had been claimed. Under the Tax Reform Act of 1986, the tax rate for ordinary income is the same as for capital gains after 1987, and straight-line depreciation is mandated for most buildings. Consequently, the importance of Section 1250 has been minimized. Under prior law, gains on residential property were generally treated as capital gains except to the extent of accelerated depreciation claimed. Gains on nonresidential property on which accelerated depreciation was claimed were all recaptured to the extent of gain or depreciation, whichever is less.

Section 167 The part of the Internal Revenue Code that deals with depreciation.

Example: Improvements to real estate are depreciable in accordance with Section 167 of the Internal Revenue Code.

Section 8 Housing Privately owned rental dwelling units participating in the low-income rental assistance program created by 1974 amendments to Section 8 of the 1937 Housing Act. Under the program, landlords receive rent subsidies on behalf of qualified low-income tenants, allowing the tenants to pay a limited proportion of their incomes toward the rent.

Example: A landlord elects to participate in the Section 8 housing program. A prospective tenant's income is $800 per month—low enough to qualify for the program. A fair market rent for the unit is established by the Department of Housing and Urban Development as $200 per month. The tenant pays 20% of income, or $160 per month, and HUD supplements $40 per month to the landlord.

Secured Party This is the party having the security interest. Thus the mortgagee, the conditional seller, the pledgee, etc., are all now referred to as the secured party. (Uniform Commercial Code.)

Securities And Exchange Commission (SEC) The federal agency created in 1934 to carry out the provisions of the Securities Exchange Act. Generally, the agency seeks to protect the investing public by preventing misrepresentation, fraud, manipulation, and other abuses in the securities markets.

***Example**:* The Securities and Exchange Commission requires their review of proposed public offerings of securities, registration of listed securities, and other matters. They do not, however, guarantee the investor against loss.

Securitization The process of creating a security marketable in the capital markets and backed by a package of assets such as mortgage loans. *See* Real Estate Mortgage Investment Conduit, Mortgage Pools, Collateralized Mortgage Obligation.

***Example**:* Mortgage loans insured by the Federal Housing Administration are good assets for securitization. A lender can organize pool of such loans and create a collateralized mortgage obligation for sale to investors.

Security Property that serves as collateral for a debt.

***Example**:* Real estate serves as security for a mortgage loan. In the event of default on the loan, the lender may sell the property to satisfy the debt.

A document that serves as evidence of ownership.

***Example**s:* The following are securities:

◆ common and preferred stocks, ◆ bonds, ◆ mortgages.

The Securities and Exchange Commission defines limited partnership interests and condominiums and cooperatives in certain situations as securities.

Security Agreement An agreement between the secured party and the debtor which creates the security interest.

Security Deposit A cash payment required by a landlord, to be held during the term of a lease to offset damages incurred due to actions of the tenant. Such damages may include physical damage to the property, theft of property, failure to pay back rent and breaking the lease. Forfeiture of the deposit does not absolve the tenant of further financial liability. Laws in most states require landlords to hold the deposit in a separate account and refund the amount within a specified time after termination of the lease.

***Example**:* A landlord requires a security deposit equal to one month's rent, payable at the signing of the lease. An additional deposit is required for tenants with pets. At termination of the lease, the landlord inspects the rented unit. If there is no reason for forfeiture, the landlord refunds the deposit within 30 days.

Security Device Document used when property is used as security for a loan. Trust deed, mortgage, land contract.

Security Interest An interest in real estate in which the real estate serves as collateral. A term designating the interest of the creditor in the property of the debtor in all types of credit transactions. It, thus, replaces such terms as the following: chattel mortgage, pledge, trust receipt, conditional sale, lien, etc.

***Example**:* A mortgage lender holds a security interest in real estate. He doesn't own the real estate, but does have a lien against it.

See-Through Building A vacant building.

***Example**:* The term originated with overbuilt glass office buildings in Houston during the late 1980s. Without tenants or furniture, looking from the outside you could see right through the glass facades of these buildings.

Seed Money Amounts needed to begin a real estate development, prior to being able to borrow under a mortgage loan. Required costs include those for a feasibility study, loan application and loan commitment fees, attorney and accountant fees, land option costs, and others. *See* Front Money.

***Example**:* To begin a $2,000,000 condominium development, about 2% of the total cost is needed as seed money.

Seepage Pit A covered pit with open-jointed lining through which septic tank effluent may seep or leach into surrounding porous soil.

Seisin (Seizin) The possession of realty by one who claims to own a fee simple estate or a life estate or other salable interest. *See* also Ownership Rights To Realty, Title.

***Example**:* Seisin is used to describe the possession of real estate by one who claims a freehold interest.

Seller's Market Economic conditions that favor sellers, reflecting rising prices and market activity. Contrast with buyer's market.

***Example**:* Seller's markets in real estate are often caused by: ◆ population influx, ◆lower interest rates, ◆ lack of building activity.

Seller Financing A debt instrument taken back by the seller as part of the purchase price for a property. Such financing is used as an inducement to a sale when normal third-party financing is expensive or unavailable and in situations where the existing, first-lien loan may be assumed by the buyer but the difference between the existing debt and sales price exceeds the cash resources of the buyer. Seller financing may be in the form of a senior mortgage or a junior mortgage.

***Example**:* The Chu's offer their home for sale with an asking price of $100,000. The existing mortgage may be assumed by the buyer and has a principal of $40,000. One buyer offers to meet the Chu's price on the condition that they provide seller financing in the form of a second mortgage of $40,000 subordinated to the existing loan. Another buyer will pay the asking price if the Chu's take back a note for $75,000 in addition to $25,000 in cash.

Selling Agent In a co-brokerage sale, the agent who obtains the buyer and effects the sale rather than the agent who listed the property for sale.

Selling Broker (Agent) The licensed real estate broker (agent) that brings forth the buyer. Contrast with listing broker (agent).

***Example**:* Chen was the selling broker under a multiple listing agreement. He showed the property to Chu, the buyer. Chen will share the commission with the listing broker.

Semiannual Twice a year; same as biannual.

Semicircular Roof A curved roof that resembles an extended arch, used on barns or barracks type buildings.

Senior Mortgage Same as first mortgage.

Senior Real Estate Analyst The highest designation once awarded by the Society of Real Estate Appraisers. SREAs could exchange this designation for the MAI.

***Example**:* A complicated condemnation of multi-use properties required the service of an SREA.

Senior Real Property Appraiser Once awarded by the Society of Real Estate Appraisers to those qualified to appraise residential and income-producing property. SRPAs are offered an opportunity to become MAI's upon meeting further experience and examination requirements.

***Example**:* The SRPA is careful in estimating the market value of the subject office building. She considers all appraisal approaches before arriving at a value estimate.

Senior Residential Appraiser A person who is a Senior Residential Appraiser, a designation originally granted by the Society of Real Estate Appraisers for residential appraisers, now offered by the Appraisal Institute.

***Example**:* To assure that the appraiser was ethical and qualified, Good Money Savings Association engaged one with the SRA designation.

Sensitivity Analysis A technique of investment analysis whereby different values of certain key variables are tested to see how sensitive investment results are to possible change in assumptions. It is a method of evaluating the riski-

ness of an investment.

***Example**:* Sensitivity analysis was applied to a certain income property investment. It was found that forecasting a 15% vacancy rate produced a rate of return on investment of 16% versus an 18% rate of return for a 5% vacancy factor. On the other hand, varying the property's appreciation rate from 10% per year to 5% reduced the return from 20% to 4%.

Separate Property Property owned by a married person in his or her own right outside of the community interest including property acquired by the spouse (1) before marriage, (2) by gift or inheritance, (3) from rents and profits on separate property, and (4) with the proceeds from other separate property.

Septic Field See Leaching Field.

Septic System A sewage system consisting of a septic tank, distribution box and field, used in areas where sewers have not been installed.

Septic Tank An underground tank in which sewage from the house is reduced to liquid by bacterial action and drained off.

Sequestration, Writ Of The taking custody of one's property (real or personal) to force compliance with a court order.

Service Road See Frontage Road.

Servicing Loans Supervising and administering a loan after it has been made. This involves such things as: collecting the payments, keeping accounting records, computing the interest and principal, foreclosure of defaulted loans, and so on.

Servient Tenement Property burdened by an easement.

Set Back Ordinance An ordinance prohibiting the erection of a building or structure between the curb and setback line.

Set-Off A construction term relating to the reduction of the thickness of a wall or any recess or sunken panel of the wall.

In condemnation, the benefits to the remaining property may, in some jurisdictions, be set-off against the value of the land taken. For example, part of some land is taken for a freeway, and the residue may become more valuable because of the freeway. The increase value is set-off against the value of the land taken.

Setback The distance from the curb or other established line within which no buildings may be erected. *See* also Building Line.

Settlement Statement Same as closing statement.

Settling Compression of the soil due to the weight of the newly built structure upon it.

Severalty A property owned by one person alone.

Severalty Ownership Owned by one person only. Sole ownership.

Severance Partition or separation.

Severance Damages An element of value arising out of a condemnation to which a tract was a part.

***Example**:* The state highway department needed a strip of land 100 feet wide from the middle of Able's farm. They awarded $1,000 per acre for the land taken, plus $15,000 severance damages for Able's inconvenience in getting from one side of the highway to the other.

Sewage Liquid or soil wastes.

Sewer A system of pipes, containments, and treatment facilities for the disposal of plumbing wastes.

***Example**:* A sanitary sewer collects waste water from individual buildings and homes, for treatment and disposal at a public facility.

***Example**:* To prevent flooding, a storm sewer collects water drainage from streets and other surfaces.

Sewer Line Easement An easement for the construction and operation of a sewer.

Shake A hand-split shingle used as roofing or siding.

Shared Appreciation Loan A loan combining a stated interest rate with an interest in the value of the property.

Shared Appreciation Mortgage A residential loan with a fixed interest rate set below market rates, with the lender entitled to a specified share of appreciation in property value over a specified time interval. Loan payments are set to amortize the loan over a long-term maturity, but repayment is generally required after a much shorter term. The amount of appreciation is established by sale of the home or by appraisal if no sale is made.

***Example**:* Lee obtains a shared appreciation mortgage. The interest rate on the loan is 10%, with the lender receiving 1/3 of any appreciation after 10 years. At the end of 10 years, Lee does not wish to sell the home. An appraisal is made to establish the appreciation amount. Lee must retire the loan by refinancing with a new loan the amount of the unpaid balance plus the appreciation share.

Shared Equity Mortgage A home loan in which the lender is granted a share of the equity, thereby allowing the lender to participate in the proceeds from resale. After satisfying the unpaid balance of the loan, the borrower splits the residue of the proceeds with the lender. Shared equity plans often require the lender to buy a portion of the equity by providing a portion of the down payment.

***Example**:* Chen obtains a shared equity mortgage from a mortgage banker. The lender provides one half of the necessary down payment. Chen makes loan payments on a fixed-rate, level payment basis. At resale, Chen and the lender split the proceeds after repayment of the balance of the loan.

Sheathing Structural covering made of boards, plywood, or wallboards usually placed over exterior studding or rafters of a house

Shed Roof One having a single, sloped side.

Sheetrock A trade name for gypsum wallboard.

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

Sheriff's Sale A sale of property that is made by a sheriff as a result of a court order in a foreclosure.

Shingles Thin, tapered, oblong pieces of wood or other material used as wall and roof covering.

Shiplap A type of close, rabbeted joint used to join two boards together.

Shoe Or Sole The bottom framing piece of a stud wall laid on top of the rough flooring in platform framing. Also a type of molding trim used to cover the junction of the floor and wall.

Shopping Center A collection of retail stores with a common parking area and generally one or more large department, discount, or food stores; sometimes including an enclosed mall or walkway. *See* also Anchor Tenant.

Short Form An instrument, seldom more than 2 pages, that refers to another document. The short form is often recorded in lieu of a cumbersome longer document.

***Example**:* The Giant Development Company leased part of a shopping center to ABC Department Store. The lease required 150 printed pages. A short-form lease was recorded.

Short-Lived Items The portions of a structure that have a shorter expected economic life than the rest of the structure.

Short-Term Capital Gain Gain on the sale of a capital asset that was held, generally, for less than 6 months. A taxpayer's short-term capital gains and losses are merged, the net is then merged with net long-term capital gains.

***Example**:* An investor sold land that was owned for 4 months at a $10,000 profit. The sale was the investor's only capital transaction

that year, so the $10,000 short-term capital gain is added to ordinary income.

Short-Term Lease A lease with a term under five years and usually not over ten years.

Siding 1. Lumber, aluminum, asphalt, etc., used to surface exterior walls

2. Railroad track connected to the main track used for loading, unloading, etc.

Sight Deposit *See* Demand Deposit.

Sight Line Easement An easement that protects the line of sight over an adjoining property from being obstructed by a building, tree or shrub.

Signature The act of putting down a person's name, mark, or symbol, with the intent that it will attest the validity of a written instrument.

Sill The lowest part of a frame house that rests on the foundation. (Mudsill).

Silt Soil grains ranging from .05 to .002 mm in diameter.

