

Real Estate Dictionary

1031 Exchange The Internal Revenue Code Section that allows a taxpayer to sell an investment property and purchase another investment property in its place without paying capital gains on the proceeds from the sale. *Also called Like-Kind Exchange or Tax-Deferred Exchange.*

A

Abandonment Non-payment of taxes.

Absolute Auction An auction where the property is sold to the highest qualified bidder; there is no minimum bid or reserve or right of confirmation. *Also called Without Reserve.*

Abstract of Title A brief, chronological summary of the recorded documents affecting title to a particular parcel of real property.

Acceleration Clause A contract clause that gives the lender the right to declare all outstanding payments immediately due upon a default by the borrower.

Acceptance When a party agrees to the terms of an offer to enter into a contract, thereby creating a binding contract.

Accession The acquisition of title to land by its addition to real estate already owned, through human actions or natural processes.

Accounting In an agency relationship, the agent's fiduciary duty to the principal to strictly account for all monies received.

Accretion A gradual addition to dry land by the forces of nature, as when the tide deposits waterborne sediment onto shoreline property.

Accrued An accumulation.

Accrued Expense Item on a settlement statement for which the cost has been incurred, but the expense has not yet been paid. Such expenses are considered to be paid in arrears.

Acknowledgment Recognition of validity; a document signer's declaration to an authorized official (usually a notary public) that he is signing voluntarily.

Acre A measure of land area that is equal to 43,560 square feet. One square mile contains 640 acres.

Actionable Fraud Fraud that meets certain criteria, so that a victim can successfully sue. The victim must prove the defendant concealed material facts or made false statements (intentionally or negligently) with the intent to induce the victim to enter a transaction, and the victim was harmed by relying on misrepresentations.

Actual Eviction The legal process of forcing someone off of a property or preventing someone from re-entering the property.

Actual Fraud An intentional misrepresentation or concealment of a material fact; when a person actively conceals material information or makes statements that he knows are false or misleading.

Actual Notice Personal knowledge of a fact, rather than knowledge imputed or inferred by law.

Ad Valorem Latin phrase meaning “according to value,” used to refer to taxes assessed on the value of property.

Adequate Consideration Consideration that is comparable in value to the consideration the other party to the contract is giving.

Adjustable Rate Mortgage (ARM) A type of loan structure that permits the lender to periodically change or vary the interest rate charged, based on a standard index.

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

Adverse Possession The open, notorious, hostile, adverse, exclusive, and continuous possession of another person's property for a statutory number of years, after which time the adverse possessor may seek to obtain title to the property.

Advertisement A public notification in any type of media featuring property for sale or rent or marketing brokerage services; must follow guidelines of federal, state, and local fair housing laws.

Affidavit of Title A statement, sworn in front of a notary public or other authorized official, by the seller or grantor of property that identifies the grantor, identifies the grantor's marital status, and certifies that the grantor has no new judgments, liens, divorces, unrecorded deeds, or other potential title defects since the title examination was completed. It also certifies that the grantor is indeed in possession of the property.

Affiliated Business Arrangement (AfBA) A situation where a person in a position to refer settlement services—or an associate of that person—has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1% in a provider of settlement services and who then refers business to that provider or in some way influences the selection of that provider.

Agency A relationship of trust created when one person (the principal) gives another person (the agent) the right to represent the principal in dealings with third parties.

Agency Coupled with an Interest A situation in which the agent has a personal interest in the subject of the agency, as when one co-owner has been authorized by the others to sell their property.

Agent A licensed broker who represents another (the principal) in a real estate transaction; a person authorized to represent the principal in dealings with third parties (clients or customers).

Aggregate Rent The total rent for the full term of the lease.

Air Rights The right to undisturbed use and control of the airspace over a parcel of land (within reasonable limits for air travel); may be transferred separately from the land.

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

Alienation Clause A mortgage clause allowing the lender to demand the full and immediate payment of the mortgage because the owner transferred or pledged to transfer ownership of the property. *Also called* **Due on Sale Clause**.

Allodial System The system of land ownership that allows anyone to own land.

Alluvion Solid material deposited along a shore by accretion. *Also called* **Alluvium**.

Amenity A tangible or intangible feature that enhances or adds value to real estate.

Amenity Purchaser A person who values a property based on its ability to fulfill their specific business needs or use, unlike investors who value a property based primarily on its investment return.

American Land Title Association (ALTA) A national association of title companies, abstractors, and attorneys. Members agree to promote uniformity, quality, and professional standards in title insurance policies. Policies issued by ALTA members follow specific guidelines.

Americans with Disabilities Act (ADA) A wide-ranging federal civil rights law, signed in 1990, that prohibits, under certain circumstances, discrimination based on disability.

Amortization Occurs when a loan balance decreases because of periodic installments paid on the principal and interest.

Amortized Loan A financial debt that is paid off over a period of time by a series of periodic payments. A loan can be fully amortized or partially amortized requiring a balloon payment to satisfy the debt at the end of the term.

Amperage Amount of electricity going through electric wires, measured in amperes (amps).

Anchor Tenant Major department or chain store strategically located at shopping centers to give maximum exposure to smaller satellite stores. A center may have several anchor tenants. *Also called* **Magnet Store**.

Annexation Attaching personal property to land so that it becomes a fixture and the law views it as part of the real property.

Annexation, Actual The process of physically attaching personal property to land, causing it to be a fixture.

Annexation, Constructive Personal property associated with real property in such a way that the law treats it as a fixture, even though it is not physically attached to the real property.

Annexer A person who owns an item as personal property and brings it onto real property, making it a part of the real property.

Annual Percentage Rate (APR) Relationship between the total cost of borrowing and the amount financed, represented as a percentage. *Also called* **Effective Rate of Interest**.

Anticipation An economic principle that says value is created by the expectation of future benefits, such as profit on resale, pleasure, tax shelter, production, income, etc. Anticipation is the foundation of the income approach.

Anticipatory Repudiation When one party to a contract informs the other before the set time of performance that he or she doesn't intend to perform as agreed. The other party may immediately file a lawsuit for breach of contract without making a tender offer. *Also called Anticipatory Breach.*

Antitrust An area of federal law concerned with maintaining competition in private markets by prohibiting unlawful restraint on trade.

Appraisal A professional estimate or opinion of the value of a piece of property (parcel of land), as of a certain date, that's supported by objective data.

Appraisal Foundation Nonprofit organization recognized as the authority for professional appraisal standards.

Appraisal Management Company (AMC) An entity that, for compensation, acts as a third party intermediary by contracting with independent real estate appraisers to perform appraisals for lenders.

Appraiser A person who estimates the value of property, especially an expert qualified to do so by education and experience.

Appreciation The increase in value of an asset over time.

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

Appurtenance A right that goes along with ownership of real property; usually transferred with the property but may be sold separately.

Arbitration An alternative to a court proceeding where the parties agree to submit facts and evidence to an impartial third party for a decision.

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

Arm's Length Transaction A transaction that occurred under typical conditions in the marketplace, with each party acting in their own best interest.

Arrears 1. Owing payment on things for which one has the use of but has not yet paid for, such as property taxes or mortgage interest that is paid in arrears. 2. Not on time; late in making payments or completing work.

As of Right Zoning A property owner's right to use or develop the property if the proposed use accords with the zoning by-laws.

Asbestos A fibrous material that was once common in many building materials because of its insulating and heat-resistant properties; can cause breathing issues and illness when particles are inhaled.

Ascending Bid An auction method where the bidding starts low and the auctioneer asks for more, allowing buyers to bid more until the item is sold to the highest bidder.

As-Is Clause A statement in a contract that indicates the property is being sold without warranty in its present condition at the time of the contract.

Assemblage The act of combining two or more parcels of land into one larger parcel.

Assessed Value The value placed on a property by a taxing authority for the purpose of taxation.

Asset An item of economic value owned by an individual, especially those that can be converted to cash.

Asset Class A grouping of investments that have similar characteristics and are subject to the same laws and regulations.

Assignment The transfer of rights or interests under a contract to another party.

Assignment of Mortgage A situation in which the lender (mortgagee) transfers its rights under the agreement to another party (assignee), who receives the right to enforce the agreement's terms against the borrower (mortgagor).

Assistance Animal An animal that provides emotional or physical support to an individual with a disability, lessening the effects of the disability. *Also called Emotional Support Animal.*

Association Fees Monthly dues collected by homeowners associations from property owners to pay for common area expenses such as utilities, management, building maintenance, hazard and liability insurance, and amenities.

Assumable Loan A financing arrangement in which a borrower transfers their outstanding loan and its terms to a subsequent buyer; requires the approval of the lender.

Assumption When one party takes over the payments and primary liability for the loan of another party; usually lender approval is needed. A release is needed; without one, the original party remains secondarily liable for the loan.

Attachment Lien A lien acquired on property by a creditor in order to prevent property transfer pending the outcome of litigation.

Attestation The act of witnessing a person's signing of an instrument by a notary public.

Attorney-In-Fact A person specifically designated in an instrument (e.g., power of attorney) to act on behalf of another, but not necessarily authorized to practice law.

Attorney's Opinion of Title A statement issued by an attorney after analyzing an abstract as to the quality of the title.

Attornment An act in which tenants acknowledge their obligations to a new landlord.

Auctioneer A person licensed or authorized to conduct a public auction of item(s) belonging to someone else. In some states, auctioneers selling real property must be licensed as real estate brokers, whereas in others they must be licensed auctioneers.

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Automated Clearinghouse (ACH) A settlement system used for financial transactions by U.S. commercial lenders; a nationwide network to exchange paperless payments among financial institutions and government agencies.

Automated Underwriting A computerized evaluation of a borrower's creditworthiness, based on statistical models.

Avulsion A natural process in which land is removed from one person's property and deposited onto another's. Avulsion happens very suddenly, as in a flash flood.

B

Backup Offer An offer made and accepted, after another offer has been accepted, that is contingent on the failure of the first contract.

Bad Title Title with defects making it unmarketable.

Bait and Switch A deceptive sales technique that involves advertising to a consumer a particular product, service, or rate, then persuading the consumer to accept something else. Most states have consumer protection laws that make this tactic illegal.

Balance (Four Factors of Production) The right mix of capital, entrepreneurship/management, labor, and land that results in the best return on investment from land (remember: C-E-L-L).

Balance Sheet A financial statement (such as a property management report) that lists assets, liabilities, and ownership equity at a specific moment in time.

Balloon Framing A technique of framing where the long vertical pieces (studs) are installed in a continuous piece from foundation to roofline.

Balloon Payment A lump-sum payment made at the end of a loan term to pay off the remaining balance of principal and interest that was not covered by payments during the loan term.

Bankruptcy A court process that cancels some debt and provides some relief for creditors. Chapter 7, sometimes called straight bankruptcy, is a liquidation proceeding; Chapter 13, sometimes called a reorganization proceeding, is filed by individuals who want to pay off their debts over a period of three to five years.

Bargain and Sale Deed A type of deed that implies that the grantor owns the property and has the right to convey it, but there are no warranties that go with it.

Base Rent The minimum amount of rent indicated in a lease.

Base Year A period for determining a property's actual operating expenses, typically over the first year of a lease term, which is used as the point of reference against which increases in subsequent years are compared and then passed on to the tenant.

Baseline The principle east-west line (i.e., a parallel) upon which all rectangular surveys in a defined area are based.

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Basic Sector The segment of a local economy that is made up of businesses and industries that bring income into the local economy by selling goods or services to consumers outside the community.

Basis Point One hundredth of one percent, used chiefly to express differences in interest rates.

Beam A long piece of timber or metal that spans an opening or part of a building and provides support to a roof or floor above it. Beams are installed horizontally.

Benchmark A bronze disk permanently placed and precisely identified by government survey teams.

Beneficiary One who receives a benefit; in real estate, the lender in a trust deed.

Bilateral Contract A contract in which both parties make a binding promise to the other.

Bill of Sale A document used to transfer ownership of personal property from one person to another.

Binder A non-binding document used to communicate the terms of a buyer's offer to purchase property; serves as a blueprint for creating a purchase agreement.

Biweekly Payment Plan A fixed-rate mortgage set up like a standard 30-year conventional loan, but payments are made every two weeks instead of every month.