Simple Interest A method of calculating the future value of a sum assuming that interest paid is not compounded, i.e., that interest is paid only on the principal. *See* also Compound Interest.

Single-Family Housing A type of residential structure designed to include one dwelling. Adjacent units may share walls and other structural components but generally have separate access to the outside and do not share plumbing and heating equipment.

Examples: Single-family housing includes: ◆ detached housing units, ◆ town houses, ◆ zero lot line homes.

Sinking Fund Fund set aside from the income from property which, with accrued interest, will eventually pay for replacement of the improvements.

Sinking Fund Factor A factor that is used to calculate the amount per period that will have to be deposited at a given interest rate in order to obtain a specified amount in a given number of years. The amount per period is determined by multiplying the desired amount by the factor.

SIOR Society of Industrial and Office Realtors.

Siphon Action Toilet A toilet in which the flushing action is assisted by a jet of water.

SIR Society of Industrial Realtors.

Site A plot of land prepared for or underlying a structure or development. The location of a property.

Site Analysis The study of a site and its surroundings to determine its suitability for a specific purpose.

Site Assessment (Environmental) An evaluation of a site, prior to acquisition of title to the property, for the existence of hazardous waste. Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, anyone acquiring title to a site is responsible for environmental damages resulting from hazardous wastes on the site. However, there are legal defenses for landowners who could proper site assessments prior to acquisition.

***Example**:* A CERCLA site assessment may be conducted in two phases. A phase I assessment involves research into previous uses of the site and whether a hazardous waste conditions is likely to exist. If evidence from this phase suggest a problem, a phase II assessment is conducted to discover the extent of the problem. Either assessment requires the use of an environmental consultant and special legal counsel.

Site Development Improvements, such as utility installation, that must be made to a site to make it suitable for construction.

Site Development Cost The cost involved in preparing a site for use.

Site Plan A document which describes how a parcel of land is to be improved. It includes the outlines of all structures and site improvements, such as

driveways, parking lots, landscaping and utility connections.

Example: The site plan indicates that the office tower will be set back 100 feet from the street and be surrounded by surface parking for 2,000 cars.

Situs Same as Location; Land.

Six Functions Of One Dollar The compound interest functions in the standard set of compound interest tables.

Slab A concrete, ground-level floor that is part of the foundation.

Slab-On-Ground A type of basementless foundation made by pouring concrete directly on the prepared ground surface and over the top of the footings.

Slag Wool See Mineral Wool.

Slander Of Title False and malicious statements disparaging an owner's title to property and resulting in actual pecuniary damage to the owner.

Sleeper 1. A horizontal timber to which flooring is nailed.

2. Any horizontal timber used to distribute and support weight.

Slope Ratio The incline of a slope expressed in terms of horizontal distance per unity of vertical rise or fill. For example, 2 feet horizontal to 1 foot vertical would be designated as 2 to 1 or 2:1.

Slump Degree of wetness of concrete related to workability, i.e., a consistency measurement.

Small Business Administration (SBA) A federal government agency in Washington D. C., that encourages small business.

Example: The SBA offers low-interest rate loans to qualified businessmen and businesswomen. Address: Small Business Administration, 1441 L Street NW, Washington, DC 20416

Small Loan Law Statutory limitations on the charges and commissions allowable for certain types of loans negotiated by a real estate licensee.

Smoke Chamber A large space over the damper that prevents smoke from backing up into the fireplace.

Smoke Shelf A part of a fireplace that prevents cold air from flowing inside of a chimney into the fireplace.

SMSA Standard Metropolitan Statistical Area.

Social Obsolescence Legal charge against real estate by a public authority to pay cost of public improvements such as street lights, sidewalks, street improvements, etc.

Society Of Industrial And Office Realtors An organization, affiliated with the National Association of Realtors, whose members are mainly concerned with the sale of warehouses, factories, and other industrial property. Confers SIOR designation. Address: Society of Industrial and Office Realtors, 777 14th Street NW, #400, Washington, DC 20005-3279.

Society Of Real Estate Appraisers An organization that merged with the American Institute of Real Estate Appraisers in 1991 to form the Appraisal Institute.

Soffit The exposed undersurface of an arch, stairway, balcony, lintel, or vault.

Soft Market A market in which demand has shrunk or supply has grown faster than demand and in which sales at reasonable prices have become more difficult; a buyer's market.

Example: In a soft market, a buyer or lessee is able to negotiate a better deal.

Soft Money In a development or an investment, money contributed that is tax-deductible.

Example: Equity required for a development is $100,000, of which 50% is promised to be tax-deductible and therefore is soft money. 2. Sometimes used to describe costs that do not physically go into construction, such as interest during construction, architect's fees, legal fees, etc.

Soil Bank Land held out of agricultural production in an effort to stabilize commodity prices and promote soil conservation. Subsidies to farmers participating in the soil bank program are provided by the U.S. Department of Agriculture.

***Example**:* A farmer normally plants her land in corn. To avoid a surplus of corn production, the federal government pays the farmer to hold the land out of production for a year. The farmer is participating in the soil bank program.

Soil Map A map that shows the location and type of soils in a given area.

Soil Pipe Pipe carrying waste out from the house to the main sewer line

Soil Porosity The degree to which soil is porous, expressed as the percentage of the total volume that is unfilled by solid materials.

Soil Stack The vertical pipe that receives waste from all the plumbing fixtures and appliances.

Solar Easement An easement created for solar heating units.

Solar Energy Energy derived from the sun, collected by pipes or flat metal sheets that are treated to increase their ability to absorb heat. The heat is then distributed through a standard heating system or one built especially for solar energy.

Solar Heating *See* Active Solar Heating, Passive Solar Heating.

Soldiers' and Sailors' Civil Relief Act Federal statutes limiting legal actions and remedies that may be taken against members of the military.

Sole Proprietorship Ownership of a business, with no formal entity as a vehicle or structure. Contrast with corporation, limited partnership, partnership.

***Example**:* Jessica goes into the real estate appraising business with all business activities in her own name and no partners. She is a sole proprietor.

Sonic Pertaining to sound.

Southern Colonial A large, early-American-style, 2- or 3-story frame house with a characteristic colonnade extending across the front. The roof extends over the colonnade.

Southwest Plan An effort by the Federal Home Loan Bank to reconcile the problem of insolvent savings and loan associations in Texas in the late 1980s. Under the plan, insolvent S&Ls were placed under a consignment program through which they continued to operate with management assigned by the FSLIC. The plan was terminated by the passage of FIRREA.

Span The distance between two terminals of a construction.

The distance between structural supports, such as walls, columns, girders and piers.

Spanish Tile A type of interlocking tile. See also Mission Tile.

Spanish Villa A Latin-style, asymmetrical, 1- to 3-story house with painted stucco exterior walls and red tile roof.

Spec House A single-family dwelling constructed in anticipation of finding a buyer.

Example: Lee, a developer, is convinced there is local demand for 3-bedroom houses priced in the $80,000 range. Lee therefore constructs a number of spec houses and mounts a marketing campaign.

Special Agent One who is engaged to act for another, with limited authority.

Example: A real estate broker, engaged by an owner to find a buyer, is considered a special agent of the owner.

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

In a common interest subdivision, a charge, in addition to the regular assessment, levied by the association against owners in the development, for unanticipated repairs or maintenance on the common area or

capital improvement of the common area.

Special Benefits The benefits received by the remaining untaken portion of a property that has been condemned for a public improvement. The benefits are caused by the construction of the improvement.

Special Exception (zoning) Special exceptions in typical zoning codes to allow certain uses in a zone that do not fit the predominant permitted use. For example, a school, drugstore or religious facility might be desirable exceptions in a one- or two-family zone. A special exception must be granted unless the zoning board can show that the proposed use may be harmful. A variance, on the other hand, is only granted when hardship can be proven.

Special Power Of Attorney A written instrument whereby a principal confers limited authority upon an agent to perform certain prescribed acts on behalf of the principal.

Special Purpose Property A building, such as a hospital or church, limited by its design to one purpose.

Special Use Permit A right granted by a local zoning authority to conduct certain activities within a zoning district. Such activities are considered conditional uses, which are permitted within the zone only upon special approval of the zoning authority. Also termed a **"**Conditional Use Permit.**"**

Example*:* A local government allows, as a conditional use, the operation of parking lots within its high-density residential zoning districts. A landowner wishing to operate a parking lot must obtain a special use permit following review of the plans of the development.

Special Warranty Deed A deed in which the grantor limits the title warranty given to the grantee to anyone claiming by, from, through, or under him, the grantor. The grantor does not warrant against title defects arising from conditions that existed before he owned the property. *See* Warranty Deed.

Example*:* Because of bankruptcy of its owner, a property goes under trusteeship. When the property is sold to satisfy creditor claims, the trustee conveys a special warranty deed to the buyer. This provides the buyer with warranty against claims incurred only during the time

the property was held by the trustee.

Special-Function Town A town whose employment concentrates on one special service or purpose.

Specialist In Real Estate Securities A professional designation awarded by the Real Estate Securities and Syndication Institute. Qualification is based on experience, education, examination, and demonstration of expertise in preparing a syndication report.

Specific Lien A lien which affects only a particular parcel of property.

Specific Performance An action to compel performance of an agreement, e.g., sale of land as an alternative to damages or rescission.

Specific Performance An action to compel performance of an agreement (e.g. sale of land).

Specifications Detailed instructions provided in conjunction with plans and blueprints for construction. Specifications may stipulate the type of materials to be used, special construction techniques, dimensions, and colors.

Example: The building specifications state that: ◆number 3 lumber shall be used for all framing, ◆studs are to be on 16-inch centers, ◆all exterior surfaces shall be painted white.

Speculator One who invests with the anticipation that an event or series of events will occur to increase the value of the investment.

Example: The value of single-family houses has been appreciating rapidly for several months. Wang, a speculator, purchases several houses in anticipation that this rapid rate of appreciation will continue.

Spendable Income Same as after-tax cash flow.

Spite Fence A fence over a certain height intended to harass a neighbor.

Split Entry A house type in which the basement is raised out of the ground to give the basement greater light and make it usable as living space.

Split Rate An appraisal term for a capitalization rate that is made up of two different rates. One rate is for the land portion of the property and the other is for that income that is produced by the improvements.

Split-Level Also called tri-level; a popular style of home, best suited for side-to-side slopes, in which a 1-story wing is attached between the levels of a 2-story wing.

Spot Zoning The act of rezoning a parcel of land where all surrounding parcels are zoned for a different use, in particular where the rezoning creates a use which is incompatible with surrounding land uses. Spot zoning is generally disallowed in the courts.

Spouse A husband or wife.

Spread 1. The difference between the bid price and asking price.

Example*:* The buyer offers to pay $1,000 per acre, but the seller asks $1,300. The spread is $300.

2. The difference between the cost of money and the earnings rate.

Example*:* Good Money Savings and Loan pays an average interest rate of 10% to its depositors. It earns an average of 12% on its investments. The 2-point spread is adequate to pay operating expenses and leave some profit.

Spreading Agreement An agreement that extends the collateral of a loan to include several properties.

Example*:* Chen owns 7 shopping centers; all have first mortgages. He wants to borrow $5 million from a lender. The lender insists he sign a spreading agreement that gives a second lien on all 7 shopping centers.

Square 1. In the Rectangular Survey System, an area sometimes called a check, which measures 24 miles by 24 miles.

2. In roofing or siding, 10' x 10' (100 sq. ft.)

Square Foot Method A method for estimating the cost to reproduce or replace improvements where the square foot area of the improvements is multiplied by their cost per square foot.

Square Footage The area, measured in square feet, of a piece of real estate. Generally measured from outside the exterior walls in the case of structures.

***Example**:* The outside dimension of a rectangular home is 40 x 50 feet. Its square footage is 2,000.

Squatter's Rights The legal allowance to use the property of another in absence of an attempt by the owner to force eviction; this right may eventually be converted to title to the property over time by adverse possession, if recognized by state law.

***Example**:* Various poor families take up residence in a vacant building, acquiring squatter's rights. Since ownership of the property is uncertain, no one attempts to evict the families.

SRA Designates a person who is a member of the Society of Real Estate Appraisers.

SREA Society of Real Estate Appraisers.

SRPA *See* Senior Real Property Appraiser.

Stabilized Expenses An appraisal term for the projected expenses shown in the operating statement used in the cost approach to value which are adjusted to show the expenses for a typical year rather than for a specified year.

Stabilized Income An appraisal term for the projected income of a property in a typical year rather than in any specific year.

Stable Mortgage A mortgage loan instrument that combines fixed and adjustable rates in the same loan. The rate applied to the loan is a blend of a fixed rate and a rate that varies according to an index. The loan is a creation of General Electric Capital Mortgage Service, Inc. and FNMA.

***Example**:* There are two versions of the stable mortgage: one with a

50/50 mix and one with a 75/25 mix of fixed and adjustable rates. If the loan is originated at an interest rate of 9% and the index justifies changing to the adjustable portion of the ratio to 10%, the 50/50 option would carry a rate of 91/2%, while the 75/25 option would adjust to 91/4%.