Blanket Mortgage A mortgage loan that covers more than one parcel of real estate, usually used to finance entire subdivision developments rather than an individual unit or lot.

Blind Advertisement A real estate advertisement used by a licensee regarding the sale or lease of real estate or of licensed activities that does not include the broker's name or business name. Prohibited in most states.

Blockbusting The illegal practice of inducing owners to sell their homes (often at a deflated price) by suggesting the ethnic or racial composition of the neighborhood is changing, with the implication that property values will decline as a result. *Also called* **Panic Selling** or **Panic Peddling**.

Blue Sky Laws State laws regulating the sale of securities; intended to protect consumers from fraud.

Blueprint A detailed diagram, usually created by an architect, which is used to evaluate design, determine feasibility, and guide the construction of a structure.

Boilerplate Standardized language used in contracts for the sake of efficiency and completeness.

Book Value The value of an asset, such as real estate or equipment, as indicated in the company's financial records (may differ from market value).

Boot Extra, non-like-kind property that can be a part of a like-kind exchange to make up for pricing disparity between like-kind properties.

Bounds Refers to boundaries; used with the word "metes" in the metes and bounds method of land description.

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Boycott A concerted refusal by two or more people to deal with a particular person or company.

Breach Violation of an obligation, duty, or law.

Breach of Contract An unexcused failure to perform according to the terms of a contract.

Breach of Trust The failure by someone entrusted with care or property of others to discharge the duties imposed on them under the terms of an agreement or other obligation; may be malicious or due to negligence or carelessness.

Breakdown Method Estimating physical depreciation by estimating all items of depreciation individually and then adding the individual estimates together and deducting the sum from the estimated reproduction or replacement cost.

Bridge Mortgage A mortgage loan that occurs between the termination of one mortgage and the commencement of another. When the next mortgage is taken out, the bridge is repaid.

British Thermal Unit (BTU) The amount of heat needed to raise the temperature of one pound of water by one degree Fahrenheit; used to measure the capacity of furnaces and air-conditioning units.

Broker A real estate licensee with several years of experience who has received advanced training and passed a broker exam.

Broker Price Opinion (BPO) The estimated value of a property as determined by a real estate licensee or other qualified individual, often done at the request of a lender for non-federally related property transactions.

Broker Protection Clause A provision in an agency agreement that entitles the broker to a commission if the property is sold during a certain time period after the agency agreement expires. *Also called* **Carryover Provision** or **Extender Clause**.

Brokerage A firm with real estate licensees who may be retained by consumers to negotiate the purchase, sale, and lease of real property

Broker-Dealer A person or organization that engages in the business of trading securities, such as stocks and bonds, for its own account or on behalf of its customers.

Brownfield A former industrial or commercial site where future use is affected by real or perceived environmental contamination.

Budget Mortgage A mortgage agreement where payments include principal and interest on the loan, plus 1/12 of the year's ad valorem property taxes and hazard insurance premiums.

Buffer Zone A means by which planners use space to separate two adjoining districts which have incompatible uses. A buffer zone consists of uses that are compatible with uses in each adjoining district.

Building Code A set of regulations, written by city or county officials with the help of construction professionals, that governs design and construction standards and requires builders to use particular methods and materials.

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Building Department An agency responsible for issuing building permits and seeing that building codes are followed and that construction and renovations are performed by licensed professionals.

Building Efficiency The ratio of usable square footage to rentable square footage.

Building Inspection A process whereby local government officials ensure compliance with state and local building codes.

Building Permit An official document from a local government or other authority that allows a construction or remodeling project to proceed.

Bump Clause A provision in a purchase agreement that allows the seller to keep the property on the market while the prospective buyer's purchase is contingent on the sale of the buyer's property.

Bundle of Rights All real property rights that are conferred with ownership, including the right of possession, right of quiet enjoyment, right of disposition, right of exclusion, and right of control. *Also called* **Bundle of Sticks**.

Buyer Agency Agreement An employment contract between a buyer and a broker that grants the broker the right to represent the buyer in the purchase of property and stipulates the terms under which the broker will be compensated. *Also called* **Buyer Broker Agreement**.

Buyer's Agent A real estate licensee who represents the interests of the buyer of a property.

Buyer's Choice A type of auction for multiple parcels where the winning bidder gets to select which of the parcels they want.

Buyer's Market A situation in the housing market where there are many homes available for sale, but few people looking to buy.

Buyer's Premium A compensation structure in which the winning buyer at an auction pays the auctioneer/auction company, generally a percentage of the high bid in addition to the bid amount.

Bylaws Homeowners association rules and regulations that govern property owners' activities, including rules for elections and voting, and frequency of board of directors' or shareholders' meetings.

C

Cancellation Termination of a contract without undoing acts that have been performed under it; can be done without going to court.

CAN-SPAM Act A federal law enacted to limit unsolicited commercial email and text messages, requiring senders to provide an opt-out option.

Cap The maximum increase in the interest rate, or the maximum interest rate, that a lender can charge on an adjustable-rate mortgage.

Capital Expense A cost incurred to improve a property with the expectation of long-term benefits; an investment in the business of the property. *Also called* **Reserves for Replacement**.

Capital Gain Profit made from an investment.

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Capitalization Used in the income approach to value. To capitalize income means to convert future income into present (current) value.

Capitalization Rate The rate of return considered to be a reasonable return on investment given the risk.

Carbon Monoxide A colorless, odorless gas that is a natural byproduct of fuel combustion and is dangerous when inhaled.

Cash Flow A measure of the money being transferred into and out of an investment, calculated as net operating income minus debt service.

Cash to Close The amount of money a buyer must bring to settlement to close the transaction after all credits and debits have been reconciled.

Cash-on-Cash Return The yield of an investment expressed as a percentage by dividing the investment's cash flow by the total amount expended to acquire the property.

Caveat Emptor A Latin phrase meaning "Let the buyer beware;" implies that a purchaser is expected to examine property carefully instead of relying on seller disclosures.

CC&Rs A declaration of covenants, conditions, and restrictions; usually recorded by a developer to create private restrictions for a subdivision or condominium community.

Cease and Desist Order An administrative agency directive to stop an offending activity.

Ceiling The maximum increase or decrease in the periodic payment allowable over the life of an adjustable-rate mortgage. *Also called Lifetime Cap.*

Ceiling Height The height in feet from the floor to the steel girders. *Also called Feet Under Steel.*

Certificate of Eligibility (COE) A document issued by the Department of Veterans Affairs to establish status and amount of a veteran's eligibility to qualify for a loan guarantee.

Certificate of Occupancy A document issued to builders after all inspections have been made and the property is deemed fit for livability by meeting the appropriate standards for health and safety.

Certificate of Permanent Location A document recorded in the county in which a manufactured home has been permanently affixed to real property with common ownership between the land and the home.

Certificate of Purchase A document that is given to the winning bidder of a real estate tax or foreclosure sale. Once the sale is confirmed, a deed will be issued to convey title.

Certificate of Title 1. A document prepared by an attorney, title company, or title abstractor stating their opinion of the status of the title to a piece of property after performing a title search and reviewing the public records. *Also called Opinion of Title.* 2. A document proving ownership of a vehicle.

Chain of Title The chronological succession of changes in ownership of a piece of property from one owner to the next, as disclosed in the public record.

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Change A principle of value that says all factors that influence real estate—physical, economic, governmental, social (P-E-G-S)—are constantly changing and, thus, property value itself is subject to constant change as well.

Chant The way in which an auctioneer verbally communicates to engage and inform prospective bidders, indicating the current bid and the desired bid.

Charrette An intense work effort in which a team of design professionals across multiple disciplines works with community stakeholder participants within a highly focused, compressed timeframe to develop a plan.

Chattel A piece of personal property.

Chattel Mortgage A loan that uses only personal property as security.

Chlorofluorocarbons (CFCs) Nonflammable chemicals once used in refrigeration systems and linked to depletion of the ozone layer.

City Planning The effort on the part of the city to coordinate, direct, and control the type of development taking place so as to ensure maximum benefits to the populace.

Civil Rights Fundamental rights guaranteed to all persons by the law, primarily in reference to constitutional and statutory protections against discrimination based on protected class status.

Civil Rights Act of 1866 A federal law prohibiting discrimination based on race and color against all native-born Americans in all property transactions (personal, commercial, residential), without exception.

Clearspan Open distance between inside faces of support members.

Client A person being represented by a licensee. *Also called* **Principal**.

Closing The transfer of real property ownership from seller to buyer, according to terms and conditions in a purchase agreement or escrow instructions; the final stage in a real estate transaction. *Also called* **Settlement**.

Closing Costs The expenses incurred and paid at the time of settlement in the transferring of property.

Closing Disclosure A standardized document that presents a final, detailed accounting for a real estate transaction, listing each party's debits and credits and the amount each will receive or be required to pay at closing; required for all RESPA-related transactions. *Also called* **Settlement Statement**.

Cloud on the Title A claim, encumbrance, or defect that could place the title to real property in question, reducing its marketability.

Cluster Zoning A method that allows developers to provide a varied selection of lot sizes and housing choices within a single area.

Code of Ethics A set of principles and standards based on core values by which a group of professionals are expected to conduct themselves.

Co-Insurance A common clause or provision in building insurance policies under which the insured agrees to maintain insurance on their property in an amount equal to at least 80% of the replacement cost. If the property is not insured to that amount and a loss is incurred, the insurance company will make the insured share in the loss on a pro-rata basis.

Cold Calling The practice of making unsolicited phone calls to possible customers with whom there is no prior relationship or inquiry.

Collateral Property pledged as security for a debt.

Collusion Secret agreement or cooperation among people, especially for deceitful or fraudulent purposes.

Combined Loan-to-Value (CLTV) The relationship between the unpaid principal balances of all mortgage loans and the appraised value or sales price, whichever is lower, of the property.

Commercial Banks The largest financial intermediaries directly involved in the financing of real estate. Their primary real estate activity involves short-term loans.

Commercial Property Property zoned and used for business purposes, such as warehouses, restaurants, and office buildings (as distinguished from residential, industrial, or agricultural property). Commercial residential property has five or more units.

Commingling Illegally mixing personal or business funds with money held in trust on behalf of a third party.

Commission Compensation paid to a broker for services in a real estate transaction; usually a percentage of the sales price. Commission is negotiable and should be clearly spelled out in a written brokerage agreement.

Commission Association Manager Provides a large range of services for communities, typically tailoring those services to the needs of an individual community.

Common Area Maintenance (CAM) All costs incurred in maintaining the common areas of a commercial property, including parking lot sweeping and repair, snow removal, common utilities, landscaping, and other maintenance tasks. CAM costs are usually prorated among all tenants.

Common Areas The land and improvements in a condominium or cooperative that all residents use and own as tenants in common, such as the parking lot, hallways, and recreational facilities.

Common Interest Ownership A situation where individual ownership (fee simple) and group ownership (tenants in common) are present in the same community subject to an owners association.

Common Law Law that has developed over many years through court decisions and other precedents.

Community Property In some states, property acquired during marriage that is owned jointly by the married couple.

Comparables Recently sold properties with similar characteristics (size, room count, design, utility, etc.) that are in close proximity to the property being valued. *Also called Comps.*

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Comparative Unit Method A method for determining the replacement cost of a building based on the cost of recently built comparable buildings.

Compensation Valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service.

Compensatory Damages An award of damages intended to compensate a plaintiff for harm caused by the defendant's act or failure to act, including personal injuries, property damage, and financial loss.

Competency The ability to do something successfully or efficiently.

Competent Parties Those who are legally capable of entering into contracts.

Competition *The act or process of trying to obtain or win something that others are also trying to obtain or win.*

Competitive Market Analysis (CMA) A method of determining the probable selling price of a property by comparing it to similar properties that have sold, are presently for sale, or did not sell in a given area. *Also called* **Comparative Market Analysis**.

Complaint A formal allegation, generally in writing, accusing someone of misdeeds, usually to formally begin a legal or administrative action.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) A federal law enacted by Congress in 1980 to provide broad authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. *Also called* **Superfund**.

Comprehensive Loss Underwriting Exchange (C.L.U.E.)® Report A report available from Lexis/Nexis® that tracks insurance claim history on real property and automobiles.