Stable Phase Second phase in the cycle of a neighborhood, marked by stability of the existing buildings and occupants.

Stagflation An economic condition where economic growth is stagnant and there is a large price inflation.

Stainless Steel A strong alloy of steel that has a large percentage of chromium to which other alloys may be added and is highly resistant to rust and corrosion.

Standard Depth Generally the most typical lot depth in the neighborhood.

Standard Deviation A measure of the extent of variability in a sample, that is, whether the observations are clustered near the mean or scattered throughout the range. The square root of the sum of the squared differences between each observation and the mean of all observations, divided by the total number of observations. In an appraisal, each sale price, for example, could be considered an observation.

Standard Metropolitan Statistical Area According to the Bureau of Census, cities and their suburbs that have a population of 50,000 or more.

Standard Parallels East-West survey lines, which establish township boundaries at 24-mile intervals and correct inaccuracies due to the curvature of the earth.

Standard Subdivision A subdivision composed of improved or unimproved lots or parcels.

Standby Commitment The mortgage banker frequently protects a builder by a "standby" agreement under which he agrees to make mortgage loans at an agreed price for many months in the future. The builder deposits a "standby fee" with the mortgage banker for this service. Frequently, the mortgage

banker protects himself by securing a "standby" from a long-term investor for the same period of time, paying a fee for this privilege.

Standby Fee The sum required by a lender to provide a standby commitment. *See* Standby Loan. The fee is forfeited should the loan not be closed within a specified time.

Example: A developer obtains a standby loan on a project to be developed. The developer hopes interest rates will decline during the construction period so that permanent financing may be arranged with terms better than those on the standby loan. However, a permanent loan commitment is required to obtain a construction loan. The developer pays a standby fee to compensate the lender for making the standby loan commitment. At the completion of construction, the developer has the option of exercising the standby commitment or forfeiting the fee.

Standing Timber Uncut timber; trees.

Stare Decisis To stand on a decision. Binding precedent.

Starter Strip The first layer of roofing material attached along a line adjacent to the eaves.

Starts The number of houses or other real estate ventures on which construction has begun in a specific period of time.

Statute A law enacted by a legislative body.

Statute Of Frauds State law which provides that certain contracts be in writing in order to be enforceable by law.

Statute Of Limitations A state law which prevents court action by an injured party in a contract if not taken within specific time limits.

Statutory Foreclosure A foreclosure proceeding not conducted under court supervision. Contrast with judicial foreclosure.

Example: In many states, deeds of trust are used as mortgage instruments. In these cases, foreclosure sales are handled through a

trustee acting according to the law and the stipulations of the mortgage contract. This process is a type of statutory foreclosure.

Statutory Right Of Redemption The legal right of a mortgagor to redeem the property after it has been sold at a foreclosure sale. This right is granted by state law for a limited period of time, depending on the state.

***Example**:* In Alabama, a debtor has up to one year after foreclosure to regain possession of the property by paying up all indebtedness. In Texas, no such statutory right of redemption exists, so that all foreclosure sales are final unless overturned by the courts on procedure.

Statutory Warranty Deed A short term warranty deed which warrants by inference that the seller is the undisputed owner, has the right to convey the property, and will defend the title if necessary. This type of deed protects the purchaser in that the conveyor convenants to defend all claims against the property. If conveyor fails to do so, the new owner can defend said claims and sue the former owner.

Statutory Will A will in a form prescribed by statute Z

Steering An illegal practice of limiting the housing shown to a certain ethnic group.

The process of influencing a minority's choice of housing. The agent recommends neighborhoods that he feels would be best for the prospective minority buyer. The process is often illegal, no matter how well-intentioned the agent is.

***Example**:* Though the minority couple wanted to be shown all available rental housing that they could afford, the agent steered them from certain neighborhoods.

Step Loan The type of adjustable-rate mortgage for which the interest rate is adjusted only once during the term of the loan. Therefore, the loan shares

some of the features of both fixed-rate and adjustable-rate loans.

***Example**:* A typical step loan features a fixed interest rate for the first 7 years of the term. The interest rate is then adjusted according to an index to better match current market interest rates. Some loan also have caps that limit how much the interest rate may be raised.

Step-Up Lease *See* Graduated Lease.

Stepped-Up Basis An income tax term used to describe a change in the adjusted tax basis of property, allowed for certain transactions. The old basis is increased to market value upon inheritance, as opposed to a carry-over basis in the event of a tax-free exchange.

***Example**:* Lee dies, leaving land worth $100,000. The land was purchased for $20,000, but the heirs receive a stepped-up basis to the fair market value at death. The $80,000 unrealized gain to Lee escapes capital gains tax.

Stile 1. An upright structural member of a frame, door, or window sash, synonymous with a rail.

2. A series of steps for crossing a fence or wall.

Stipulations The terms within a written contract.

***Example**:* A sales contract contains stipulations concerning the type of financing the buyer must be able to obtain, the price, proration of closing cost between buyer and seller, and the date and location of the closing.

Stock Cooperative An indirect form of real estate ownership in which individuals own shares of a corporation, which in turn owns the real estate. Thus the individual owners cannot mortgage their units. The tenant's rights or interest in the cooperative is considered personal property.

Stock Cooperative Project A subdivision where title to the property is held by a corporation. Stockholders receive a right of possession of a particular apartment.

Stop Clause In a lease, stipulates an amount of operating expense above which the

tenant must bear. Often the base amount is the amount of expense for the first full year of operation under the lease.

***Example**:* The stop clause requires the tenant to pay all utilities in excess of $2,500 per year. If utilities are less than that amount, the landlord pays them.

Storm Sewers A sewer used to carry off excess rainwater and sometimes, industrial wastes, although this practice is now forbidden in many areas.

Straight Lease *See* Flat Lease.

Straight Line Depreciation When a structure is depreciated at a constant rate throughout its useful life.

Straight Line Method See Straight Line Depreciation.

Straight Line Recapture A method of recovering the capital invested in an asset over a specified period of time, calculated by dividing the total capital to be recovered by the number of years over which the capital is to be recovered. Each recovery amount is equal.

Straight Note A note in which the borrower repays the principal in a lump sum at maturity while interest is paid in installments or at maturity. (*See* Interest Only Note.)

Straight-Line Recapture Rate The part of a capitalization rate that accounts for the annual erosion of a wasting asset by assuming an equal amount of loss in value each year of the useful life of the asset.

***Example**:* A retail building's useful life is estimated at 50 years. The straight-line recapture rate is 2% per year, which will recover the asset cost over its estimated useful life. The 2% should be added to the discount rate to derive the capitalization rate.

Straw Man One who purchases property that is, in turn conveyed to another for the purpose of concealing the identity of the eventual purchaser.

***Example**:* A developer is assembling land, for a subdivision, from a

large number of individually owned plots. To avoid the possibility that a few landowners will hold out for high prices, the developer uses straw man to purchase the parcels. Agents of the developer purchase plots in their own names and later convey the land to the developer.

Street Improvements Improvements concerning street that are usually provided and maintained by local government, such as paving, sewers, or sidewalks.

Stretcher A brick, stone, or block laid in a wall so that its side is facing outward and is the exposed surface.

Strict Foreclosure A foreclosure proceeding in which the mortgagee has the right to possess the mortgaged property directly upon default on the mortgage agreement. This type of foreclosure is rarely used in contemporary markets.

Example*:* Under a strict foreclosure proceeding, the lender requested the court to order the delinquent borrower to pay the debt within the next 2 months. When the borrower failed to do so, the lender took possession of the property and canceled the indebtedness.

Strip Development Or Strip Shopping Center A form of commercial land use in which each establishment is afforded direct access to a major thoroughfare; generally associated with intensive use of signs to attract passers-by. Generally without an anchor tenant.

Structure Any constructed improvement to a site.

Examples*:* Structures include: ◆buildings, ◆ fencing and enclosures, garages, ◆gazebos, greenhouses, and kiosks, ◆ sheds and utility buildings.

Stucco A cement or plaster wall covering that is installed wet and dries into a hard surface coating.

Studs The vertical supporting timbers in the walls and partitions. maximum legally permissible distance is 16 inches.

Style Used in CTS System to describe the design of a house based on historical or contemporary fashion.

Subagency The relationship under which a sales agent tries to sell a property listed with another agent. This situation is common under a multiple listing service (MLS). A listing contract is taken by a listing broker and entered into the MLS, from which any member broker may sell the property. The listing broker and the selling broker split the commission.

Example: Any broker attempting to sell properties in the multiple listing service inventory does so under a subagency agreement stipulating the right to each agent to a portion of the commission.

Subagent A person upon whom the powers of an agent have been conferred, not by the principal, but by an agent as authorized by the agent's principal.

Subchapter S Corporation A corporation with a limited number of stockholders (35 or fewer) that elects not to be taxed as a regular corporation, and meets certain other requirements. Shareholders include, in their personal tax return, their pro-rata share of capital gains, ordinary income, tax preference items, and so on. *See* Passive Income.

Example: To avoid double taxation, the ABC Real Estate Corporation elects Subchapter S status. Its shareholders will include corporate income in their own tax return, whether or not they receive a dividend. The corporation itself will not pay an income tax, but will file a tax return.

Subcontractor One who performs services under contract to a general contractor.

Example: A general contractor agrees to construct a building for a developer. The contractor arranges with individual subcontractors who are specifically responsible to the contractor for performance of carpentry, plumbing, electrical, and masonry work.

Subdivider One who partitions a tract of land for the purpose of selling the individual plots. If land is improved in any way, the subdivider becomes a de-

veloper.

***Example**:* Huang, a subdivider, purchases a 100-acre tract of land. The tract is subdivided into 5-acre plots that are marketed to investors and developers.

Subdividing Dividing a tract of land into smaller tracts.

***Example**:* See subdivider.

Subdivision A legal definition of those divisions of real property for the purpose of sale, lease or financing which are regulated by law. For examples see: California Business and Professions Code, sections 11,000, 11,000.1, 11,000.5, 11,004.5, etc.; California Government Code, Section 66464; United States Code, Title 15, Section 1402(3).

Subdivision Map A map that must be submitted to the proper authority for approval in order to establish a subdivision.

Subjacent Support An owner's right to have the surface of his land supported by the land under it to prevent collapse. Mining, excavating, etc., on adjoining land might infringe upon this right.

Subject Property In appraisal, the property being appraised.

***Example**:* The subject property compares favorably with other homes in the neighborhood.

Subject To Acquiring property with an existing mortgage, but not becoming personally liable for the debt. Contrast with assumption of mortgage.

***Example**:* Chen bought land for $1,000 cash, subject to a $99,000 mortgage. If Chen defaults on the mortgage he will lose the cash down payment but is not responsible for the $99,000 debt.

Subject To Mortgage When a grantee takes a title to real property subject to mortgage, he is not responsible to the holder of the promissory note for the payment of any portion of the amount due. The most that he can lose in the event of a foreclosure is his equity in the property. *See* also "assumption of mort-

mortgage.**"**. In either case is the original make of the note released from his responsibility.

Sublease A lease give by a lessee.

A separate rental agreement between the original tenant and a new tenant to whom the original tenant rents all or part of the rental unit. The new tenant is called a 'subtenant'. The agreement between the original tenant and the landlord remains in force, and the original tenant continues to be responsible for paying the rent to the landlord and for other tenant's obligations. (Compare to assignment.)

Sublesse A person who subleases. See also Sublease.

Sublet *See* Sublease.

Subordinate To make subject to or junior to.

Subordinated Ground Lease A lease where the mortgage has priority over the ground lease.

Example*:* Lee holds a $3-million mortgage lien on a shopping center. The property owner, Jones, sells the land to Wang for $1 million and agrees to lease it back for $100,000 annual rent over 30 years. When Jones fails to pay Lee the interest due, Lee forecloses on the entire property. Because of the subordinated ground lease, Lee gains title to the land and building.

Subordination Moving to a lower priority, as a lien would if it changes from a first mortgage to a second mortgage.

Example*:* The land seller who held a first mortgage allowed subordination so the development loan could be arranged. In return the seller is promised mortgage retirement in 2 years.

Subordination Agreement An agreement by the holder of an encumbrance against real property to permit that claim to take an inferior position to other encumbrances against the property.

Subordination Clause Clause in a junior or a second lien permitting retention of priority. 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.

Subpoena A process to cause a witness to appear and give testimony.

Subrogation The substitution of another person in place of the creditor to whose rights he succeeds in relation to the debt. The doctrine is used very often where one person agrees to stand surety for the performance of a contract by another person.

Subsequent Purchaser for Value A purchaser for value in good faith and without notice of any adverse interest in the property purchased.

Subsidized Housing Housing for low- to moderate-income families for which families and the government pay for part of the rent or the government aids the developer with his loan interest cost so that the developer can charge lower rents.

Subsidy A payment made by the government to a farmer, real estate owner or tenant to help the party pay part of the cost to produce a product, finance a project, or use a product or property.

Subsidy Buydown Funds provided usually by the builder or seller to temporarily reduce the borrower's monthly principal and interest payment.

Substitution In appraisal, the principle that market value is indicated by the value of another property with similar utility. A typical buyer is assumed to be indifferent to substituting one property for the other.

***Example**:* By the principle of substitution, the market value of a property can be estimated by analyzing sales prices of comparable properties.

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 Same as mineral rights.

Suburb A town or unincorporated developed area in close proximity to a city.

Suburbs, largely residential, are often dependent on the city for employment and support services; generally characterized by low-density development relative to the city.

Suburban The area around a city that is usually residential. It is connected to the city either physically or economically.

Succession Acquiring property of a deceased person who died intestate.

Sum-Of-Years-Digits Depreciation In tax and accounting, a method of allocating the costs of an asset over its useful life. It requires a fraction to be computed each year, which is applied against the depreciable amount. The numerator is the number of years left to be depreciated. The denominator is the sum of the years digits of the depreciable life.

Summary Possession Same as eviction, actual.

Summation Approach *See* Cost Approach.

Summation Method One of the method used in estimating capitalization rate. It is used most often to estimate an interest rate rather than a note of capitalization. The rate is calculated by combining, or adding up, amounts for the separate theoretical elements that help determine the yield rates. Thus, such a rate is sometimes called a built-up rate.

Sump As part of a drainage system, a pit in the basement to collect excess moisture and liquids. To avoid flooding, a sump pump may be installed to remove accumulated water in the sump pit.

Sunking Fund Method A way to recover the value of an asset by establishing a sinking fund.

Sunspace A room, generally with glass walls and roof, designed to collect solar heat.

Example*:* By adding a sunspace to the south side of their home, the Jones were able to save money on their winter heating bills.

Superadequacy A component of real estate that is beyond what is needed in the structure. Anything that is built into the house that does not add value at least equal to its cost.

***Example**:* Air conditioning in an Alaskan home would be a superadequacy.

Supplemental Tax Lien The increase in property taxes allowed after transfer of title and before the next formal property tax assessment is made.

Supply And Demand, Law Of A theory which holds that price varies directly with supply, although not necessarily proportionally.

Supply And Demand, Principle Of Affirms that price or value varies directly, but not necessarily proportionally, with demand, and inversely, but not necessarily proportionally, with supply.

Surety One who guarantees the performance of another; guarantor.

Surety Bond A bond provided by an individual or company that guarantees to a third party that the principal party will act as agreed.

Surface Easement The right to use only the surface of the land, for such uses as for flowage or rights of way.

Surface Rights The right to use and modify the surface area of real property. In Texas, surface rights are subservient to mineral rights. In the absence of an agreement to the contrary, an oil driller who owns the mineral rights may operate anywhere on the surface of the property. *See* Air Rights.

***Example**:* Though the landowner retained the surface rights to the land, his ability to build was limited because he had sold off the air rights.

Surface Water Water from any source that appears in a diffused state with no permanent, continuous source of supply or regular course to flow along.

Surplus Productivity, Principle Of, Theory of It relates to the four agents of production: labor, coordination, capital and land. The basic idea is that the first three factors must be satisfied before allocating anything to the land. Land is last to be satisfied, which

is to say that any residual income is attributed to the land.

The net income that remains after the proper costs of labor, organization and capital have been paid, which surplus is imputable to the land and tends to fix the value thereof.

Surplus Profits Extra profit from a business or property that is above what is usually earned by similar properties or businesses which are often temporary.

Surrender The cancellation of a lease by mutual consent of the lessor and the lessee.

***Example**:* Lee rents a house under a 2-year lease. Lee is forced to move due to a job transfer. The landlord agrees to allow Lee to surrender the premises if Lee finds an acceptable new tenant.

Survey 1. The process by which a parcel of land is measured and its area ascertained.

2. The plan showing the measurements, boundaries, area, and contours.

Surveyor One who prepares surveys.

***Example**:* Prior to selling her property, Chu had to hire a surveyor to prepare a survey of the land.

Survivorship The right of a joint tenant or tenants to maintain ownership rights following the death of another joint tenant. Survivorship prevents heirs of the deceased from making claims against the property. *See* Joint Tenancy.

***Example**:* John and Jeff are brothers who own an apartment building, with the right of survivorship. When John dies, Jeff, through survivorship, becomes sole owner of the building.

Swell A shallow, open channel for the collection and disposal of excess surface water formed by intersecting slope bases.

Sweat Equity Value added to a property due to improvements as a result of work performed personally by the owner.

***Example**:* The Chen purchase an old house for $20,000. Working in their spare time, the Chen repair and repaint the structure to the point that the property is valued at $30,000. The $10,000 increment is sweat equity.

Sweetener Something included in a transaction to make it more acceptable.

***Example**:* The seller agreed to pay insurance for up to one year as a sweetener for the buyer.

Swing Loan Used to assist in purchase of replacement house before sale of original house is completed. *See* Bridge Loan.

Swiss Chalet A Swiss-style 11/2- to 21/2-story, gable roof house with extensive natural decorative woodwork on the exterior.

SYD Sum-of-years-digits (method of depreciation).

Syndicate A partnership organized for participation in a real estate venture. Partners may be limited or unlimited in their liability.

Syndication A method of selling property whereby a sponsor (or syndicator) sells interests to investors. May take the form of partnership, limited partnership, tenancy in common, corporation, or Subchapter S Corporation.

***Example**:* A syndication was formed whereby limited partnership interests were sold to investors. The partnership bought land with the equity raised.

Syndicator A person in business who sells an investment in shares or units.

***Example**:* Chu, licensed as both a real estate broker and a securities salesperson, is a syndicator. She contracts with investors to buy shopping centers, then sells partnership interests conveying ownership in the centers to 30 different investors.

Tacking Adding on to a time period.

***Example**:* A squatter was on property for 10 years, moved away for one year, then returned for 10 years. If he were allowed to tack both 10-year periods, his claim to squatter's rights to the land would be strong one.

Tackles Strips Metal strips with hooks placed under the edge of carpeting and fastened to the floor, stairs, etc.

Take Down To draw against funds committed by a lender, used in construction loans.

Take Out Commitment An agreement made by lender to grant a long-term loan on a property after its construction is finished.

Take Out Loan The loan arranged by the owner or builder-developer for a buyer. The construction loan made for construction of the improvements is usually paid from the proceeds of this loan.

Take Parcel The portion of a property acquired in partial taking by a governmental agency by eminent domain.

Takeout Financing A commitment to provide permanent financing following construction of a planned project. The takeout commitment is generally predicated upon specific conditions, such as a certain percentage of unit sales or leases, for the permanent loan to "takeout" the construction loan. Most construction lenders require takeout financing.

***Example**:* Young, a developer, applied for a construction loan on a small office building. The construction lender requires Young to obtain takeout financing in the form of a commitment from a permanent lender. The takeout loan will be granted following construction and leasing of at least 65% of net rentable area to creditworthy tenants.

Taking Acquisition of a parcel of land through condemnation.

***Example**:* The Highway Department acquires much of its right-of-way for new roads through takings. These are usually parcels whose

owners are unwilling to settle on a price through negotiation.

In land use law, application of police power restrictions to a parcel of land that are so restrictive as to preclude any reasonable use.

***Example**:* A local community zone is a parcel of land for agricultural use. The owner argues the land is unsuitable for growing crops but could be used for building homes. The owner's argument is the zoning is a taking of the property without just compensation, which is contrary to the Fourteenth Amendment to the U.S. Constitution.

Tandem Plan A program of the Government National Mortgage Association (GNMA) working together with the Federal National Mortgage Association (FNMA) to provide low-interest rate home loans.

***Example**:* Under the tandem plan, FNMA purchases qualified low-interest rate mortgages at a discount from GNMA. GNMA absorbs the loss as a subsidy to the qualified low-income home buyer.

Tangible Existing physically; that which can be touched.

Tangible Personal Property Personal property having substance that can be delivered from one person to another.

Tangible Property Physical objects and/or the rights thereto.

Tangible Value The appraisal value of the physical property, such as land and building, to be distinguished from intangible value, such as a favorable lease.

Tax A charge levied upon persons or things by a government.

***Example**s:* ad valorem tax, county tax, excise tax, income tax, property tax, sales tax, school tax, use tax.

Tax Abatement The decrease in the amount of tax improperly levied.

Tax And Insurance Escrow An account required by a mortgage lender to fund annual property tax assessments and hazard insurance premiums for the mortgaged property. Funded through monthly contributions by the mortgagor. *See* PITI.

***Example**:* When the mortgage loan was originated, a tax and insurance

escrow was set up by the lender to pay tax and insurance expenses. The borrower's monthly mortgage payment was increased by an amount necessary to accumulate a balance in the account sufficient to cover these expenses.

Tax Assessor *See* Assessor.

Tax Base The collective value of property, income or other taxable activity or assets subject to a tax. Tax revenues are computed as the tax base times the tax rate. For property taxation, the tax base is the total assessed value of all taxable property less exemptions.

Example: ABC plans to build a new plant in Center Town. The plant will add $15 million to the property tax base of the city.

Tax Basis Same as basis (tax); see adjusted tax basis.

Tax Bracket Marginal rate for income taxes; the percentage of each additional dollar in income required to be paid as income taxes.

Example: Chen is considering an investment that will produce $1,000 in taxable income for the next year. Chen's taxable income is currently $20,000, which places Chen in the 28% tax bracket. Thus, should Chen make the investment, $280 of the $1,000 will be paid in taxes.

Tax Credit A reduction against income tax payments that would otherwise be due. Contrast with tax deductions that reduce taxable income.

Examples: Tax credits that are available to real estate owners include: ◆ rehabilitation tax credits for older properties and historic structures, ◆ low-income housing.

Tax Deductible A type of expense that can be used to reduce taxable income. *See* Tax Deduction.

Example: Interest and ad valorem taxes are generally tax deductible for all types of property. Depreciation, repairs, maintenance, utilities, and other ordinary and necessary expenses are tax deductible for

income property.

Tax Deduction One that can be used to reduce taxable income. *See* tax deductible. Contrast with tax credit.

***Example**:* Chen has a $75,000 annual salary and $25,000 worth of tax deductions. Taxes for the year are figured on taxable income of $50,000.

Tax Deed The type of instrument given to a grantee by a government that had claimed the property for unpaid taxes.

***Example**:* The city acquired a parcel of land because the former owner failed to pay ad valorem taxes. The city then auctioned it. Lee, the highest bidder, received a tax deed as evidence of ownership.

Tax Exemption Exemption or partial exemption from the payment of property taxes granted to educational, religious, and similar groups and in certain states, to veterans and senior citizens.

Tax Foreclosure The process of enforcing a lien against property for nonpayment of delinquent property taxes. Taxing authorities hold a superior lien against all taxable property to enforce the payment of their taxes. *See* Foreclosure.

***Example**:* The owner of the old apartment house had failed to pay property taxes on the building for the past 2 years. The county was forced to pursue a tax foreclosure against the property and have it sold at auction.

Tax Free Cash Flow Cash income produced by a property that is tax free because it is sheltered by paper losses caused by depreciation.

Tax Free Exchange The trade or exchange of one real property for another without the need to pay income taxes on the gain at the time of trade.

Tax Levy The total income produced by a specified type of tax, such as a real estate tax.

Tax Lien A debt attached against property for failing to pay taxes.

***Example**:* A tax lien may be imposed for failing to pay the following taxes: city, county, estate, income, payroll, sales, school.

Tax Map A document showing the location, dimensions, and other information pertaining to a parcel of land subject to property taxes. Maps are generally bound into books and kept as public records at the local tax office.

Tax Participation A condition in a lease which states that the lessee pays all or part of the property taxes.

Tax Participation Clause A clause in a lease that requires the tenant to share tax increases levied against the property during the term of the lease.

Tax Penalty A sum to be paid due to non-payment of taxes.

Tax Preference Items Certain types of income or deductions that are added to adjusted gross income to calculate the alternative minimum tax.

***Example**s:* Tax preference items in 1987 and thereafter include:

- depreciation on real estate to the extent it exceeds 40-year straight-line depreciation,
- accelerated depreciation on leased personal property to the extent it exceeds straight-line depreciation,
- bargain element of an incentive stock option,
- certain rapid write-offs,
- losses from passive activity investment,
- certain itemized deductions (state and local income taxes, real estate taxes, medical expenses not greater than 10% of adjusted gross income),
- miscellaneous deductions in excess of 2% of adjusted gross income,
- all interest expense, except home mortgage interest and investment interest, to the extent of net investment income,

- interest on certain tax exempt bonds issued after August 7, 1986,
- the excess of value deducted over the cost of property given to charitable organization.

Tax Rate The ratio of a tax assessment to the amount being taxed.

Example*:* In a certain community, the tax rate for property taxes is $0.35 per $100 of assessed value. A home is valued at $20,000. A homestead exemption of $2,000 is allowed for this type of property. The tax collected is $0.35 x ($20,000-$2,000) / $100=$63.00.

Tax Roll The list of all properties subject to a tax in a county or other property taxing jurisdiction. It identifies all properties and indicates their assessed values.