Comprehensive Plan A long-term plan (e.g., 20 or 30 years) prepared by a local planning board that identifies the goals, objectives, principles, guidelines, policies, standards, and strategies for the growth and development of a community, including its housing needs. *Also called* **Master Plan**.

Concealment Failing to disclose or intentionally hiding information that is material to a decision by a party.

Conciliation A mediation between two parties to settle a dispute and/or seek voluntary compliance in an attempt to avoid a legal court case.

Condemnation The legal proceeding of taking private property for public use, through the government's power of eminent domain. Condemnation is the action; eminent domain is the right. *Also called* **Appropriation**.

Condition Provision in a deed or other document that makes the parties' rights and obligations dependent on the occurrence or non-occurrence of some event.

Conditional Approval A lender's agreement to fund a loan, provided certain contingencies are met.

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Conditional Use A land use that does not comply with the general zoning rules for the zone in which it is located, but is permitted because it benefits the public, such as allowing a hospital in a residential neighborhood.. *Also called* **Special Exception** or **Special Use**.

Condominium A property developed for co-ownership, with each co-owner having a separate interest in an individual unit, combined with an undivided interest in the common areas of the property and air space consisting of the area between the walls, floor, and ceiling.

Condominium Declaration The document that developers must file in the public record when they develop or convert existing property to a condominium; specifies common and private spaces lists easements, and describes the land, bylaws, and house rules.

Confidentiality A duty that requires an agent to protect the client's confidential information (this duty lasts even after the agency relationship has terminated).

Conforming Loan A loan that meets the qualifying standards of Fannie Mae or Freddie Mac, and thus can be sold on the secondary market.

Conformity The principle of value that says a particular property achieves its maximum value when surrounded by properties similar in style, function, and utility. *Also called* **Homogeneity**.

Consent Decree A binding agreement reached before judgment in a court case by which the accused party consents to change its behavior without admitting wrongdoing.

Consideration Anything of value—such as money, goods, services, or promises—that is given to induce another person to enter into a contract. *Also called* **Valuable Consideration**.

Construction Loan A temporary loan used to finance the construction of improvements and buildings on land.

Constructive Eviction Occurs when a landlord does not physically or legally evict a tenant but takes actions that interfere with the tenant's use and enjoyment of the premises; may provide legal cause for a tenant's release from the lease.

Constructive Fraud Concealment of a material fact; when a person carelessly fails to disclose material information or makes statements that they should realize are false or misleading.

Constructive Notice Knowledge of a fact imputed to a person by law because they could have or should have known it, even if they did not actually know it; this includes notice given by recording a document in the public record or by taking physical possession of property.

Consumer A person or entity seeking or receiving licensed activities.

Consumer Financial Protection Bureau (CFPB) An independent government agency within the Federal Reserve System, established under Title X of the Dodd-Frank Act, with rulemaking and enforcement authority regarding many consumer financial laws.

Consumer Price Index (CPI) An index published monthly by the United States Bureau of Labor Standards (BLS) considered by many to be the basic indicator of inflation in the U.S.

Contemporaneous Offers Competing offers submitted by the same buyer agent on behalf of competing buyers for the same property; requires disclosure to the buyer clients.

Contingency A provision in a contract, deed, law, regulation, guideline, etc. that makes the parties' rights and obligations depend on the occurrence (or nonoccurrence) of a specified event. *Also called* **Condition, Escape Clause, Subject to Clause, or Kick-Out Clause.**

Continuation A title search performed just prior to settlement to bring a preliminary title report up to date and ensure that no intervening rights to the property have arisen. *Also called* **Bring-Down or Continuance.**

Contract An agreement between two or more parties to do, or not do, something; a legally enforceable promise, with the law providing remedies for breach.

Contract for Deed An installment contract in which the seller passes possession but retains title to the property until the total or a substantial portion of the purchase price is paid. The two parties are the vendor (seller) and the vendee (buyer). *Also called* **Land Contract, Agreement for Sale, or Installment Sales Contract.**

Contract Rent What tenants are actually paying in rent, as stated in the terms of the lease.

Contractual Capacity The legal ability to enter into a contract.

Contribution The economic principle that a specific item or feature of a property is worth only as much as it increases the value of that parcel of real estate.

Conventional Loan A loan made by an institutional lender or a private party with real estate as security for the loan that the government neither guarantees nor insures.

Conversion The illegal use of another's funds or other property for one's own personal or business purposes.

Conveyance The act of transferring an interest in property from one person to another.

Cooperating Agent An agent who works with a listing agent to sell property in a real estate transaction, usually through participation in a multiple listing service. This agent could represent either the buyer or the seller, but a cooperating broker is generally the buyer's agent. *Also called* **Cooperating Broker.**

Cooperative A type of property ownership under which residents have the right to occupy a unit by purchasing stock shares in the corporation that owns the property. These individuals own stock shares, not real estate.

Co-Ownership Any form of ownership in which two or more people share title to a piece of property, holding undivided interests. *Also called* **Co-Tenancy or Concurrent Ownership.**

Corporation A legal entity organized according to strict regulations, in which individuals purchase ownership shares; regarded by the law as an artificial person, separate from the individual shareholders; centralized management is provided via a board of directors.

Correction Deed A deed used to correct minor mistakes in an earlier deed, such as misspelled names or errors in the legal description of the property. *Also called* **Deed of Correction or Deed of Confirmation.**

Correction Line In the government survey system, lines that are established at 24-mile intervals (or at every four township lines) north and south of a baseline, re-establishing the six-mile width between the range lines to account for the curvature of the earth.

Corrective Maintenance Repairing or restoring broken or failed equipment to a specified condition.

Cosmetic Maintenance Maintenance that increases a property's aesthetic appeal.

Cost The dollars needed to develop, produce, or build something.

Cost Approach An appraisal method in which an opinion of the value of real property is derived by estimating the expense of constructing a replacement or reproduction of the building, deducting an amount for depreciation, and adding the value of the land or site.

Cost Manuals Books, electronic media, and online sources that give estimated construction costs for various types of buildings in different areas of the country.

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

Costing Service Books, electronic media, and online sources that give estimated construction costs for various types of buildings in different areas of the country.

Counteroffer A response to an offer to enter into a contract, changing some of the terms of the original offer. A counteroffer is a rejection of the original offer (not a form of acceptance).

Counterofferee A person who receives a counteroffer or to whom a counteroffer is made.

Counterofferor A person who makes a counteroffer.

Covenant A contract, promise, or a guarantee (express or implied) in a document such as a deed or lease.

Covenant A contract, promise, or a guarantee (express or implied) in a document such as a deed or lease.

Covenant Against Encumbrances The assurance that no encumbrances other than those specified in the deed exist.

Covenant of Further Assurance A promise that the grantor will perform further acts reasonably necessary to correct any defects in the title or in the deed instrument.

Covenant of Quiet Enjoyment A guarantee that a buyer has the right to exclusive, undisturbed possession of an estate, and will not be disturbed by the previous owner or anyone else claiming an interest in the property.

Covenant of Seisin An assurance that the grantor has the exact estate in the quantity and quality which is being conveyed, i.e., "I own, and I have the right to sell it."

Crawl Space Unfinished space below the first floor of a house, less than a full story in height, usually containing plumbing and other functional elements.

Credit A sum of money that is to be received.

Credit History Record of debt repayment, detailing how a borrower has paid debts and obligations in the past, used to predict whether the borrower is likely to pay debts in the future.

Credit Report A listing of a borrower's credit history, including the amount of debt, record of repayment, job info, address info, etc.

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Credit Reporting Agencies Agencies that gather debt service information to calculate an individual's credit score. The largest credit bureaus are Experian™, Equifax® and TransUnion® and although they use similar information, they calculate their scores differently so that each individual may have three separate and slightly different scores. Also known as credit bureaus.

Credit Score A three-digit number in the range of 300 to 850 used by lenders to estimate a borrower's creditworthiness. These are calculated by credit reporting agencies based on several factors including payment history, length of credit history, amount owed, recent inquiries, recent credit activity, types of accounts.

Credit Scoring A method in which numerical values are assigned to different aspects of a borrower's loan application and used by lenders to gauge creditworthiness and assess credit risk.

Cubic Feet Length × Width × Depth = Cubic Feet. Divide cubic feet by 27 to find cubic yards.

Culpable Negligence Occurs if a licensee operates in a reckless, careless, and excessively negligent manner. Culpable negligence is for which one can be held legally accountable.

Curable Depreciation Depreciation is considered curable if the cost of the repair is less than what the repair adds to the value of property.

Curtesy Rights The interest held by a married person in the real property owned by a spouse; refers to a husband's interest in their wife's property (not recognized in all states).

Customer A party to a transaction with whom a real estate licensee does not have a fiduciary duty or relationship, but with whom a licensee must be honest and fair.

D

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

Database Contact information for prospects, collected and maintained in an organized manner.

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

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

Debit A sum of money that is owed.

Debt The amount of money owed on a note or other promise to pay.

Debt Service The amount of money paid at regular intervals toward reducing the principal and interest owed on a debt.

Debt-to-Income Ratio The relationship of a borrower's total monthly debt to gross monthly income, expressed as a percentage (Total Debt ÷ Income = Ratio %). Debt obligations include housing and long-term debts with more than 10 payments remaining. *Also called* **Total Debt Service Ratio** or **Back-End Ratio**.

Decree Court order.

Dedication The donation of real property by a private owner to the public.

Deed A written instrument transferring the grantor's ownership of, or interest in, real property.

Deed in Lieu of Foreclosure A document that transfers the title of a property from the property owner to the lender, in exchange for relief from the mortgage debt.

Deed of Release A deed given by lien holders, remaindermen, or mortgagees to relinquish their claims on the property.

Deed of Trust A security instrument In financed real estate transactions that transfers the legal title of a property to a third party—such as a bank, escrow company, or title company—to hold until the borrower repays the debt to the lender. *Also called* **Trust Deed**.

Deed Restriction Limitations placed in a deed by a grantor that restrict the way in which the land may be used, improved, or maintained.

Default Failure to fulfill an obligation, duty, or promise, as when a borrower fails to make payments, a tenant fails to pay rent, or a party fails to perform a contract. A mortgage, note, or other document will define what constitutes default.

Defeasance Clause A clause used to defeat or cancel a certain right upon the occurrence of a specific event.

Defeasible Fee Estate A type of freehold estate conveying ownership interest that comes with a condition. *Also called* **Fee Simple Defeasible Estate** or **Qualified Fee Estate**.

Defect in Title Any lien, claim or encumbrance, on a particular piece of real estate that has been properly recorded in the public records. Recorded defects impair clear title and may result in the title being unmarketable.

Deficiency Judgment A personal judgment against a borrower if the lender/creditor does not receive the amount of the lien plus the costs associated with foreclosure at a foreclosure sale.

Deficiency Statement A statement in a home inspection report that describes a deficiency, explains its implications, and advises the client about what to do.

Delivery and Acceptance A requirement for the legal transfer of property through a deed. Delivery refers to the grantor's intention to transfer the property's title and signing a deed; acceptance refers to the grantee's receiving the deed while the grantor is alive.

Demand The need or desire for a specific good or service.

Demographics Socioeconomic data regarding employment, education, marriage rates, birth and death rates, and family dynamics.

Department of Housing and Urban Development (HUD) An agency of the federal government that oversees many federal housing programs.

Deposit A sum of money placed or kept in a bank account.

Depreciation A loss in property value for any reason—physical deterioration, functional obsolescence, or external obsolescence. Also, a loss in value as an accounting procedure for use as a tax deduction for income tax purposes. *Also called* **Cost Recovery**.

Deregulation A process whereby restrictions imposed by a ruling authority are gradually relaxed.

Derogatory Credit Credit history showing previous problems in meeting financial obligations.

Descending Bid An auction method in which the auctioneer begins with a high asking number, and gradually lowers the asking price until the first person speaks, thereby winning the auction. *Also called* **Dutch Auction**.

Descent An operation of law in which real property is transferred to an heir after the death of the owner who leaves no will (intestate).

Designated Agency A contractual relationship between a broker and a client available in some states in which one or more licensees associated with the broker are appointed to represent the client in an in-house transaction. *Also called* **Split Agency**.

Designated Agent A licensee appointed by a broker as the legal agent of a client. *Also called* **Split Agent**.

Desk Copy A payment agreement through which a real estate licensee pays their employingbroker; an alternative to a commission split.