Example*:* A tax roll was prepared by the county tax assessor's office, showing $100 million worth of assessed value in the jurisdiction. The county commissioners needed to collect $1 million of taxes to run the government this year, so they applied a 10 million tax rate to the tax roll.

Tax Sale Sale of property after a period of nonpayment of taxes.

Tax Service A fee paid to a tax service agency which each year reviews the record of taxing bodies and reports any delinquencies to the lender. The fee is usually.

Tax Shelter An investment that produces after-tax income that is greater than before-tax income. The investment may produce before-tax cash flow while generating losses to shield, from taxation, income from sources outside the investment.

Tax Stop A clause in a lease that stops a lessor from paying property taxes above a certain amount. *See* Escalator Clause, Stop Clause.

Example*:* The tax stop in the lease required the tenant to pay all property taxes in excess of $1,200.

Tax-Deferred Exchange A method of deferring capital gains by exchanging one or more properties for other like property.

Tax-Exempt Property Real property that is not subject, in whole or in part, to ad valorem property taxes.

Example: In many local communities, the following types of property are tax-exempt property: ◆ churches, ◆ government land and buildings, ◆ homesteads (in part), ◆ solar-powered heating systems.

Tax-Free Exchange An exchange of "like-for-like" properties for the purpose of deferring income tax.

Taxable Income Income that is subject to income tax.

Taxable Value *See* Assessed Value.

Taxing District The geographical area over which a taxing authority can levy taxes.

Teaser Rate A contract interest rate charged on an adjustable-rate mortgage for the initial adjustment interval that is significantly lower than the fully indexed rate at the time. It is an incentive to encourage borrowers to accept adjustable-rate mortgage loans. In general, the interest rate reverts to the fully indexed rate at the first adjustment date. *See* Fully Indexed Rate.

Example: An adjustable rate mortgage is indexed to the average contract rate for mortgage loans made by all lenders. Although the current average rate is 10%, the loan is offered at a teaser rate of 8%.

Tempered Glass Glass that is two to four times as strong as regular glass because it has been prestressed by heat and then quenched.

Tenancy The right of possession of real property. May refer to ownership or occupancy. *See* Tenancy In Common, Joint Tenancy.

Tenancy At Sufferance An estate held by a tenant when his right to possess the property has expired.

Tenancy At Will An estate for an indefinite period that may be terminated at the will of

either the landlord or the tenant.

Tenancy By The Entirety An estate that exists only between husband and wife with equal rights of possession and enjoyment during their joint lives and with the right of survivorship-i.e., when one dies, the property goes to the surviving tenant. Recognized in some states.

***Example**:* A married couple owns property as tenants by the entirety. Neither can convey his or her part of the property during their lives unless the other consents. A creditor of only one spouse is generally prevented from claiming property held by the other spouse in tenancy by the entirety. Divorced spouses become tenants in common. *See* Tenancy In Common.

Tenancy For Life Same as life estate.

Tenancy For Years Created by a lease for a fixed term, such as 2 months, 3 years, 10 years, and so on.

***Example**:* Big Buy Groceries leased a building for 10 years, beginning April 1, 1984, and ending March 31, 1994, 10 years later. The company has a tenancy for years.

Tenancy From Period To Period A leasehold estate continuing from period to period until the landlord or the tenant gives notice.

Tenancy From Year To Year Same as leasehold.

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

Tenancy In Partnership A title vesting which can be used by partners of a business when a business owns real property.

Tenancy In Severalty Ownership of property by one person or one legal entity (corporate ownership).

***Example**:* Chen owns land as a tenancy in severalty. He enjoys the absence of partners or co-tenants.

Tenant One who is given possession of real estate for a fixed period or at will. *See* Lessee, Tenancy At Will.

Tenant At Will A tenancy of unspecified duration with permission of the property owner at an agreed-upon rent. Either party can terminate the tenancy by giving the other party proper notice.

Tenant Fixtures Fixtures added to leased real estate by a lessee that, by contract or by law, may be removed by the lessee upon expiration of the lease.

***Example**:* Joe leased a building to use for a dry-cleaning business. Much of Joe's equipment had to be attached firmly to the building; however, since the fixtures were used in his business, they were tenant fixtures, and he could remove them when the lease expired.

Tenant Improvements Changes or improvements made to suit the needs of tenants. The cost may be paid for by the tenant or the landlord or shared by both.

Tenants By The Entireties Under certain state laws, ownership of property acquired by a husband and wife during marriage, which property is jointly and equally owned. Upon death of one spouse it becomes the property of the survivor.

Tender An offer or performance. If it is unjustifiable refused, it places the other party to a contract in default.

Tenement All rights in land which pass with a conveyance of the land.

Tentative Map The Subdivision Map Act requires subdividers to submit initially a tentative map of their tract to the local planning commission for study. The approval or disapproval of the planning commission is noted on the map. Thereafter, a final map of the tract embodying any changes requested by the planning commission is required to be filed with the planning commission.

Tenure The nature of an occupant's ownership rights; an indication of whether is one is an owner or a tenant.

***Example**:* For economic analysis, one may differentiate the occupied housing stock by tenure: one portion may be owner-occupied; the

other portion may be renter-occupied.

Tenure In Land The mode or manner by which an estate in lands is held.

Term The period of time during which something is in effect.

Example: Lee leases an apartment for a term of one year. At the end of the year, Lee moves from the apartment and buys a house. To finance the purchase, Lee gets a mortgage loan with a term of 30 years. At the end of 30 years, the loan will be paid off.

Term Loan One with a set maturity date, typically without amortization.

Example: Terry purchased a tract of land for $15,000, and borrowed $10,000 from a lender with a 5-year term loan. The interest rate is 10% annually; the entire principal is due at the end of the 5-year term.

Term, Amortization For a loan, the period of time during which principal and interest payments must be made; generally the time needed to amortize the loan fully.

Example: Amortization terms of 25 and 30 years are commonly used on real estate mortgage loans. Monthly principal and interest payments are set to fully liquidate loans over the term.

Termite An insect that resembles, but can easily be distinguished from, an ant. It lives underground, migrates into houses, and eats wood. Ants have "elbowed" antenna, stigma on their wings, narrow middles on their bodies, and dissimilar-shaped wings.

Termite Clause A provision in a sales contract that allows the buyer to have the property inspected for termite infestation. In general, if termites are discovered, the buyer may require the seller to treat the property or the buyer may cancel the contract. Most clauses now use the term wood-destroying insects to protect against other types of insects that harm structures, such as the powder post beetle and old house borer.

Example: Under the termite clause in the sale contract, the buyer may

get the home inspected before the closing. The seller will pay to exterminate any termites found. The buyer pays for the inspection.

Termite Inspection An examination of a structure by qualified personnel to determine the existence of infestation by termites. Often required by the terms of a sales contract. *See* Wood-Destroying Insect.

Example: Gross sells a house to Handy. As protection for Handy, the sales contract stipulates that a termite inspection will be performed at Gross' expense and the sale is contingent on a finding of no termite infestation.

Termite Shield A shield, usually of noncorrodible metal, placed on top of the foundation wall or around pipes to prevent passage of termites.

Termites Ant like insects which feed on wood. Subterranean termites are the most destructive. Termite Reports are filed with the Structural Pest Control Board.

Terms Conditions and arrangements specified in a contract.

Example: A sales contract will generally include terms relating to the price, financing available to the buyer, contingencies based on the condition of the property, how to prorate closing costs, and items of personal property included in the sale. *See* also As Is, Cancellation Clause, Contingency Clause.

Terms of Sale Financing arrangements and conditions of a sale.

Terra Cotta Lumber Very porous earthenware which can hold a nail and be cut without breaking or shattering.

Testament A will. Generally to dispose of personal property. Common usage employs the words will, testament, and last will and testament as synonyms.

Example: Wen wrote her testament that directed the disposition of her property upon her death.

Testate Having made a valid will. Contrast with intestate.

***Example**:* A person who dies testate has left a will disposing of property.

Testator One who leaves a will in force at his death.

Testatrix A woman who makes a will.

***Example**:* By will the testatrix left her property to her husband.

Testimonium A clause that cities the act and date in a deed or other conveyance. Before signing a deed, the grantor should make sure that everything is in order e.g., the spelling of names and legal descriptions. This is the testimonium clause.

***Example**:* Testimonium clause: **"**In witness whereof, the parties to these presents have hereunto set their hands and seals this day and year written above.**"**

Third Party One who is directly involved in a transaction or contract but may be involved or affected by it.

***Example**:* An apartment owner sells the property to a condominium converter. The tenants, as third parties, may be forced to move or buy their units at the expiration of their lease.

***Example**:* A trusted third party was designated as escrow agent by the principals.

Thirty-day notice See eviction notice.

Three-day notice See eviction notice.

Threshold A strip of wood or metal beveled on each edge and used above the finished floor under outside doors.

Tidal Basin A bay, dock, or inlet where the water level changes directly with the ebb and flow of the tide.

Tidelands Lands that are covered and uncovered by the ebb and flow of the tide.

Tie Any structural member used to hold two separated members together,

such as two beams or two layers of a masonry wall.

Tier A row of townships running from east to west.

Tight Money Market A market in which the demand for money exceeds the supply, causing interest rates to increase and borrower qualifications to be tightened.

TIL Truth-in-lending law. *See* Regulation Z.

Tile Filed See Disposal Field.

Time Deposit Savings account with a fixed maturity, as opposed to demand deposit.

Time Insurance Insurance written by a title company to protect property owners and lenders against loss because of certain title defects.

Time Is Of The Essence A clause placed in a contract to indicate that timely performance is a condition and performance not at the time can be entirely rejected.

Time Is Of The Essence One of the essential requirements to forming of a binding contract; contemplates a punctual performance.

Time Sharing Ownership Ownership in fee but for specified periods each year.

Time Value Of Money A concept that money available now is worth more than the same amount in the future because of its potential earning capacity.

Example*:* See present value of one, present value of annuity.

Time-Share Estate A right of occupancy in a time-share project (subdivision) which is coupled with an estate in the real property.

Time-Share Ownership Subdivision of the fee interest of a property into blocks of time, with each time block owned by a different owner.

Time-Share Project A form of subdivision of real property into rights to the recurrent, exclusive use or occupancy of a parcel, unit, or segment of real property, on an annual or some other periodic basis, for a specified period of time.

Time-Share Use A license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property.

Time-Shared Estate A right of occupancy in a time-share project (subdivision) which is coupled with an estate in the real property.

Time-Sharing A form of property ownership under which a property is held by a number of people, each with the right of possession for a specified time interval. Time-sharing is most commonly applied to resort and vacation properties.

***Example**:* Jean is an owner in a time-sharing arrangement for a lakefront cottage. Jean is entitled to use the cottage each year from July 1 to July 15. Use the property during the remainder of the year is divided among other owners. All property expenses are paid by an owner's association to which Chen pays an annual fee.

Title Evidence that owner of land is in lawful possession thereof; an instrument evidencing such ownership.

Title Abstract *See* Abstract Of Title.

Title Certificate An instrument evidencing title to real estate under the Torrens System of title registration.

Title Cleansers A series of statutes designed to eliminate clouds on the title to property after a period of time has elapsed, to avoid having property become unmarketable.

Title Company One in the business of examining title to real estate and/or issuing title insurance.

***Example**:* The Chicago Lawyer Title Company searched courthouse records to be sure that Whitman would get marketable title on a house she planned to buy. They charged a $500 one-time premium. The bank wouldn't issue a loan without the policy.

Title Defect An unresolved claim against the ownership of property which prevents presentation of a marketable title. Such claims may be arise from failure of the owner's spouse, or former part owner, to sign a deed, current liens against the property, or an interruption in the title records to a

property. *See* Cloud On The Title.

***Example**:* Prior to the closing, the attorney for the title insurance company discovered a title defect which delayed the transaction. It seems the property had once been owned by the seller's parents and a deed had never been signed over to the seller.

Title Guarantee See Title Insurance.

Title Insurance Insurance written by a title company to protect property owner against loss if title is imperfect.

Title Insurance Company A company that provides insurance regarding title to real property.

Title Report A document indicating the current state of the title, such as easements, covenants, liens and any defects. The title report does not describe the chain of title.

See Abstract Of Title.

***Example**:* A buyer wishes to assure receipt of clear title to a property. The buyer authorizes a title search by an experienced attorney. The attorney examines the public records of all recorded encumbrances and past claims. The attorney renders to the buyer a title report.

Title Search An examination of the public records to determine the ownership and encumbrances affecting real property.

***Example**:* A buyer wishes to assure receiving clear title to a property. The buyer authorizes a title search by an experienced attorney. The attorney examines the public records for all recorded encumbrances and past claims. The attorney renders to the buyer an abstract of the title.

Title Theory Mortgage arrangement whereby title to mortgaged real property vests in the lender. Some states give greater protection to mortgage lenders and assume lenders have title interest. Distinguished from Lien Theory States.

Title Theory States States in which the law splits the title of mortgaged property into legal title, held by the lender, and equitable title, held by the borrower. The borrower gains full title to the property upon retiring the mortgage debt. The lender is granted more immediate cure to a default than in lien theory states. Contrast with lien theory states.