Devise To transfer real property by will; real property transferred in a will.

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

Disability A physical or mental impairment that substantially limits or curtails one or more major life activities.

Discharge of Mortgage The lender's release of all further obligations on the part of a borrower; required once a borrower's loan is paid off. The lender issues the discharge of contract, and the borrower should record this document. *Also called* **Release of Lien** or **Satisfaction of Mortgage**.

Disclosure Revelation of material facts or defects.

Discount Point A form of pre-paid interest that is charged by a lender to increase the yield on a lower-than-market interest rate loan; one point equals 1% of the loan amount. Important: while discount points cost 1% of the loan amount, they don't buy down a full 1% of the interest rate. A typical 1% discount point may only buy down 0.25% or so of the interest rate.

Discount Rate The interest rate charged by Federal Reserve Banks on loans to member commercial banks.

Discrimination Treating people differently because of their race, religion, sex, national origin, age, or some other characteristic of a protected class, in violation of civil rights laws.

Disintermediation When depositors bypass traditional depository institutions and invest directly in the stock market, mutual funds, artwork, etc., thereby reducing the mortgage money supply and causing interest rates to rise.

Disparate Impact When a law that isn't discriminatory on the face of it has The disproportionate effect impact on one or more protected classes. *Also called Disparate Effect.*

Disparate Intent An intentional decision to treat some people differently from others in a similar situation. *Also called Disparate Treatment.*

Disposal Rule A provision of the federal Fair and Accurate Credit Transaction Act that requires businesses to take reasonable measures to dispose of sensitive consumer information.

Distress Code A pre-defined signal, word, or phrase used by someone in a vulnerable or unsafe situation to communicate to others that they are in danger.

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

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

DOM (Days on Market) The period between when a property is listed and when it goes under contract.

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

Dominant Tenement Property that receives the benefit of an appurtenant easement. *Also called Dominant Estate.*

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

Dower Rights The interest held by a married person in the real property owned by a spouse; generally refers to a wife's interest in her deceased husband's property (not recognized in all states).

Down Payment The amount of money a buyer pays to obtain a property, in addition to the money that the buyer borrows.

Dual Agency An agency relationship in which a licensee represents both buyer and seller (or both landlord and tenant) in the same transaction. Usually requires advance informed written consent from both parties.

Dual Agent A licensee who represents both the buyer and the seller (or both landlord and tenant) in a single real estate transaction.

Due Diligence Investigation to discover facts or liabilities about a property prior to its purchase.

Due on Sale Clause A clause, included in many mortgages, permitting the lender to require the borrower to repay the outstanding balance when the property is sold. Prevents loan assumption.

Duress The use of force or improper actions, against a person or property, in order to induce a party to enter into a contract.

E

Early Termination Clause A clause, term, or condition in a contract that allows a party to that contract to avoid having to perform the contract. *Also called* **Escape Clause**.

Earned Increment An increase in value of real property due to some effort of the owner such as remodeling or other property improvements.

Earnest Money Money offered as an indication of good faith regarding the future performance of a purchase agreement.

Easement A nonpossessory interest and an encumbrance on property that grants the right to use another person's real property for a particular purpose.

Easement Appurtenant The right acquired by the owner of one parcel of land to use another's adjacent land for a specific purpose. There must be two tracts of land; one becomes the dominant tenement (it benefits from the easement), and the other becomes the servient tenement.

Easement by Condemnation An easement created through the government's power of eminent domain when necessary to benefit the public.

Easement by Implication An easement that occurs because of necessity, such as the conveyance of a land-locked property.

Easement by Prescription An easement created by open, notorious, hostile, and uninterrupted use of another person's land for a specific period of time determined by state law. Prescriptive use does not have to be exclusive (the owner may be using the property, too), and the user does not acquire title to the property. *Also called* **Prescriptive Easement**.

Easement for Light and Air A negative easement that prohibits the servient tenant from doing something that would obstruct the view or prevent light or air from reaching the dominant tenement. *Also called* **View Easement**.

Easement in Gross An easement that benefits a person or company, rather than benefiting another parcel of land, such as a utility company easement to access the property to repair or replace utility equipment.

Economic Base The main business or industry in an area that supports and sustains the community.

Economic Base Analysis A study of an area's current business and employment situation, conducted to determine the likelihood of continued stability, growth, or decline.

Economic Life The time during which a building can be used for its intended purpose and generate more income than is paid out for operating expenses. *Also called* **Useful Life**.

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Economic Obsolescence A loss in value due to factors outside the subject property, such as changes in competition or surrounding land use. *Also called External Obsolescence.*

Economic Rent The amount of rental which a building would receive, if set by the market, as opposed to contract rent set by the lease.

Effective Age The age of a structure based on the actual wear and tear that the building shows from physical, functional, or external obsolescence; not necessarily the structure's actual age.

Effective Date The date for which value was established when doing an appraisal.

Effective Demand When prospective buyers have enough disposable income to satisfy their purchase needs or desires. *Also called Purchase Ability.*

Effective Gross Income An investment property's potential gross rental income plus other income, less vacancy and collection losses.

Efflorescence A white powdery deposit on the surface of foundation walls or floor slabs, created when water penetrates the wall or floor, combines with salts within the masonry, and brings those salts to the surface.

EIFS (Exterior Installation and Finish Systems) A stucco-like material that was subject of a class action lawsuit due to moisture penetration issues .

Elevation Vertical measurement above or below a fixed reference point, most commonly sea level.

Emblement An annual crop that is planted and cultivated by a tenant farmer and is always the personal property of the tenant farmer. *Also called Fructus Industriales.*

Eminent Domain The government's constitutional power to take private property for public use, as long as the owner is paid just compensation. (Condemnation is the action; eminent domain is the right.)

Employee Someone who works under the control of, and at the direction of, a business or manager and is compensated for their time.

Employing Broker A broker under whom affiliated licensees are contracted to work.

Employment Agreement (Independent Contractor Agreement) A written contract between a self-employed real estate licensee and a broker under whose license the licensee will work.

Enabling Law Legislation in which a governmental body grants another entity the authority or power to take certain actions.

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

Encroachment A physical object intruding onto neighboring property, often due to a mistake regarding the boundary.

Encumbrance Any claim, lien, charge, or liability that attaches to, or burdens, real property.

ENERGY STAR A program, managed by the U.S. Environmental Protection Agency, that sets standards for energy-efficient consumer products and homes.

Enforceable Contract A contract that would be upheld by the courts; the requirements are capacity, mutual consent, lawful objective, consideration, and, for real estate contracts, in writing.

Entitlement The maximum dollar amount of guaranty that applies to an eligible veteran on a VA-guaranteed loan.

Environmental Impact Statement (EIS) A study required by the National Environmental Policy Act for all federal and federally-related projects that details a development project's impact on energy use, sewage systems, drainage, water facilities, schools, and other environmental, economic, and social elements.

Environmental Protection Agency (EPA) The federal agency tasked with creating and enforcing environmental protection standards, helping others with environmental pollution problems, and providing research on environmental issues.

Environmental Site Assessment (ESA) A report prepared for a real estate transaction that identifies potential or existing environmental contamination liabilities. An ESA can have up to four phases: I-Investigation; II-Testing; III-Remediation; IV-Management.

Equal Credit Opportunity Act (ECOA) A federal law that requires all lenders to make credit available with fairness and without discrimination based on race, color, religion, national origin, age, sex, marital status, or receipt of income from public assistance programs.

Equitable Lien A lien created when justice and fairness would require a court of equity to declare such a lien exists or when the conduct of the parties would imply that a lien was intended.

Equitable Right of Redemption The right of a debtor to redeem the property from foreclosure proceedings prior to confirmation of sale.

Equitable Title Any present right to acquire legal title to property.

Equity An owner's unencumbered interest in property; the difference between the value of the property and the liens, such as a mortgage, against it.

Erosion A gradual loss of soil due to the action of wind, water, or other forces.

Errors and Omissions (E&O) Insurance A type of liability insurance that helps cover the expenses of a lawsuit if a client claims a real estate licensee was at fault.

Escalation Clause A lease clause that provides for an increase in rent to reflect increases in expenses paid by the landlord, such as real estate taxes, operating costs, and cost of living expenses. *Also called Escalator.*

Escape Clause A clause, term, or condition in a contract that allows a party to that contract to avoid having to perform the contract.

Escheat The reversion of property to the state (or, in some states, the county) after a person dies without leaving a valid will or having any heirs.

Escrow A neutral third party that holds things of value on behalf of the parties to a transaction until the specified conditions have all been met.

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Escrow Account 1. A separate account maintained by a broker for the deposit of clients' money (i.e., good faith deposits). *Also called Trust Account.* 2. An account a lender maintains to hold a borrower's monthly payments for property insurance and property tax until those bills are due. *Also called Reserve Account or Impound Account.*

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

Escrow Company A neutral third party who safeguards funds on behalf of a buyer or seller until a transaction is ready to close.

Escrow Reserves An account maintained by a lender for the deposit of borrowers' extra 1/12 monthly deposits to cover next year's insurance and tax payments.

Established Business Relationship (EBR) A relationship that may allow a telemarketer or seller to call a consumer for up to 18 months after the consumer's last business transaction or payment or up to three months after the consumer makes an inquiry or submits an application—even if the consumer's number is on the National Do Not Call Registry.

Estate A possessory interest in real property; may be either a freehold estate or a leasehold estate.

Estate at Sufferance Possession of property by a tenant who once had a valid lease but stays on after the lease expires without the property owner's permission. *Also called Tenancy at Sufferance.*

Estate at Will Possession of property by a tenant with the owner's permission, but with no definite lease term and no rent being paid or rent not paid on a regular basis; e.g., a property owner lets a holdover tenant remain on the premises without paying rent until a new tenant is found. *Also called Tenancy at Will.*

Estate for Years A leasehold estate set to last for a definite period (e.g., one week, three years), after which it automatically terminates. *Also called Term Tenancy.*

Estate from Period to Period A leasehold that is automatically renewed for the same term as in the original lease, requiring notice to terminate. *Also called Periodic Tenancy, Estate from Period to Period, or Month-to-Month Rental.*

Estate in Fee The maximum possible estate one can possess in real property. *Also called Fee Simple or Fee Simple Absolute.*

Estoppel A legal doctrine that prevents a person from asserting rights or facts that are inconsistent with their earlier actions or statements when they failed to object (or attempt to "stop") another person's actions.

Estoppel Certificate A document, often used in real estate and mortgage activities, that establishes certain facts that may later not be contradicted, disputed, or recanted.

Ethics The fundamental principles of honesty and integrity that guide a person's behavior.

Eviction The process of forcing someone off property or preventing someone from re-entering property; can be classified as actual, constructive, retaliatory, or self-help.

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Evidence of Title Evidence of title to real estate is provided through a title report or issuance of title insurance.

Excess Land Land that is not needed to support the highest and best use of a property and adds no value to the property.

Exclusive Agency Buyer Agency Agreement An employment contract between a buyer and broker in which the broker earns a commission when the buyer purchases property unless the property was specifically exempted.

Exclusive Agency Listing An employment contract between a seller and a broker that entitles the broker to a commission if anyone other than the seller finds a buyer for the property during the listing term.

Exclusive Buyer Agency Agreement An employment contract between a buyer and a broker that grants only one broker the right to represent the buyer in the purchase of property and entitles the broker to the negotiated fee even if the buyer purchases property through another broker; depending on the language of the contract, the broker may also be entitled to compensation if the buyer finds the property and purchases it directly from the owner.

Exclusive Right to Rent Agreement An employment contract between a landlord and a broker giving the brokerage exclusive rights, for a specified period of time, to locate a tenant to rent the landlord's property. If the property is rented during this time, the broker is paid a commission.

Exclusive Right to Sell Listing An employment contract between a seller and a broker that entitles the broker to a commission if anyone, including the seller, finds a buyer for the property during the term of their agency relationship.

Executed Contract A contract in which both parties have fully performed their contractual obligations.

Executor A person appointed in a will to carry out the provisions of the will. Sometimes called Executrix if female.

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

Expired Listing A listing that did not sell during its listing period.

Express Agency An agency relationship in which the principal clearly communicates the authority to the agent, in spoken words or in writing.