Example: In title theory states, mortgage lenders may possess the property upon default of the borrower. In lien theory states, lenders must go through the process of foreclosure.

To Have And To Hold Clause See Habendum Clause.

Toe-Nailed A method used to drive in nails so that their heads will not be visible when the installation is complete.

Ton 1. A measure of weighy; two thousand pounds.

2. A measure of capacity of an air conditioner. One ton equaly twelve thousand British thermal units (B.T.U.'s)

Tongue And Groove A type of joint where one half has notches cut into it (grooves) and the other matching piece has tongues that fit into the grooves.

Topographic Map A map of the slope, contour, and other physical features of an area of land.

Topographic Survey A survey that shows differences in the grade level of a piece land in relation to sea level.

Topography Nature of the surface of land; topography may be level, rolling, mountainous.

Torrens Certificate In states that convey property according to Torrens Law, a document issued by the registrar that identifies the current owner of a property.

Torrens System A title registration system used in some states; the condition of the title can easily be discovered without resorting to a title search.

Example: A property owner in Chicago wishes to register the property

under the Torrens System. An application is made with the appropriate court. Following a title examination and notice to all who wish to make a claim, the court issues certificate of title setting forth the nature of the applicant's title. When the owner sells the property, a new certificate is issued to the buyer. Anyone establishing a claim to the property following registration is compensated from a special fund for any losses suffered.

Torrens Title A system of land registration operated by a state.

Tort Any wrongful act (not involving a breach of contract) for which a civil action will lie for the person wronged.

Total Load Live load plus dead load; the total weight that must be supported in design.

Town House A dwelling unit, generally having 2 or more floors and attached to other similar units via party walls. Town houses are often used in planned unit developments and condominium developments, which provide for clustered or attached housing and common open space. *See* Cluster Housing, Row House.

Township A territorial subdivision six miles long, six miles wide and containing 36 sections, each one mile square.

Township Lines Lines that divide townships at their northern and southern borders.

Track Record A developer's or builder's reputation for producing on a timely and economical basis. A good track record can be helpful in arranging financing or attracting investors for a new project.

Example*:* The developer had a reputation for completing projects within schedule and budget, as well as for being able to lease up the buildings within 2 years of completion. This good track record allowed the developer to get good terms on construction loans.

Tract A parcel of land, generally held for subdividing; a subdivision.

Tract Development Means a project of five units or more that is constructed or is to be con-

structed as a single development.

Tract House A dwelling that has a similar style and floor plan to those of all other houses in a development. Contrast with custom builder.

Example: Pleasant Acres is a subdivision of tract houses. Each home is a 3-bedroom ranch-style house with the same basic floor plan.

Trade Area Same as market area.

Trade Fixture 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.

Trade Secrets Proprietary information about a business protected from being given to competitors.

Trade-In An increasingly popular method of guaranteeing an owner a minimum amount of cash on sale of his present property to permit him to purchase another. If the property is not sold within a specified time at the listed price, the broker agrees to arrange financing to purchase the property at an agreed-upon discount.

Transaction A business deal.

Transaction Accounts Accounts used to make payments or transfers to others, such as checking accounts.

Transaction Costs The costs associated with buying and selling real estate.

Example: The following are transaction costs:

◆ appraisal fees, ◆ brokerage commission, ◆ legal fees, ◆ mortgage discount points, ◆ mortgage origination fees, ◆ recording fees, ◆ survey fees, ◆ title search.

Transfer The conveyance of title to property from one person to another.

Transfer Development Rights A type of zoning ordinance that allows owners of property zoned for low-density development or conservation use to sell development rights to other property owners. The development rights purchased permit the landowners to develop their parcels at higher densities than otherwise.

The system is designated to provide for low-density uses, such as historic preservation, without unduly penalizing some landowners.

***Example**:* Under a transfer development rights system, a landowner whose property is restricted to open space is assigned development rights in proportion to some overall desirable density for the jurisdiction. The landowner cannot utilize the rights but may sell them on the open market to landowners in other locations who are allowed to develop their properties. The rights may be used to develop additional structures on the unrestricted properties. In this way, restricted areas may be maintained as open space without completely destroying the development value of the properties.

Transfer Fee A charge made by a lending institution holding or collecting on a real estate mortgage to change its records to reflect a different ownership.

Transfer Tax One paid upon the passing of title to property or to a valuable interest.

***Example**:* In a state that imposes a high transfer tax on the sale of real estate, the seller formed a corporation as the owner of a valuable building and sold stock that was subject to a lower transfer tax. The state is claiming that it was a sale of real estate.

Transferability Owner of a property is able to convey title or use of property to another. One of the four essential elements which create value.

Transferable Development Rights The permission to increase the intensity of development for 1 parcel in exchange for decreasing the density of an adjacent parcel.

***Example**:* In downtown Big City, there were 2 adjacent vacant parcels of land, upon which zoning permitted a 10-story building on each. Using the transferable development rights, the owner of tract A sold to the owner of tract B, the right to build a 20-story building on tract B; but A's land must be used as a park for the next 50 years.

Transportation Service Town A town that is selected to provide services along a transportation route, usually located at transportation nodes.

Treasury Bills Interest bearing U.S. Government obligations sold at a weekly sale. The change in interest rates paid on these obligations is frequently used as the Rate Index of Adjustable Mortgage Loans.

Treated Wood Wood treated to resist termites or wood that has been waterproofed.

Treaty of Guadalupe Hidalgo The treaty marking the end of the war with Mexico and ceding territories in the Southwest to the United States. Also establishes the border between the U.S. and Mexico.

Trespass An invasion of an owner's rights in his property.

Tri-Level *See* Split-Level.

Trim Wood or metal interior finishing pieces, such as door and window casings, moldings, and hardware.

Triple-A Tenant One with an excellent credit record.

***Example**:* The U.S. Postal Service and the American Telephone and Telegraph Company are examples of triple-A tenants, because they are unlikely to default on the lease.

Triple-Net Lease One in which the tenant is to pay all operating expenses of the property; the landlord receives a net rent.

***Example**:* Big Buy Supermarkets enters into a triple-net lease. They are to pay for all the taxes, utilities, insurance, repairs, janitorial services, and license fees; any debt service and the landlord's income taxes are the responsibility of the landlord.

Trust An arrangement whereby property is transferred to a trusted third party (trustee) by a grantor (trustor). The trustee holds the property for the benefit of another (beneficiary).

***Example**:* An inter vivos trust was established by a living person who gave her warehouse to a trustee for the benefit of her children.

***Example**:* A testamentary trust was established upon the death of a trustor, according to his will.

Trust Account An account separate and apart and physically segregated from broker's own funds, in which broker is required by law to deposit all funds collected for clients.

Trust Deed Just as with a mortgage this is a legal document by which a borrower pledges certain real property or collateral as guarantee for the repayment of a loan. However, it differs from the mortgage in a number of important respects. For example, instead of there being two parties to the transaction there are three. There is the borrower who signs the trust deed and who is called the beneficiary, the one who benefits from the pledge agreement in that in the event of a default the trustee can sell the property and transfer the money obtained at the sale to lender as payment of the debt.

Trustee One who holds property in trust for another to secure the performance of an obligation.

Trustee's Deed A deed given by trustee when property is foreclosed and sold at a trustee's sale.

Trustee's Sale A foreclosure sale conducted by a trustee under the stipulations of a deed of trust.

Example: When a deed of trust is exercised, a specific trustee is designated. Upon default, the trustee is authorized to foreclosure the mortgage and put the property up for a trustee's sale. The proceeds of the sale are distributed by the trustee according to the priorities listed in the deed of trust.

Trustee In Bankruptcy One appointed by a bankruptcy court, and in whom the property of the bankrupt vests. The trustee holds the property in trust, not for the bankrupt, but for the creditors.

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 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.

Tudor An English-style imposing-looking house with fortress lines. Siding is chiefly stone and brick with some stucco and half timbers. Windows and doors have moulded cement or stone trim around them.

Turn-Key Costs Costs that includes all of the charges to the consumer, not just the costs to the developer or builder.

Turnkey Project An arrangement between a contractor and a property owner whereby the contractor takes complete responsibility for the design and construction of a property and turns it over to the owner ready for use..

***Example**:* Many government-owned public housing projects are turnkey projects. A private developer undertakes all activities necessary to producing the project, including land purchases, permits, plans, and construction, and sells the project to the housing authority.

Turnover Number of times an inventory sells during a given period of time.

Two-Step Mortgage Loan with lower initial fixed interest rate, increasing after conversation period.

Type Used in the CTS System to denote the structural nature of a house.

Type of Construction Building Classification based on a structure basic on a structure's basic frame, wall, and floor construction.

Type of Occupancy *See* Design Type.

UCC *See* Uniform Commercial Code.

ULI Urban Land Institute.

Unavoidable Cause A cause which reasonable prudence and care could not have prevented, such as death, illness, papers lost in the mail, etc.

Underimprovement An improvement which because of its deficiency in size or cost is not the highest and best use of the site.

Underlying Financing A mortgage, deed of trust, etc., prior to (underlying) a land contract, mortgage, etc., on the same property.

Underlying Mortgage Refers to the first mortgage when there is a wraparound mortgage.

***Example**:* A wraparound for $100,000 includes a $60,000 underlying mortgage in its balance, so the additional funds provided by the wrap are $40,000.

Underpinnings Supports added to increase the loadbearing capacity of a foundation.

Underwriter One who insures another or takes certain risks. In mortgage lending, the one who approves or denies a loan based on the property and the applicant. In securities, it is the broker that sells the issue and, unless sold on a "best efforts" basis, agrees to purchase the shares not bought by the public.

***Example**:* The underwriter analyzed the loan submission package carefully, because she didn't want her firm to accept excessive risk.

Underwriting The technical analysis by a lender to determine the borrower 's ability to repay a contemplated loan.

Undisclosed Principal A principal whose identify is not revealed by an agent.

Undivided Interest The interest of a co-owner in real property. His interest cannot be separated without court action.

Undue Influence Taking any fraudulent or unfair advantage of another's weakness of mind or distress or necessity.

Undulating Land Land composed of two or more slopes of different grades.

Unearned Increment An increase in value of real estate due to no effort on the part of the owner; often due to increase in population.

Unencumbered Free and clear.

Unencumbered Property Real estate with free and clear title.

Example: Fong owns an unencumbered property. Fong's interest is fee simple, there are no mortgage, vendor, mechanic's or tax liens on the property, no restrictive covenants exist, and no easements have been granted.

Unenforceable A contract that cannot be sued upon in a court of law. One which cannot be enforced in a court of law.

Unenforceable Contract A contract that is valid but will not be enforced by the courts because of some special barrier.

Uniform Commercial Code Effective January 1, 1965. Establishes a unified and comprehensive scheme for regulation of security transactions in personal property, superseding the existing statues on chattel mortgages, conditional sales, trust receipts, assignment of accounts receivable and others in this field.

Uniform Laws Laws approved by the National Conference of Commissioners on Uniform State Laws. Many have been adopted in one or more states. Among these are the Uniform Commercial Code, Uniform Negotiable Instruments Act, Uniform Partnership Act, Uniform Residential Landlord and Tenant Act, etc.

Uniform Residential Appraisal Report A standard form for reporting the appraisal of a dwelling. This form is required for use by the major secondary mortgage purchasers. It provides numerous checklists and appropriate definitions and certifications that are printed on the form.

Example: A real estate appraiser estimated the value of a house and wrote, on the Uniform Residential Appraisal Report, all of the relevant information for the property.

Uniform Residential Landlord and Tenant Act Legislation designed to regulate and standardize the relationship between residential landlords and tenants.

Uniform Settlement Statement The form prescribed by the Real State Settlement Procedures Act for federally related mortgages, which must be prepared by whoever handles a closing, must contain certain relevant closing information, and must be given to buyer and seller.

Uniform Standards Of Professional Appraisal Practices (USPAP) *See* USPAP.

Uniform Vendor & Purchaser Act An act pertaining to the risk of loss in a transaction where possession is transferred prior to the transfer of title.

Unilateral Contract An exchange of a promise for an act. Only one party is bound to perform.

Unimproved A term usually used to describe land without buildings, or lacking in essential improvements necessary to serve a useful purpose.

Unimproved Property Land that has received no development, construction, or site preparation. *See* Raw Land.

***Example**:* Lee is subdividing a tract of land and selling lots to investors. In all marketing materials, Lee must disclose the fact that the land is unimproved property that must receive extensive development before being suitable for urban uses.

Unincorporated Association An organization formed by a group of people. If the organization has too many characteristics of a corporation it may be treated like one for income tax purposes.

***Example**:* Many condominium associations, limited partnerships, and real estate investment trusts are examples of unincorporated associations.

Unit In multifamily residential property, a suite of rooms making up a residence for 1 tenant. It is generally characterized by a private entrance and some method of individuality from other units in the building or

complex.

***Example**:* The apartment building has 45 dwelling units. Each unit has a private bath and kitchen. Some are 2-bedroom units and others have 3 bedrooms.

Uninhabitable A rental unit which has such serious problems or defects that the tenant's health or safety is affected is "uninhabitable." A rental unit may be uninhabitable if it is not fit for human beings to live in, or if it fails to substantially comply with building and safety code standards that materially affect tenants' health and safety.

Unit Cost In Place Method An appraisal method of estimating construction costs by figuring the cost of each component section, including labor cost and overhead.

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.

Unit of Comparison Adjustment Sales analysis tool wherein sales prices of the comparables are converted to price per total property, or a physical or economic unit that is found to be closely related to selling price or value. The value of the subject property is suggested by multiplying its numbers of units by the price per physical or economic unit of comparison found to be typical or appropriate.

Unit Rule A general rule used in condemnation proceedings to determine what constitutes the whole property and, therefore, what property may potentially suffer severance damages. In order to be considered part of a property being taken, it must have a unity of ownership, used and physical location.

Unit Value The value of a whole property divided into the value of a portion of the property known as a unit. See Units of Comparison.

United States Government Survey System See Geodetic System.

Units of Comparison *See* Unit of Comparison Adjustment.

Unity Of Interest A requirement of the joint tenancy of ownership that all interests must be acquired by the same conveyance.

Unity Of Possession In joint tenancy, the joint tenants must have equal rights to possession.

Unity, Doctrine Of A theory of appraising which states that all three approaches to value really reflect the market and therefore, if properly applied, should result in similar market value estimates.

Unlawful Detainer Action A court suit to evict a tenant. - a lawsuit that a landlord must file and win before he or she can evict a tenant (also called an **"**eviction**"** lawsuit).

Unmarketable Title A title that has serious defects and is not saleable except at a discount to somebody who is willing to risk the potential problems of owning a property with a defective title.

Unrealized Gain The excess of current market value over cost for an asset that is unsold.

Example*:* Chu bought land for $10,000; she had an offer to sell it for $15,000, but decided to keep the land. Her unrealized gain is $5,000.

Unrecorded Deed An instrument that transfers title from one party (grantor) to another party (grantee) without providing public notice of change in ownership. Recording is essential to protect one's interest in real estate.

Example*:* Lee purchases a lakefront lot from James. At closing, Lee receives a deed but fails to record it at the county courthouse. In the meantime, James fraudulent sells the lot to Smith. Smith's attorney does a title search but, because of the unrecorded deed, does not turn up the sale to Lee. When Lee discovers what has occurred, he is forced to pursue legal proceedings against James for recovery. Smith, who purchased in good faith, owns the land.

Unrecorded In- A deed, mortgage, etc., not recorded in a county recorder's office. It is

strument valid between the parties involved but is not protected under recording statutes nor valid against innocent third parties.

Unsecured A loan that is not secured by a trust deed, mortgage, or other property.

Upland 1. A parcel abutting one with riparian rights, i.e., refers to an owner once removed from a water right.

2. Land with high elevation relative to the surrounding area.

Upset Price Same as reserve price.

URAR Uniform Residential Appraisal Report.

Urban Pertaining to a city or town.

Urban Land Institute A nonprofit organization providing research and information on land use and development. Among the many publications of the ULI are the periodicals, Urban Land and Environmental Comment, and several development guides for specific types of land use. Address: Urban Land Institute, 625 Indiana Avenue NW, Washington, DC 20004, (202) 624-7000.

Urban Property City property; closely settled property.

Urban Renewal The process of redeveloping deteriorated sections of the city, often through demolition and new construction. Although urban renewal may be privately funded, it is most often associated with government renewal programs.

***Example**:* Most large cities have experienced some urban renewal in the last 20 years. The typical program attempts to demolish concentrations of dilapidated housing and attract developers of middle-income or mixed housing. Often, however, urban renewal areas become sites for new public buildings, such as civic auditoriums, sports arenas, and universities.

Urban Space Urban real estate, both land or buildings whose value stems directly from its location.

Use Density The relationship of the number of buildings of a specific use to a given unit of area.

Use Tax A tax charged on goods purchased from out-of-state and used within a state, like a sales tax.

Use Type *See* Design Type.

Use Value Assessment An estimate of the value of property in its present use rather than the value if it were used for its highest and best use.

Also see Utility Value.

Useful Area That portion of the gross area of a site that can be built on or developed.

Useful Life The period of time over which a building is expected to provide a competitive return. Useful life provides the basis for allowable depreciation deductions on properties acquired prior to 1981. For tax purposes, this was replaced in 1981 by the accelerated cost recovery system.

Example: A property acquired in 1980 has a depreciable basis of $100,000 and a useful life of 25 years. Using straight-line depreciation, the owner may deduct $4,000 per year for tax reporting.

USPAP Uniform Standards of Professional Appraisal Practices, promulgated by the Appraisal Foundation. A set of requirements covering research and reportings promulgated by the Appraisal Foundation, and adhered to by its members.

Usufructuary Rights Interests that provide for the use of property that belongs to another. Compare with emblement.

Example: The owner of land that bounds or contains a natural water channel has a usufructuary right to use of the water. The water itself is considered to be held by the public with all adjacent property owners holding rights to its use. Restrictions on that use vary under state law.

Usurious Interest Unlawful rate of interest, in California the greater of 10 percent or 5 percent over the Federal Reserve Board's discount rate at any time; however, certain institutions, such as banks and savings and loan associations, are exempt from the usury law. Also exempt are loans arranged by licensed real estate brokers.

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

Utilities Refers to services rendered by public utility companies, such as water, gas, electricity, telephone.

Utility The ability to give satisfaction and/or excite desire for possession. Usefulness.

Utility Easement Use of another's property for the purpose of laying gas, electric, water, and sewer lines.

Example*:* A property owner grants a utility easement to the electric power company to extend power lines to the owner's home.

Utility Value It is the value or importance (*value-in-use)* of an object to a particular owner or user who may have no intention of exposing it on the open market. It is a *subjective value* created in the **"**mind's eye of the beholder.**"** Because the value of property to an owner may be emotional, as well as economic, thus value-in-use is also know as **"***subjective value***"**. Subjective value applies more to a single-family home than to rental property.

Value-in-use has been defined as the value of an economic good to its owner based on its productivity.

VA Veterans Administration; a federal agency which administers home loan guarantees for veterans.

VA Loan Home loan guaranteed by the U.S. Veterans Administration (VA) under the Servicemen's Readjustment Act of 1944 and later. The VA guaran-

tees restitution to the lender in the event of default. The guaranty is 60% of the loan, but not more than $27,500. Home must be a principal residence.

***Example**:* Chen, a veteran of the U.S. Army, wishes to purchase a home. Chen may apply for VA loan with the Veterans Administration and, if qualified, may obtain a mortgage loan from a lending institution with no down payment.

VA Mortgage A mortgage for which the Veteran's Administration guarantees part of the repayment.

Vacancy A building or rental unit that is unrented.

Vacancy Factor The percentage of a building's space that is unrented over a given period.

Vacancy Rate The percentage of all units or space that is unoccupied or not rented. On a pro-forma income statement a projected vacancy rate is used to estimate the vacancy allowance, which is deducted from potential gross income to derive effective gross income.

***Example**:* The vacancy rate for apartment units in Boom City is currently 4.5%. For the High-Tower Building, the vacancy rate is 9.5% (of 100,000 square feet of net leasable area, 9,500 square feet are not rented). If this 9.5% vacancy rate is expected to be the average through next year, a vacancy allowance of $95,000 (at $10 per square foot) should be deducted from potential rent when projecting income.

Vacant Land Land not currently being used. May have utilities and off-site improvements. Contrast with raw land.

***Example**:* Vacant land was cleared and graded for future use as a shopping center.

Vacate To move out.

***Example**:* A tenant vacates an apartment by terminating occupancy and

removing all possessions. The tenant is responsible for rent to the end of the lease term.

Vacation Home A dwelling used by the owner occasionally for recreational or resort purposes. It may be rented to others for a portion of the year. Income tax deductions pertaining to vacation homes depend on the frequency of use by the owner. Generally, a business loss cannot be claimed on a vacation home. *See* Second Home.

***Example**:* The Jones have a vacation home in the mountains that they use on weekends during the summer. At other times it is rented to strangers on a weekly basis. If business deductions including depreciation exceed income, the loss cannot be deducted.

Valid Having force, or binding force; legally sufficient and authorized by law.

Valley The internal angle formed by the junction of two sloping sides of a roof.

Valuable Consideration A type of promised payment upon which a promisee can enforce a claim against an unwilling promisor. Includes money, extension of time, and other equivalents for the grant. Distinguished from good consideration, which may be love and affection toward a relative, generosity, and the like.

***Example**:* A man promised to give certain land to a suitor of his daughter, provided they marry. This was not considered valuable consideration, so the suitor could not enforce it and he did not marry the daughter.

Valuation Estimated worth or price. Estimation. The act of valuing by appraisal.

Valuation Principles A group of economic principles that apply to the valuation of real estate. They are the principle of anticipation, the principle of substitution, the principle of change, the principle of competition, the principle of balance, the principle of increasing and decreasing returns, the principle of contribution, the principle of surplus productivity, the principle of conformity, the principle of supply and demand, and the principle of highest and best use.

Value The worth of all the rights arising from ownership; the quantity of one thing that will be given in exchange for another.

Example: A property may have a certain value to its owner (value in use) equal to the amount of other property (typically cash) that the owner would be willing to accept in exchange for the property without loss in wealth or well-being. The same property may have a different market value (value in exchange) equal to the amount of other property exchanged for the property when many typically motivated buyers and sellers are allowed to interact.

Value After The Taking The value of that portion of a property that is not taken in a condemnation.

Value Before The Taking A property's market value before condemnation.

Value Conclusion The final Estimate of value in an appraisal.

Value In Exchange The value of an investment or commodity relative to its power to purchase other goods; an objective view of value.

Value in Use The value of an item or object to a particular user; a subjective view of value.
Also See Utility Value.

Vara A measurement or unit of length.

Example: The vara in Texas is 33 1/3 inches. The land size was a 100 vara by 100 vara square, or 3333 inches by 3333 inches.

Variable Annuity An annuity whose future periodic payments are not fixed but rather depend upon the value of the assets in the funding of the annuity, such as the value of its stock or bond portfolio.

Variable Expenses Property operating costs that increase with occupancy.

Example: The management fee, at 5% of actual rent collections, and trash removal, at $10 per month per occupied apartment unit, are

variable expenses.

Variable Interest Rate An interest rate in a loan which can be changed upon the happening of a certain event.

Variable Maturity Mortgage A long-term mortgage loan, under which the interest rate may be adjusted periodically. Payment levels remain the same but the loan maturity is lengthened or shortened to achieve the adjustment.

***Example**:* Chen obtains a variable-maturity mortgage originated at 12% with a term of 25 years. At the end of one year, the interest rate is increased to 12 ¼%. Chen's monthly payment of $527 remains the same after the adjustment; however, the remaining term is no longer 24 years, but is increased to 27 years.

Variable-Payment Plan Any mortgage repayment schedule that provides for periodic change in the amount of monthly payments. Changes may occur as a result of: the expiration of an interest-only period (flexible payment mortgage), a planned step-up in payments (graduated payment mortgage), or a change in the interest rate due to fluctuation in an index (variable-rate mortgage).

***Example**:* A loan is made with a variable-payment plan. The interest rate on the loan may be adjusted once a year according to a published index. As the interest rate is changed, the monthly payment is adjusted to provide for full amortization of the outstanding principal over the remaining life of the loan.

Variable-Rate Mortgage A long-term mortgage loan applied to residences, under which the interest rate may be adjusted on a 6-month basis over the term of the loan. Rate increases are restricted to no more than ½ point per year and 2 1/2 points over the term.

***Example**:* Chen obtains a variable-rate mortgage originated at a 12% interest rate. In 6 months, the index upon which the rate is based increases by on percentage point. Chen's rate is adjusted to 12 ¼% and cannot be further increased during the year because of the ½%

annual cap.

Varian A rezoning of a single parcel.

Variance

1. In zoning, a legal exception to the use, type, density, other allowable feature of the normal permitted development or use of a specific site.
2. In statistics, a measure of variability or deviation from the mean.

Vendee A purchaser, buyer.

Vendee's Lien A lien against property under a contract of sale, to secure the deposit paid by a purchaser.

Example: Lin, the vendee (buyer), gave a substantial deposit. Since Lin did not trust the seller, she secured a vendee's lien against the property. The lien provides the vendee with a claim against the property should the seller attempt to sell to another party prior to closing.

Vendor A seller; one who disposes of a thing in consideration of money.

Vendor's Lien *See* Purchase Money Mortgage.

Veneer Wood or brick exterior that covers a less attractive and less expensive surface.

Veneered Construction The placing of a facing material over the external surface of a structure.

Venture Capital Money raised for high-risk investments.

Example: Money raised for oil exploration, theatrical productions, and the like is considered venture capital.

Venue The county (or other geographical division) in which an action or prosecution is brought for trial and which is to furnish the panel of jurors. (2) The county in which an acknowledgement (notorization) is made.