Express Authority Actual consent to represent intentionally given by agreement—either oral or written—by a principal to an agent.

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

Extended Coverage A title insurance policy that includes standard coverage and additional protections, including defects that may be discovered only through actual inspection; usually required by lenders (mortgagees).

External Obsolescence When something outside of a property and outside of the control of a property owner makes it less desirable. *Also called Economic Obsolescence.*

F

Facilitator A licensee who assists in the successful completion of a real estate transaction but has no agency relationship with and, therefore, no fiduciary obligation to either party.

Fair Credit Reporting Act The federal law promoting the accuracy, fairness, and privacy of consumer information contained in the files of consumer reporting agencies.

Fair Housing Act Common name for Title VIII of the Civil Rights Act of 1968 and its amendments that prohibits discrimination by governments and private parties in the sale or lease of residential real property.

Fair Market Value The price negotiated for a parcel of real estate in a competitive market where both buyer and seller are free to act and under no undue pressure.

Familial Status A protected group under the federal Fair Housing Act, making it illegal to discriminate because they are the parent or guardian of a child under 18 years of age.

Farm Area A focused area, such as a neighborhood, that a real estate licensee continues to prospect (multiple contacts over time increase the likelihood of success).

Federal Deposit Insurance Corporation (FDIC) A federal agency established to insure the deposits in member commercial banks. It determines the maximum insurance amount per account.

Federal Fair Housing Act of 1968 An act prohibiting discrimination in the sale or rental of housing on the basis of race, color, religion or national origin sex, handicap, and familial status.

Federal Home Loan Bank System (FHLB) A government-sponsored enterprise, created by Congress but privately funded, that supports mortgage lending and related community investment for its member banks and financial institutions.

Federal Home Loan Mortgage Corporation (FHLMC) Commonly known as “Freddie Mac,” a government-sponsored entity regulated by the Federal Housing Finance Agency that operates in the secondary mortgage market to purchase mortgage loans from lenders.

Federal Housing Administration (FHA) A federal agency established in 1943 to increase home ownership by providing an insurance program to safeguard the lender against the risk of non-payment. Currently part of HUD.

Federal National Mortgage Association (FNMA) Commonly known as “Fannie Mae,” a government-sponsored entity regulated by the Federal Housing Finance Agency; the largest buyer of existing mortgages in the secondary mortgage market.

Federal Reserve System (FRS) A federal agency which oversees and regulates monetary policy, which in turn affects interest rates and the availability of credit. All federally chartered commercial banks must be members.

Fee Appraiser An independent valuation professional hired by a client to value a particular property for a fee.

Fee Simple Determinable Estate A type of defeasible fee that terminates automatically if certain conditions occur. The grantor (or grantor’s heirs) has a possibility of reverter (reclaiming ownership and possession). *Also called Determinable Fee Estate.*

Fee Simple Estate The greatest estate (ownership) one can have in real property because it is freely transferable and inheritable, and of indefinite duration, with no conditions on the title. *Also called Fee Estate, Fee Simple Absolute Estate, or Estate in Fee.*

Fee Simple Estate Subject to a Condition Precedent A condition in which the grantor retains title to the estate until a specific condition occurs.

Fee Simple Estate Subject to a Condition Subsequent A type of defeasible fee that may be terminated by the grantor through legal action if conditions stated in the deed are not met; the grantor (or grantor's heirs) has the right of re-entry. *Also called Fee on Condition.*

FHA-Insured Loan A home financing option available to qualified borrowers through which the Federal Housing Administration insures approved lenders against loss from borrower default.

FICO Fair Isaac Corporation (FICO), provides a three-digit number calculated from information on a credit report and nothing else. It summarizes the credit report into a number lenders use to consider the level of risk in providing a loan to a borrower.

Fictitious Name A business name that is different from its owner's legal name. *Also called Trade Name or Doing Business As (DBA) Name.*

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

Fiduciary Deed A deed used to transfer property when the grantor is a fiduciary such as a trustee, guardian, conservator, or executor acting in their official capacity. A fiduciary deed usually only warrants that the fiduciary is acting in their appointed capacity and within their allotted authority. *Also called Judicial Deed or Bargain and Sale Deed.*

Finance Charge The cost of consumer credit as a dollar amount, including any charge imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit.

Financing Contingency A clause in a purchase agreement that states the contract is contingent on the buyer obtaining approval for a loan on specified terms.

First Lien Claim with highest priority against property; also known as a superior to the rights of subsequent lenders. (Recorded first)

First Mortgage A mortgage on real estate in which the lender's rights are superior to the rights of subsequent lenders. (Recorded first)

First Substantive Contact An event triggering agency disclosure, for example, prior to entering into a listing agreement, or when showing a property, or at an open house when a buyer displays serious interest.

Fixed Expenses Ongoing operating expenses that do not vary based on occupancy levels of the property (e.g., taxes, insurance).

Fixed Fee Commission agreement by which a fixed dollar amount is paid for the performance of specific real estate services; payment usually requires the successful completion of the transaction.

Fixed-Rate Loan A loan for which the interest rate remains constant for the duration of the loan.

Fixture An item of personal property that has been attached to or closely associated with real property in such a way that it has legally become part of the real property.

Flat Fee A specific fee paid out once or in specific increments.

Flipping Purchasing a property and quickly reselling it for a profit.

Floodplain Land areas adjacent to rivers and streams that are subject to recurring flooding.

Floor Area Ratio The maximum size of a building permitted on a development site according to zoning requirements. The floor area ratio (FAR) is typically stated as a percentage, such as 25%, 30%, etc.

Floor Duty An assignment to take calls from consumers who call the brokerage for assistance or who walk into the brokerage looking for help.

Floor Load Capacity The weight (pounds per square foot) or load that the floor of a structure can handle.

Footer The support for the foundation of a building. Footers are installed below the frost line and are wider than the foundations that they support.

For Sale by Owner (FSBO) A property offered for sale directly by the seller, who is not represented by a listing agent.

Forbearance Agreement When the lender agrees to temporarily reduce, postpone, or suspend a borrower's mortgage payment and not proceed with foreclosure as long as the borrower brings the loan current within the specified time.

Forced-Air System A type of heating system consisting of furnaces, blowers, ducts, and registers.

Forcible Entry and Detainer Action A summary legal action to regain possession of real property; especially, a lawsuit filed by a landlord to evict a defaulting tenant and regain possession of property. *Also called Unlawful Detainer Action.*

Foreclosure The process used by a lienholder to force a property to be sold so that the proceeds of the sale can be applied toward debt satisfaction.

Foreclosure Action A lawsuit filed by a creditor to begin foreclosure proceedings.

Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) A federal law that imposes income tax on foreign persons selling or otherwise disposing of their interest in real property.

Foundation The basic structure on which the rest of the building will sit. A foundation can be concrete slab, pier and beams, crawl space, or basement.

Framing The basic load-bearing skeleton of the house to which interior walls, exterior walls, and roof are attached.

Fraud An intentional or negligent misrepresentation or concealment of a material fact; making statements that a person knows, or should realize, are false or misleading. *Also called Fraudulent Dealing.*

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Freehold Estate A possessory interest in real property of uncertain (and often unlimited) duration; an ownership estate in real property; either a fee simple or life estate. The holder of a freehold estate has title.

Friable A characteristic of asbestos in which it can crumble easily or become powdery when manipulated by hand, releasing particles into the air.

Frontage The dimension across the access side of a parcel of land. The access could be a road, railroad tracks, or a body of water. In lot size dimensions, frontage is the first number listed. *Also called Front Foot.*

Fructus Industriales Plants planted and cultivated by people (“fruits of industry”), generally considered personal property.

Fructus Naturales Naturally occurring plants (“fruits of nature”) generally considered part of real property. *Also called Natural Attachments.*

Fully Amortized Loan A loan in which regular payments of principal and interest are applied until the loan is paid off when the last scheduled payment is made.

Functional Obsolescence Something inherent in the design of a structure that makes it less desirable.

G

Gender Identity Actual or perceived appearance, expression, identity, or behavior of a person as being male or female, whether or not that appearance, expression, identity, or behavior is different from that traditionally associated with the person’s designated sex at birth.

General Agent A person authorized to handle a variety of activities for the principal in one area or in specified areas on a continuing basis, for example, a real estate broker who is a property manager.

General Liability Insurance Insurance that protects against bodily injury and property damage claims.

General Lien A lien against all property of a debtor, instead of a particular piece of property.

General Partnership An association organized by two or more persons engaged in a business for the purpose of joint profit. General partners assume unlimited joint and several personal liability; as such, a general partner may be personally liable for the actions of other general partners.

General Warranty Deed A deed in which the grantor warrants the title against any and all defects that might have arisen before or during their period of ownership. *Also called Standard Warranty Deed or Simple Warranty Deed.*

Genuine Assent Consent given freely to create a binding contract.

Geographic Information System (GIS) A computer-based system for gathering, analyzing, and displaying geographic data, typically on a map.

Good Consideration Love and affection (as opposed to monetary consideration).

Good Faith The general presumption that the parties in a contract or other business transaction will deal with each other honestly and fairly, adhering to the terms of any contract and acting without any intent to defraud, deceive, or otherwise take advantage of the other party.

Good Title Title that is free from encumbrances such as liens, pending litigation, and other such defects.

Government National Mortgage Association (GNMA) Commonly known as “Ginnie Mae,” an agency of the Department of Housing and Urban Development (HUD) that operates in the secondary mortgage market. It is involved with special government financing programs, e.g., FHA-insured and VA-guaranteed loans.

Government Survey System Legal description for land referencing principal meridians and baselines designated throughout the country. *Also called Rectangular Survey System.*

Government-Sponsored Enterprise (GSE) A quasi-governmental, privately held agency established by Congress to improve credit flow in some areas of the country’s economy. A GSE provides financial services to the public for various things, particularly mortgages, through capital market liquidity.

Graduated Lease A lease under which rental increases are made at scheduled intervals for specific amounts.

Graduated Payment Buydown A temporary buydown plan where payment subsidies, usually from a seller or developer, in the early years of the loan keep payments low, but payments increase each year until they’re sufficient to fully amortize the loan.

Graduated Payment Mortgage (GPM) A financing technique for residential real estate in which monthly payments start at a lower rate and increase periodically over the life of the mortgage; an example is the FHA 245 loan.

Grandfather Clause An exemption from the application of a new law due to previously existing circumstances; a nonconforming use.

Grant Transferring real estate by means of a deed.

Grantee Person receiving a grant of real property.

Granting Clause A deed clause stating a grantor’s intent to transfer an interest in real property.

Grantor A person who conveys their interest in real property.

Gratuitous Agency An agency relationship where a real estate licensee is not compensated for their services, but still owes the principal all legal obligations due to every client. Can occur with implied agency.

Gross Income The actual income received from property before the deduction for any expenses.

Gross Income Multiplier A conversion factor derived from the sales price of comparable rental properties divided by their gross rent and any other miscellaneous income. This factor is multiplied by the estimated gross income of the subject to estimate its value.

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Gross Lease A lease for which the tenant pays a fixed amount to the property owner and the property owner is responsible for paying all associated expenses (taxes, insurance, maintenance); most common for residential leases.

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

Gross Rent The amount a property owner receives from a tenant for leasing a property before the owner deducts any operating expenses.

Gross Rent Multiplier (GRM) A conversion factor derived from the sales prices of comparable rental properties divided by their gross income received from lease payments. This factor is multiplied by the estimated gross rent of the subject property to arrive at an opinion of value.

Ground Lease (Land Lease) A lease under which the tenant leases only the land from the owner, but the tenant owns the building during the lease term.

Group Home A residential property where a small number of unrelated people in need of care, support, or supervision can live together.

Growing Equity Mortgage A fixed-rate mortgage with payments that increase by a predetermined amount, with the increased payment amount applied to principal reduction.

Guardian's Deed A deed authorized by a guardian, which is a person assigned by the court to handle the affairs of an incapacitated person.

H

Habendum Clause A clause in a deed, usually beginning with "to have and to hold," that describes the type of estate granted.

Half Timbering A construction method in which the external walls have exposed wood framing constructed of timber frames, with other materials such as plaster or brick filling the space between them.

Have The part of the auctioneer's chant that indicates the current bid. ("I have 50, who'll give me 60?")

Heat Pump A combination heating and cooling system consisting of compressors, refrigerants, blowers, and ducts.

Heterogeneity A characteristic of real property; each piece of land, each building, and each house is a unique piece of real estate. *Also called **Uniqueness**.*

Highest and Best Use The most profitable, legally permitted, feasible, and physically possible use of a piece of property.

Holder in Due Course One who acquires a negotiable instrument in good faith and for consideration, and thus has certain rights above the original payee.

Holdover Tenant A lessee who remains in possession of property after the lease has expired; a tenant who refuses to surrender possession of property at the tenancy's end.

Home Acquisition Debt A loan that a taxpayer takes out to buy, build, or substantially improve a qualified home.

Home Energy Rating System (HERS) A measurement of a home's energy efficiency used primarily in the United States; in the HERS Index, the higher the score, the less energy efficient the home is.

Home Equity Debt A loan that does not qualify as home acquisition debt but is secured by a qualified home.

Home Equity Line of Credit (HELOC) Available money that a homeowner can borrow, secured by a second mortgage on the principal residence. The homeowner can access HELOC funds at any time up to a predetermined borrowing limit and use them for non-housing expenditures.

Home Equity Loan A loan taken by a homeowner that is secured by a mortgage on their principal residence.

Home Inspection An unbiased, systematic, noninvasive, visual inspection of the physical structure and systems of a home.

Home Inspection Report A written report that a home inspector issues after a home inspection detailing issues found.

Home Warranty A contract between a homeowner and a home warranty company that provides coverage for the covers repair or replacement of named components of the home for a specified period of time, such as one year.

Homeowners Association (HOA) A nonprofit association composed of homeowners in a subdivision, responsible for enforcing the subdivision's CC&Rs and managing other community affairs.

Homestead A statutory or legal life estate recognized in some states that protects the interests in real estate belonging to a deceased person for the use of a surviving spouse and minor children.

Horizontal Property Acts A generic name given to state laws that create the legal framework that allows a condominium form of ownership. These acts make it possible for lenders to provide mortgages on condominiums, for tax authorities to assess property taxes, etc.

Hot Water or Steam System A type of heating system consisting of boilers, pipes, and radiators.

Housing Expense Ratio The relationship of a borrower's total monthly housing expense to gross monthly income, expressed as a percentage ($\text{Total Housing Expense} \div \text{Income} = \text{Ratio}\%$). *Also called* **Income-to-Payment Ratio** or **Front-End Ratio**.

HVAC Heating, ventilation, and air conditioning.

Hypothecation The act of pledging property to be the security for a loan without giving up possession of it, as with a mortgage.

I

Illegal Flipping A scheme in which property is purchased at a low price, appraised at an inflated value without justification, and resold at the higher price.

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Illegal Per Se Something deemed unlawful on the face of the evidence, without need to consider context or intent; generally made so by a statute, constitution, or case law.

Illiquidity The difficulty of converting an asset to cash.

Immobility A physical characteristic of real estate referring to the fact that it cannot be moved from one place to another.

Implicit Bias The attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious way, making them difficult to control.

Implied Agency An agency relationship created through the behavior (actions or words) of one or both parties.

Implied Contract An agreement that hasn't been put into words but is implied by actions of one or both parties.

Implied Warranty of Habitability The lessor's implicit promise that the premises comply with building codes and health and safety regulations and are otherwise safe for occupancy.

Improvement A substantial, manufactured addition to real property, such as a building.

Imputed Knowledge The legal concept that information communicated to the agent has been communicated to the principal, i.e., notice to the agent is notice to the client.

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

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

Income Approach An appraisal method in which an opinion of the value of real property is derived by analyzing the amount of revenue the property generates or could generate.

Income Approach An appraisal method that estimates the value of real estate by analyzing the amount of revenue, or income, the property currently generates, or could generate. *Also called Capitalization Approach.*

Income Statement A report that details the income (e.g., in a property management report, the rent and any other income) and expenses associated with an investment over a specific period of time. *Also called Profit and Loss Statement.*

Increasing and Decreasing Returns Economic principle stating the addition of more factors of production will add higher amounts to new income up to a certain point, which is the point where the maximum value of the asset has been reached; any further addition of factors of production will do nothing to increase the value.

Incurable Depreciation Elements of a structure which are neither physically possible nor economically feasible to correct.

Independent Contractor A term often erroneously applied to real estate licensees who are actually self-employed individuals under the supervision of their brokers (statutory non-employees, in IRS terms).

Indestructibility A characteristic of real estate; land can't be destroyed.

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

Index Lease A lease in which the amount of the rent is tied to some common index indicator, such as the Consumer Price Index or the Wholesale Price Index. As the agreed-upon index increases, the rent goes up by the same percentage of change.

Index Method A method for determining the cost of a building by taking its original cost and multiplying that number by an index factor based on how long ago the building was constructed.

Index Mortgage A fixed-rate mortgage with payments that increase by a predetermined amount, with the increased payment amount applied to principal reduction.

Inflation An increase in the cost of goods or services.

Inheritable An interest in land that can be passed to a relative upon the death of the owner.

In-House Transaction A situation in which a single brokerage represents both the buyer and seller in the same real estate transaction.

Injunction A court-ordered prohibition against a particular act, as opposed to a judgment for money. *Also called Injunctive Relief.*

Injunctive Relief A court-ordered prohibition against a specific act or conduct, as opposed to a judgment for money. *Also called Injunction.*

Inquiry Notice When circumstances should have alerted someone to a possible problem prompting further investigation, a person may be held to have had notice of the problem even if they do not have actual knowledge of it.

Inspection Contingency A purchase contract clause giving a buyer the right to have the home inspected during a specified period of time and to terminate the agreement should the inspection turn up issues the buyer and seller are unable to negotiate.

Inspection Period The period specified in the purchase agreement during which the buyer has the opportunity to conduct an inspection.

Insulation A material that is used to slow the flow of heat, moisture, shock, or sound.

Insurable Title Title to property that a title insurance company has agreed to insure against defects that could affect its ownership or value of the property.

Insurance Value The amount for which an owner can insure a property; usually only the replacement cost of the structure, disregarding any value for the land.

Interest 1. A right or share in something, such as a parcel of real estate. 2. A charge a borrower pays to a lender for the use of the lender's money.

Interest Rate The cost of using money expressed as a percent per period.

Intermediation The flow of deposits into lending institutions that creates a mortgage money supply.

Interstate Land Sales Full Disclosure Act A federal law that protects consumers from fraud and abusive marketing practices in the sale and lease of land through interstate commerce.

Intestate The state of dying without making a will, causing the decedent's estate to pass on according to the state laws of descent and distribution.

Invalid Without legal force.

Inventory The number of available homes on the market listed as active or pending.

Investment Value The value of a property to a particular investor based on that investor's specific investment expectation and criteria.

Involuntary Alienation When title to property is transferred during the owner's lifetime without the owner's consent.

Involuntary Lien A lien that arises by operation of law, without the consent of the property owner.

Irrevocable Not capable of being changed or terminated.

IRS Form 1099-S A report indicating the seller's proceeds from the sale or transfer of real estate that a settlement officer submits to the Internal Revenue Service.

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

J

Joint Tenancy A form of co-ownership in which the co-owners have equal undivided interests and the right of survivorship. Requires the unities of time, title, interest, and possession.

Joint Venture Two or more individuals or companies joining together for one project or a series of related projects, but not as an ongoing business.

Joists Long beams of wood or steel that span the perimeter a foundation or the load-bearing walls of a roof.

Judgment Lien A recorded claim against another for a wrongful act, as ordered by a court (often for money owed). The result of a judgment lien can be the forced public sale of real estate.

Judicial Foreclosure A lawsuit filed by a lender or other creditor to foreclose on a mortgage or other lien; a court-ordered sheriff's sale of the property to repay the debt.

Jumbo Loan A loan that exceeds the maximum loan amount that Fannie Mae and Freddie Mac will buy, making it nonconforming.

Junior Lien An encumbrance that is second in priority to a previously recorded lien or to a lien to which the encumbrance has been subordinated.

Junk Fees Charges assessed to a borrower by the loan originator that serve little if any function and are often hidden in the mortgage documents. Junk fees may or may not pay for an actual service to the borrower, but they typically are not known to the borrower prior to signing.

Just Compensation Generally, the fair market value for property; a requirement when the government exercises its constitutional power of eminent domain.

K

Kickback Fee or other compensation given as undisclosed commission for business referrals. Kickbacks are prohibited by RESPA.

L

Laches The loss of a right through undue delay or a failure to assert.

Land The surface of the earth, everything under the ground to the center of the earth, and everything over the earth into the air (allowances for air traffic).

Land Contract A real estate installment agreement under which the buyer (vendee) makes payment to the seller (vendor) in exchange for the right to occupy and use the property. No deed or title is transferred until all, or a specified portion of, payments have been made. *Also called Agreement for Sale, Installment Sales Agreement, Contract for Deed, or Land Sales Contract.*

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

Land Trust A trust in which real estate is the only asset. The beneficiary has the right to possess the property as well as receive income or proceeds from its sale. The trustee manages the real estate as directed by the beneficiary; however, they are usually the same person.

Landlocked A parcel that is completely shut in by adjoining parcels of land with no access to public roads.

Latent Defect A flaw that is not visible or apparent; a hidden defect that would not be discovered in a reasonably thorough inspection of property.

Lawful and Possible Objective The requirement that a contract's terms not be illegal or impossible.

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

Lead A person who has shown interest in a real estate service. *Also called Prospect.*

Lease A contract in which one party pays the other rent in exchange for possession of real estate; also a conveyance of a leasehold estate from the property owner to a tenant.

Lease Purchase A bilateral contract in which a tenant pays rent for temporary possession but is obligated to complete the purchase at some point in the future.

Lease with Option to Buy A unilateral contract in which a tenant pays rent for temporary possession and also receives the option to purchase the property at some point in the future.

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

Leasehold Estate The temporary interest that an owner gives to a tenant (lessee) that includes the right of possession and quiet enjoyment, without title. *Also called Less-Than-Freehold Estate.*

Leasehold Improvement A fixture attached to real property by a landlord for the use of a tenant.

Legal Description A precise description of a specific piece of property; the most common systems are lot and block, metes and bounds, rectangular (or government) survey.

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

Lessee A person who leases property; a tenant.

Lessor A person who leases property to another.

Leverage Using borrowed money to increase a return on investment.

License Revocable, non-assignable permission to enter another person's land for a stated purpose.

Licensed Assistant Someone who is licensed and chooses to be a personal assistant on a real estate team.

Licensed Residential Appraiser An appraiser who may accept assignments to appraise one- to four-unit residential properties with some limitations on complexity and the transaction value.

Licensee A person licensed under state law to practice real estate.

Lien A non-possessory interest in property, giving a lienholder the right to foreclose if the owner does not pay a debt owed the lienholder.

Lien Theory State A state in which real estate loans are regarded as liens and title remains with the lender.

Life Estate An interest in real property, the duration of which is limited by the life of its owner or another designated person.

Life Estate Pur Autre Vie A life estate where the measuring life is someone other than the life tenant. *Pur autre vie* translates *for another's life*.

Life Tenant Someone who owns a life estate; the person entitled to possession of the property during the measuring life.

Limited Common Areas Areas in a condominium or cooperative which are owned by all, but used by only one owner (e.g., a balcony or designated parking space).

Limited Liability Company (LLC) A legal entity that blends the characteristics of a corporation and limited partnership, offering its members the advantage of reduced personal liability (like a corporation) and a choice of how the business will be taxed.

Limited Partnership A partnership composed of one or more general partners who run the business and one or more limited partners. Limited partners have no say in partnership matters and their liability is limited to their investment.

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Limited Warranty Deed A deed in which the grantor warrants title only against defects arising during the time they owned the property and not against defects arising before their ownership. *Also called Special Warranty Deed.*

Linear Feet The total length in feet around a perimeter. For example, a 20-foot x 30-foot garden will take 100 linear feet of fencing ($20 + 30 + 20 + 30 = 100$).

Liquidated Damages A sum of money that the parties to a contract agree to in advance that will serve as compensation in the event of breach. Often, it's the forfeiture of the earnest money deposit in purchase contracts.

Liquidation Value The value of a property if sold under duress or in a must-sell situation with less than typical market exposure.