Verification Of Sworn statements before a duly qualified officer that the contents of an

Data instrument are correct.

Example: A tenant takes a landlord to court to recover a security deposit. The tenant files a claim describing the conditions under which the deposit is to be refunded and the manner in which the tenant complied with the conditions. The tenant then supplies verification of this description by a sworn statement.

Vest To create an entitlement to a privilege or right.

Example: By crossing Lee's property regularly for 20 years, Chen's right to an easement became vested. Lee can no longer prevent Chen from crossing.

Example: If she stays employed by the same brokerage firm for 10 years, Chu' right to a pension will vest.

Vested Bestowed upon someone; secured by someone, such as title to property.

Vested Remainder An estate in land , the possession and enjoyment of which are delayed until the termination of a preceding estate.

Veterans Administration (VA) The federal agency who administers G. I. loans.

Viga Ceiling or roof beams that stick out through the exterior walls in Adobe Style architecture.

Violation An act or a condition contrary to law or to permissible use of real property.

Examples: According to most zoning ordinances, operating a business from one's home is a violation of the restriction for a residential zone. In many cities, owning an occupied apartment building with nonfunctioning plumbing is a violation of the housing code.

Violation Breach of any law or contract.

Visual Right The right to restrict structures, trees or shrubs at intersections, where a dangerous situation could develop if visibility is limited.

Vital Statistics Data regarding births, deaths, marriages, health records, etc., and usually kept by a governmental bureau. Federally, the Bureau of Vital Statistics.

Void To have no force or effect; that which is unenforceable.

Void Title A title that has no legal force and is not binding so that it is actually no title at all.

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

Voidable Contract A title that is valid until voided by the party who has a right to nullify it.

Volt A term in electronics, being the force necessary to cause one ampere to flow through a conductor with a resistance of one ohm. Common household current is 110 volts. with a 220 volt circuit used for some heavy appliances. Industrial uses may require higher voltage.

Volume Measurement of the amount of space that a three-dimensional object occupies. In real estate, volume is normally measured in cubic feet or cubic yards.

Voluntary Alienation Legal term that describes a sale or gift made by the free will of the seller or donor.

> ***Example****:* Lee owned a tract of land with 100 feet of frontage along highway 4, with 200 feet of depth. The highway department condemned a strip that was 20 feet deep along the frontage and paid Lee $1 per square foot. Lee sold the remaining land to Chu for $1.25 per square foot by voluntary alienation.

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

VRM *See* Variable-Rate Mortgage.

Wainscoting Wood lining of an interior wall; lower section of a wall when finished

differently from the upper part.

Waive To relinquish, or abandon; to forego a right to enforce or require anything.

Waiver The voluntary renunciation, abandonment, or surrender of some claim, right, or privilege.

***Example**:* A violation of a contract causes the need for a waiver from the other party who does not feel injured.

Walk-Through Inspection Inspection of premises by a buyer or tenant prior to closing or taking possession.

***Example**:* Before closing the purchase of his new home, Wally was concerned that all repairs agreed to by the seller in the agreement of sale had been made. He arranged for a walk-through inspection prior to closing.

Walk-Up An apartment, in a building of more than one story, with no elevator.

Wall Insulation Insulation in the wall of a building such as wall-board, batts between the studs, loose material, etc.

Wall Panel An exterior wall, usually in a high-rise office building, that carries no load. The load is borne by beams or girders in the framing skeleton.

Wall Plate Horizontal pieces of timber placed on top of a masonry wall and under joists and other load-bearing members to distribute their weight evenly to the wall.

Wall Section One of the types of drawing that make up a set of building plans which has views of vertical sections of the building's walls.

Wall-Bearing Construction A type of construction where the weight of the roof and floors is supported by the exterior bearing walls.

Warehousing Using existing loans as security for another loan. Warehousing involves mortgage portfolios.

Warehousing Of *See* Mortgage Warehousing.

Mortgages

Ward A minor or other legally incompetent person placed by authority of law under the care of a guardian or conservator.

Warm Air System A heating system in which air is heated inside a furnace and distributed throughout the house either by the neutral force of gravity or by fans.

Warrant To attest that a title is good.

Warranty A promise contained in a contract.

***Example**:* The vendee received a one-year warranty from the builder as to the structural soundness of the property.

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 modern practice of securing title insurance policies which have reduced the importance of express and implied warranty in deeds.

Warranty Of Authority A representation by an agent to third persons that the agent has and is acting within the scope of authority conferred by his or her principal.

Warranty Of Habitability An implied assurance given by a landlord that an apartment offered for rent is free from safety and health hazards.

***Example**:* Todd signed a one-year lease to rent an apartment from Linden. Todd later discovered that the apartment's heating system was not functioning. Todd sought to break the lease, claiming the apartment was deficient under London's implied warranty of habitability.

Waste Unauthorized use or neglect of property by a party with the right to possession when another party owns an interest in the property. The party may be a tenant, a mortgagor, or a life tenant.

***Example**:* A tenant neglecting to heat an apartment in the winter with the result of damage to the plumbing.

***Example**:* A mortgagor failing to pay property taxes, thereby risking a tax foreclosure.

***Example**:* A life tenant converting a residential property into a production center for some specialized product.

Wasting Asset Something of value that deteriorates over time.

***Example**:* Improvements to land will not last forever, so they are wasting assets; in contrast, land is not wasting because it will last forever.

Water Heater A device for heating the domestic hot water in a building.

Water Level The height of a body of water measured by a shore point. See also Water Mark.

Water Mark Marks on the shore showing the highest point to which the tide rises under normal conditions.

Water Power The energy created by the fall of a river or a stream over a person's property. The owner is entitled to its use.

Water Rights *See* Riparian Rights, Usufructuary Rights.

Water Table The upper level at which underground water is normally encountered in a particular area.

Water-Gate A sea wall to keep water from overflowing.

Watershed A ridge of land (such as a mountain) separating two river systems.

Watt-Hour The basis used to determine electric bills . Example: A 100 watt light bulb means if the bulb burns for one hour, it will use 100 watts of electricity.

WCR *See* Women's Council of Realtors.

Wear And Tear Physical deterioration of property as the result of use, weathering, and age.

***Example**:* A carpet is expected to last only 8 years because of wear and tear, or deterioration resulting from foot traffic and cleaning.

Weather Cap A part of an electrical service entrance designed to prevent water from entering into the system through the opening in the top of the conduit where the wires enter.

Weathering Disintegration of a building's exterior due to exposure to weather.

Weep Holes Small holes in a retaining wall or other wall where it may be necessary to drain off excess water to avoid pressure build-up.

Western Framing One of the three major traditional types of framing systems widely used for building construction. It is characterized by short studs (usually two inches by four inches nominal size) that run from the floor of one level to the next level.

Western Row House Or Western Town House A nineteenth-century-style-house usually built to cover an entire street or block. It has common side walls with the house on either side.

Wetlands Land, such as a marsh or swamp, normally saturated with water.

Wild Interest An interest of record which cannot be traced in the chain of title. Frequently occurs when an incorrect legal description appears on a document. An apparent wild interest may occur if a woman who changes her name through marriage after acquiring property, sells the property using her married name only.

Wild Document A document recorded out of the chain of title.

Will A document that provides for the disposition of property upon a person's death.

Willing Being ready to proceed. One of the standards applied to buyers produced by brokers to determine if the broker has earned a commission. In order for the broker to have earned the commission, the buyer must be "ready," willing," and "able" to buy the property at the listing price.

Window An opening in the wall of a building to let in light and air. Most are made of transparent material and have the ability to be opened and closed.

Without Recourse Words used in endorsing a note or bill to denote that the holder is not to look to the debtor personally in the event of nonpayment: the creditor has recourse only to the property. A form of exculpation. Same as non-recourse. *See* Endorsement, Exculpatory Clause.

Example*:* Chen insisted that the mortgage to the seller be without recourse. In the event that the value of the property declines, Chen may lose the property but he loses nothing else.

Witness 1. To sign a note, deed or other document to verify to its truth.

2. The person who furnishes evidence.

Women's Council Of Realtors WCR. An organization, affiliated with the National Association of Realtors, devoted to preparing women in real estate for their emerging roles in society, to encouraging members to a productive career in real estate, and to developing leadership potential. Publishes The Real Estate Scene (monthly) and the WCR Communiqué (quarterly). Address: Women's Council of Realtors, 430 North Michigan Avenue, Chicago, IL 60611.

Wood Frame Construction Structures in which wood frames the roof, walls, and floors despite the fact that other material may cover the framing.

Wood-Destroying Insect A term used in certain home inspection forms; as a condition for purchase, the property must be free of these insects.

Example*s:* subterranean termites, dry wood termites, powder post beetle, carpenter ants (in some locations).

Work Triangle The total distance of the sides of the "triangle" connecting the refrigerator, range, and sink in a home kitchen; experts say that this distance should be between 15 and 21 feet for maximum efficiency.

Working Capital The difference between current assets and current liabilities.

Working Drawing A sketch or drawing drawn to scale with enough detail of plumbing etc., for workmen to use on a construction job.

Workout A mutual effort by a property owner and lender to avoid foreclosure or bankruptcy following a default; generally involves substantial reduction in the debt service burden during an economic depression. *See* Distressed Property.

***Example**:* Because of an economic slowdown, the hotel suffered high vacancy rates and failed to generate enough income to meet mortgage payments. The owner approached the lender about a workout. It was agreed to reduce the outstanding loan principal and extend the maturity date to reduce the debt service. In turn the lender would participate in the income when the economy recovered and hotel income exceeded a specified amount. *See* Participation Mortgage.

Workout Plan A plan created by a lender to assist a mortgagor in default to work out a re-payment plan rather than foreclosure.

Wrap-Around Deed of Trust *See* All-Inclusive Deed of Trust.

Wraparound Mortgage Involves the borrower entering into a second mortgage. This arrangement represents the means by which he can add to his development without refinancing the first mortgage at substantially higher current rates.

Writ Of Execution A court order used to sell property to satisfy a debt.

Writ of Possession A document issued by the court after the landlord wins an unlawful detainer (eviction) lawsuit. The writ of possession is served on the tenant by the sheriff. The writ informs the tenant that the tenant must leave the rental unit within five days, or the sheriff will forcibly remove the tenant.

Write-Down To diminish in amount on the records, generally to reflect a market value loss.

***Example**:* Bank auditors, upon discovering that a certain mortgage was worthless, insisted on a write-down. The bank recorded the value decline as a bad debt expense.

Wrought Iron An easily molded form of iron used for decorative railings, gates, furniture etc. The term is loosely used to describe steel or aluminum used in the same manner.

Wythe (Withe) A masonry wall that separates two flues in the same chimney stack.

X An individual who cannot write may execute a legal document by affixing an **"**X**"** (his/her mark) where the signature normally goes. Around the mark a witness then writes the person's name and signs his or her own name as witness.

X-Bracing X-shaped, cross bracing of a floor joist or a partition.

Yacht Basin A group of channels and docks used for the keeping of yachts.

Yard A unit of measurement 3 feet long.

Yard Lumber Lumber graded for building purposes. It is generally bought in a lumber yard.

Yield The interest earned by an investor on his investment. Also called return.

Yield Capitalization Capitalization method that mathematically discounts future benefits at appropriated yield rates, producing a value that explicitly reflects the income pattern, value change, and yield rate characteristics of the investment.

Yield Rate The yield expressed as a percentage of the total investment. Also, called

Yield To Maturity (YTM) The internal rate of return on an investment. Considers all inflows and outflows of investment returns and their timing.

***Example**:* An income-producing property requires a $10,000

investment. It promises a $1,000 annual return for 5 years, then resale proceeds of $15,000. The yield to maturity is 17.1%. *See* Internal Rate Of Return For Formulas.

Zeolite A chemical (hydrous aluminum silicate) used in water softeners that exchanges the minerals in the water for sodium chloride (common salt).

Zero Lot Line A form of cluster housing development in which individual dwelling units are placed on separately platted lots. They may be attached to one another, but not necessarily. *See* Planned Unit Development, Plat, Row House, Town House.

Zero Side Yard The building of a subdivision with each house built on a side boundary line. This gives more usable yard space on narrow lots. An easement for maintenance is given over a portion of the lot adjoining each house.

Zone The area set off by the proper authorities for specific use; subject to certain restrictions or restraints.

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

Zoning Map A map of the local jurisdiction that indicates current zoning designations.

Zoning Ordinance Act of city or county or other authorities specifying the type of use to which property may be put in specific areas. *See* Zone, Zoning.

Example*:* A typical zoning ordinance defines:

- the purpose for which the ordinance is adopted,
- the various zoning classifications and permitted uses within each,

restrictions, such as height limitations,

the procedure of handling nonconforming uses,

the procedure for granting amendments, variances, and hearing appeals,

penalties for violation of the ordinance.

Zoning Variance Permits a change in the specifications required by the zoning ordinance.

Zygocephalum In real estate, an inaccurate measure of land. Historically, it was the amount of land a yoke of oxen could plow in a day.