Liquidity The ability to convert an asset into cash quickly without the loss of principal.

Lis Pendens A recorded notice stating that there is a lawsuit pending that may affect title to the defendant's property.

Listing Agreement A written agency contract between a seller and a broker, stating that the broker earns a commission for finding (or attempting to find) a buyer for the seller's real property.

Listing Price The amount of money at which a seller offers their property for sale as stated in a listing agreement.

Litigation The process of taking legal action, such as filing a civil lawsuit.

Littoral Rights Water rights of landowners whose land touches a commercial lake, sea, or ocean (i.e., a non-flowing body of water).

Load Factor The ratio of rentable square footage to usable square footage. *Also called Add-on Factor.*

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

Loan Value The amount of money a lender is willing to lend someone to finance a property.

Loan-to-Value Ratio (LTV) The amount of money borrowed, compared to the value (the lesser of the sales price or appraised value) of the property.

Lockbox A secured container for a key, usually attached to a house that's for sale, accessible only by authorized individuals.

Lock-In Agreement An agreement between a lender and a mortgage loan applicant which obligates the lender to make a mortgage loan at a specified rate for a specific period.

Lot A parcel of land; a parcel in a subdivision.

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

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

M

Management Agreement A written agreement that governs the relationship between the property owner/investor and the property manager and outlines the duties of the property manager.

Management Proposal A plan created by the property manager for overseeing the principal's property, including market analysis, and developing a variety of financial reports, including the operating budget.

Manufactured Home A type of prefabricated residence built with standardized parts constructed and assembled in a factory and transported to a home site to be installed on either a permanent or temporary foundation.

Margin The difference between the index value and the interest rate charged to the borrower with an adjustable rate mortgage; the lender's profit.

Marital Property Property acquired by either a spouse or a legal partner during the course of a marriage or civil union.

Market A place where buyers and sellers come together to buy and sell services or products.

Market Absorption Analysis An evaluation of how many similar homes are for sale and historically how long it will take to sell that amount given current economic conditions.

Market Allocation An antitrust violation where competitors agree to not compete with each other in specific markets by dividing up geographic areas, types of products, or types of customers. *Also called Territory Allocation.*

Market Analysis A component of a property management proposal prepared by property managers that describes economic factors, population, zoning regulations, transportation, and other factors pertinent to the property's location; used by property owners to make decisions about future investments, fair rental value, and how to set rental rates to cover expenses and costs.

Market Data Approach A means of estimating value by comparing similar properties. Used when there is an active market and where comparables can be identified. *Also called Comparable Sales Approach or Sales Comparison Approach.*

Market Extraction Method A depreciation method based on sales of comparable properties with similar traits; focuses on the depreciation recognized for each comparable. *Also called Market Abstraction Method.*

Market Position The position an agent's listing is in compared to similar homes in the same neighborhood at a similar price.

Market Rent The lease revenue a property should bring if available for lease.

Market Share The percentage of total sales made by a real estate brokerage in a specific service area.

Market Value The most probable price a property should bring on an open and competitive market under all conditions essential to a fair sale.

Marketable Title A title that is free and clear from undisclosed encumbrances or other defects that would expose a purchaser to litigation or impede a purchaser's ability to enjoy the property or to later sell the property; required to be delivered by the seller to the purchaser at settlement. *Also called Merchantable Title.*

Master Deed A document that converts a parcel of land into a condominium, identifying all individual dwelling units and the areas that make up the common elements.

Master Plan A written document prepared by a local planning board that identifies the goals, objectives, principles, guidelines, policies, standards, and strategies for the growth and development of a community, including its housing needs. *Also called Comprehensive Plan.*

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

Material Breach An unexcused failure to perform according to the terms of a contract that are important enough to excuse the non-breaching party from performing their contractual obligations.

Material Fact A fact that would change the individual's actions if it were known; in real estate, this usually refers specifically to things wrong with the property itself.

Materialman A person who supplies materials, equipment, or fuel for a construction project.

Mayoral Campaign Real estate marketing dialogue involving asking a new contact, "If you were buying or selling a home, or had a friend or family member who was, do you have an agent you would refer them to?"

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

Mechanic's Lien A specific lien claimed by someone who performed work on the property (construction, repairs, improvements, etc.) to secure the amount of the charges for services with interest and costs. This term is often used in a general sense, referring to broker's liens or materialman's liens as well as actual mechanic's liens. *Also called Materialman's Lien or Construction Lien.*

Mechanical Exhaust Systems Ventilation systems that use exhaust fans; typically located in the kitchen and bathrooms where warm, moist air is generated.

Meeting of the Minds When all parties involved agree to the terms of a contract. This is achieved through offer and acceptance. *Also called Mutual Agreement or Mutual Consent.*

Metes and Bounds System A legal description that starts at an easily identifiable point of beginning (POB), then describes the property's boundaries in terms of courses (compass directions) and distances, ultimately returning to the point of beginning.

Mill A measurement equal to one-tenth of one cent (.001) used to state the property tax rate.

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

Mineral Rights Rights to the minerals located beneath the surface of the land.gov

Ministerial Act Tasks that a licensee may perform for a customer that are informative or clerical in nature and do not rise to the level of active agency representation.

Minor One who has not attained the age of majority in a state and does not have legal capacity to be bound by most contracts.

Misrepresentation A false or misleading statement.

Mitigation Action taken by the non-breaching party to minimize the losses resulting from a breach of contract.

Mixed-Use Property A development that combines residential, retail, and/or office space.

Mobile Home A manufactured home built prior to 1976.

Mold A fungus that can release toxins into the environment causing allergic reactions in some people.

Monetary Policy Actions taken by the Federal Reserve to influence the availability and cost of money and credit as a means of promoting national economic goals.

Monopoly A situation where only one or very few companies dominate the market share of a particular product or service.

Months' Supply The amount of time (expressed in 30-day increments) predicted to take to deplete inventory, given the number of homes on the market and the rate of recent closings .

Month-to-Month Tenancy A lease that has a term of one month but is renewable for successive months at the option of both parties; a type of periodic tenancy.

Monument Any natural or man-made marker used to establish lines and boundaries in a metes and bounds survey. *Also called Marker.*

Moral Suasion The use of persuasive influences rather than coercion or regulation to encourage changes in the public and financial markets.

Mortgage A security instrument that creates a voluntary lien on real property to secure repayment of a debt.

Mortgage Banker A financial institution that usually originates and funds its own loans, which may then be sold on the secondary market. *Also called Mortgage Banking Company.*

Mortgage Broker A person who, for compensation, makes, negotiates, acquires, sells, or arranges for a mortgage loan.

Mortgage Contingency A clause in a contract that states the agreement is contingent on the buyer obtaining approval for a mortgage loan.

Mortgage Fraud Any scheme, whether for profit or property, involving misrepresentation, concealment, or omission used in an attempt to obtain a financing.

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Mortgage Insurance Premium (MIP) The mandatory fee charged for FHA mortgage insurance coverage. The initial premium can be financed, and there is a monthly premium. *Also called Upfront Mortgage Insurance Premium (UFMIP).*

Mortgage Loan Originator (MLO) A person who solicits, negotiates, explains, or finalizes the terms of a mortgage loan for residential real estate.

Mortgage Servicer A company that collects monthly mortgage payments, pays taxes, insurance, and other items as they come due, and notifies the borrower of late payments.

Mortgage-Backed Securities A bundle of mortgage loans that lenders sell to investors who receive a share of the principal and interest collected from borrowers every month.

Mortgagee A lender who accepts a mortgage as security for the repayment of a loan.

Mortgage's Policy A type of title insurance that the lender may have drawn in its own name to protect its interests in the property. This policy is for the loan amount that's outstanding at the time a claim would be paid.

Mortgagor A person who borrows money and gives a mortgage to the lender as security for repayment.

Mrs. Murphy Exemption A limited exemption from the federal Fair Housing Act for the rental of a unit or a room in an owner-occupied dwelling with four or fewer units. Provided only when rental advertising is not discriminatory, a real estate licensee is not involved, and there is no discrimination based on race or color.

Multiple Listing Service (MLS) A cooperative service and database of available listed properties in an area conducted by a group of brokers, usually members of a real estate association.

Mutual Assent An offer and acceptance which together form the terms of a contract.

N

National Association of REALTORS® (NAR®) America's largest trade association, representing members involved in all aspects of the residential and commercial real estate industries, including brokers, salespeople, property managers, appraisers, and counselors.

National Do Not Call Registry A database managed by the Federal Trade Commission listing the telephone numbers of consumers who do not want to be contacted by commercial telemarketers.

Natural Ventilation Air circulation achieved through airflow and vents.

Negative Amortization The effect when a loan balance grows because of deferred interest when payments are not covering the interest portion of the loan.

Negligence Conduct that falls below the standard of care that a reasonable person would exercise under the same circumstances; an unintentional breach of a legal duty resulting from carelessness, recklessness, or incompetence.

Negotiable Instrument A promissory note or other finance instrument that is freely transferrable.

Neighborhood A contiguous area labeled by similar traits or physical boundaries.

Net Lease A lease agreement that requires the lessee (tenant) to pay some of the operating expenses and other costs of the property in addition to paying the rent.

Net Listing A compensation strategy in which the seller sets a net amount that is acceptable for the property; if the actual selling price exceeds that amount, the broker is entitled to keep the excess as commission. Net listings are illegal in many states and discouraged in others due to their inherent conflict of interest.

Net Operating Income (NOI) Income remaining after deducting all vacancy losses and operating expenses from gross income.

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

Net Zero Home A home that produces as much energy as it consumes.

Nominal Interest Rate The interest rate for a loan as indicated in lender advertising; this is generally lower than the actual rate.

Non-Basic Sector The sector of a local economy that is made up of businesses and industries that sell goods or services to consumers within the community.

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

Nonconforming Use A land use that is prohibited by current zoning laws but is allowed because the property was being used that way before the current zoning law was passed. Also referred to as being "grandfathered in."

Nonexclusive Buyer Agency Agreement An agreement between a buyer and any number of brokers in which a broker earns a commission only if the broker is the one who introduces the buyer to the property the buyer purchases. *Also called Open Buyer Agency Agreement.*

Non-Homogeneity A characteristic of real property; each piece of land, each building, and each house is a unique piece of real estate. *Also called Uniqueness or Heterogeneity.*

Nonjudicial Foreclosure Foreclosure by a trustee under the power of sale clause in a deed of trust without the involvement of a court; not used in all states.

Nonmarital Property Any property that was owned prior to the marriage or civil union or that was given or devised by will only to one spouse or legal partner during the term of the marriage or civil union.

Nonpublic Personal Information A consumer's personal financial information that would not be easily obtainable by the general public, such as credit reports, bank accounts, and transactions.

Nonrecourse Loan A loan in which the lender cannot collect the personal assets of the borrower or the borrower's heirs when the collateral for the loan is sold for less than the amount owed on the loan.

Notary Public A person with the authority to take oaths and acknowledgments.

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Note A signed instrument acknowledging the existence of a debt and the promise to pay.

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

Notice of Value A certificate establishing the current market value of a property based on an approved VA appraisal. *Also called* **Certificate of Reasonable Value**.

Notice to Quit A landlord's notice to a tenant, demanding that he vacate the leased property. *Also called* **Notice to Vacate**.

Novation The release of liability of the original tenant on a lease, and the substitution of a subsequent tenant with the lessor's approval.

Null and Void Invalid and unenforceable.

O

Obedience A fiduciary duty that requires a licensee to follow the lawful instructions of the principal.

Obsolescence A loss in value due to reduced desirability and usefulness of a structure because its design and construction have become obsolete.

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

Offer The first step in forming a contract, when one party makes an offer to another party. An offer requires intent to contract and definite terms.

Offer and Acceptance The necessary elements of mutual assent; for example, an agreement of one party to buy and another party to sell.

Offer of Cooperation Usually published in a multiple listing service that includes the amount (most frequently a percentage of the sales price or a flat fee) offered as compensation to another brokerage for participating in a property transaction, for example, as a selling agent, buyer's agent, or leasing agent.

Offeree A person who receives an offer or to whom an offer is made.

Offeror A person who makes an offer.

Omission Failure to mention or disclose information.

Open Listing A non-exclusive listing, given by a seller to as many brokers as she chooses; a broker is only entitled to a commission if the broker is the procuring cause of the sale.

Open Market Operations When the Federal Reserve Board sells or buys government securities (or U.S. dollars) as a means of controlling supply and demand and confidence in those items.

Open-End Mortgage A loan containing a clause that allows the mortgagor to borrow additional money without rewriting the mortgage.

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Operating Budget A budget created to project the income and expenses for a property over a one-year period.

Opt Out A consumer's right to terminate future electronic communication from business and commercial entities.

Option to Purchase A unilateral contract in which a seller gives a potential buyer an exclusive right, but not an obligation, to buy property owned by the seller at an agreed price during a specified period.

Optionee A person to whom an option is given.

Optionor A person who gives an option.

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

Ordinance A statute enacted by the legislative branch of a local government.

Ordinary Life Estate A conventional life estate in which the measuring life and the life tenant are the same person.

Origination The process of making or initiating a new loan.

Origination Fee A fee charged by a lender to cover the administrative costs of making a loan, usually based on a percentage of the loan amount.

Ostensible Agent A person who has been given the appearance of being an employee or acting (an agent) for another (principal), which would lead anyone dealing with the ostensible agent to reasonably believe the person was an employee or agent.

Outbuilding An accessory structure other than the main structure on land.

Overage Rent The amount above the base rent that a tenant owes according to the terms of a percentage lease. *Also called* **Percentage Rent**.

Owner's Policy A type of title insurance issued in the name of the property owner. Coverage runs from the time of purchase for as long as the policyholder owns the property.

Ownership in Severalty Ownership by a single individual person or legal entity, as opposed to co-ownership. *Also called* **Sole Ownership** or **Separate Property**.

P

P.O.C. (Paid Outside of Closing) Any expenses associated with a real estate transaction that are paid outside of closing. Such payments should be noted on a settlement statement.

Package Mortgage A mortgage where personal property (e.g., freestanding appliances) is included in a real estate sale and financed with one contract.

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

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

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Partial Performance A potential remedy to breach of contract where the injured party agrees to accept less than the full terms of the original contract. *Also called* **Accord and Satisfaction**.

Partially Amortized Mortgage A method of loan repayment in which the balance of the outstanding loan is not zero at maturity, and thus a balloon payment is due at that time.

Partition, Judicial A court action to divide real property among its co-owners, so that each owns part of it in severalty, or (if it's not practical to physically divide the property) each gets a share of the sale proceeds.

Partition, Voluntary When co-owners agree to terminate their co-ownership, dividing the property so each owns a piece of the property in severalty.

Partnership A working arrangement in which two or more people combine their money and skills to operate a business.

Pass-Through An additional operating cost that is passed from a property owner to a tenant, such as when property taxes go up.

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

Payment Cap A limit on the amount of mortgage payment increases that can occur with an adjustable-rate mortgage.

Pecuniary Loss Monetary loss.

Percentage Fee A fee that is based on a property's gross collectible income.

Percentage Lease A lease under which a tenant pays a percentage of the tenant's sales in addition to rent.

Periodic Estate A leasehold estate that continues for successive periods of equal length (such as from week to week or month to month), until terminated by proper notice from either party. *Also called* **Periodic Tenancy**, **Estate from Year to Year**, or **Period-to-Period Tenancy**.

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

Personal Property Tangible items that (usually) are not permanently attached to or part of real estate; any property that is not real property; movable property not affixed to land. *Also called* **Chattel** or **Personalty**.

Physical Deterioration The loss in value due to wear and tear of the structure.

Pitch A roof's vertical rise in inches, divided by its horizontal span in feet.

PITI A typical mortgage payment that includes **P**incipal, **I**nterest, **T**axes, and **I**nsurance. It would also include any homeowners association fees required as a condition of ownership.

Planned Unit Development (PUD) A housing development not subject to the standard zoning requirements; instead, the developer works with the local government to develop criteria that will determine common areas, private areas and building guidelines.

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Planning Board A local entity consisting of appointed members who hold public hearings, investigate solutions for the planning issues in the community, and make long-term recommendations; a planning board is also responsible for approving development projects in the community. *Also called* **Planning Commission**.

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

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

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

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

Pocket Listing A property for which a broker holds a signed listing agreement with a seller that is not entered into the multiple listing service (MLS).

Point One percent of the loan amount. A fee charged by a lender for making a loan, calculated based on the loan amount.

Police Power The constitutional authority of state and local governments to enact and enforce laws that protect the public's health, safety, morals, and general welfare.

Polychlorinated Biphenyls (PCBs) A group of human-made chemicals most commonly associated with electrical equipment in capacitors and transformers, lubricants, and plasticizers; banned by the EPA in 1979, but still present in the environment.

Porter's Wage Escalation Formula Ties the rent escalation to the wages of the building's cleaning and building maintenance personnel (called "porters"). The formula provides tenants' rent will increase a specific amount per square foot for a specified increase in the porter's hourly wages.

Portfolio Lenders Financial institutions that make real estate loans that they keep and service in-house instead of selling them on the secondary markets.

Possession The physical control of real property.

Possessory Interest An interest in property that entitles the holder to possess and occupy the property, now or in the future; an estate, which may be either a freehold or leasehold.

Power of Attorney An instrument authorizing one person (called an attorney-in-fact) to act as another's agent, to the extent stated in the instrument.

Power of Sale Clause A clause that allows the trustee to sell trust deed property, without court supervision, when terms of the trust deed are not kept.

Preapproval The formal but preliminary process by which a lender determines if potential borrowers can be financed through the lender, and for what amount of money. Preapproval is generally binding on the lender.

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

Preliminary Title Report A search of liens, encroachments, easements, and any recorded documents in the county records in order to issue title insurance.

Prelisting Inspection A home inspection conducted for a homeowner before the owner puts the home on the market.

Prepaid Expenses Expense items on a settlement statement the seller has already paid in advance, usually at the beginning of a month for the rest of the month, or at the beginning of the year for the rest of the year or longer.

Prepayment Clause A contract clause that gives a lender the right to charge the borrower a penalty for paying off a loan early.

Prepayment Penalty Additional money charged by a lender for the borrower paying a loan off early. Not permitted for FHA-insured loans or VA-guaranteed loans.

Prequalification The informal process of determining how much a potential homebuyer might be eligible to borrow.

Prescriptive Easement An easement obtained by the open, notorious, hostile, and continuous use of the property belonging to someone else for a statutory period of time.

Preventive Maintenance Routine maintenance and inspections to keep equipment and the property in good working order.

Price The amount asked, offered, or paid for a property.

Price-Fixing An antitrust violation that occurs when two or more competitors agree to fix the prices that they will charge. In real estate it might occur when brokers agree with other brokers on commission rates; even the implication that brokers have discussed and/or reached agreement on fees could be illegal.

Primary Market The market in which lenders, such as banks and other financial institutions, make mortgage loans directly to borrowers.

Prime Rate The short-term interest rate a bank charges its most creditworthy customers.

Principal The person who gives authority to an agent, thereby creating an agency relationship. *Also called Client.*

Principal Meridian North-south lines designated and named throughout the country for use with the government survey system.

Principle of Decreasing Returns The theory stating that beyond a certain point, the added value of a feature, addition, repair, etc., is less than the actual cost of that item. *Also called Principle of Diminishing Returns.*

Principle of Increasing Returns The theory stating that the added value of an additional feature, addition, repair, etc., is more than the actual cost of the item.

Private Mortgage Insurance (PMI) An insurance policy paid for by a borrower using conventional financing that protects a lender if the borrower defaults on their loan obligation; usually required when the loan-to-value ratio is greater than 80%.

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

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

Procurement Fee Compensation arrangement typically paid to a licensee by a tenant representative for finding space for the tenant. Procurement fees are often fixed fees but could be percentage-based.

Procuring Cause An uninterrupted series of events leading to the creation of a contract; the party whose efforts resulted in the creation of a binding contract for sale. For example, the broker whose efforts caused a contract to be executed by both parties is the procuring cause of the sale.

Professional Association A corporation made up entirely of persons who have a specific type of license or other legal authorization for the purpose of delivering services in one specific area.

Proforma Statement A schedule of the projected income and expenses for a real estate investment over a given period.

Progression A principle of value that says the value of an inferior property is positively affected when it is surrounded by superior properties.

Promissory Note A financing instrument that evidences a promise to pay a specific amount of money to a specific person within a specific time frame. A written, legally binding promise to repay a debt.

Property Disclosure Statement A standardized form that sellers of residential property might be required to complete, identifying defects and issues related to the condition of the property for sale, including its improvements and fixtures, to the best of the seller's knowledge.

Property Inspection An evaluation of the conditions of a property by a trained professional, often required by a lender before approval of a loan is granted. Inspections usually include looking for evidence of termites, structural integrity, septic systems, etc.

Property Management Managing the leasing or renting, or offering to lease or rent, real property of others for a fee, commission, compensation, or other valuable consideration under the terms of a property management agreement.

Property Management Agreement A written agreement that creates an agency relationship between the property owner/investor and the property manager.

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

Proprietary Lease An exclusive, longer-term lease given to a person who lives in and owns stock in a cooperative.

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Pro-Rata Share The equitable distribution of expenses among tenants for the operating expenses of a building, generally based on the percentage of the property occupied by the tenant.

Proration The allocation of expenses between a buyer and a seller in proportion to their actual usage of the item or service.

Prospect ID Form A form used to gather and document identifying data about a prospective real estate client; brokerages often require licensees to complete before working with consumers.

Prospecting Attempting to find business through any number of methods: phone calls, networking, direct mail, etc.

Protected Class A group of people who share a common trait and who are legally protected against discrimination or harassment on the basis of that trait.

Public Accommodation An establishment that is intended to be available to everyone, either as a place of business or commerce or for federal, state, or local government business. It includes hotels, restaurants, retail, gas stations, theaters, museums, etc.

Puffing Superlative statements about the quality of a property that should not be considered assertions of fact.

Punitive Damages A damages award that is added to compensatory damages to punish the defendant for malicious or outrageous conduct and discourage others from engaging in similar acts.

Purchase Agreement A contract in which a seller promises to convey title to real property to a buyer in exchange for the purchase price. *Also called* **Purchase and Sale Agreement, Purchase Contract, Sales Contract, or Earnest Money Agreement.**

Purchase Money Mortgage A mortgage by which the seller finances all or part of the sales price for the buyer.

Purchase Price Amount paid for a property.

Q

Quantity Survey Method A method to determine the cost of a building by specifying the number or quantity of each type of part or material used to build a structure.

Quiet Enjoyment Use and possession of real property without interference from the previous owner, the lessor, or anyone else claiming title.

Quiet Title A court action to remove a cloud on the title.

Quitclaim Deed A deed that grants any interest in property that the grantor may have without making any promises; often used to clear clouds on title.

R

Radiator A heating device consisting of a series of connected pipes, typically inside an upright metal structure, through which steam or hot water is circulated.

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Radon A naturally occurring radioactive gas that emanates from the earth; odorless, colorless, and tasteless and the second leading cause of lung cancer in the U.S.

Range The six-mile distance between range lines in the rectangular survey system.

Range Line A line that runs parallel to a principal meridian, marking the land into six-mile strips known as ranges and numbered east or west of a principal meridian in the rectangular survey system.

Rate of Return A percentage relationship between the investment price or equity invested and the composite returns.

Real Estate The actual physical land and everything, both natural and man-made, that is attached (or appurtenant) to it.

Real Estate Cycles General swings in real estate activity, resulting in increasing or decreasing activity and property values; may be caused by economic or annual trends.

Real Estate Investment Trust (REIT) A company that owns and often operates income-producing real estate; it is organized as a trust with the investors as the beneficiaries.

Real Estate Market The mechanism by which rights and interests in real estate are sold, prices set, supply adjusted to demand, space allocated among competing alternate uses, and land use patterns set.

Real Estate Owned (REO) Property acquired by a lending institution through foreclosure and held in inventory.

Real Estate Settlement Procedures Act (RESPA) Federal law, implemented by Regulation X, regarding real estate closings; provides specific procedures and guidelines for the disclosure of settlement costs.

Real Property The physical land and everything attached to it, and the rights of ownership (bundle of rights) in the real estate. *Also called Realty.*

REALTOR® Any real estate licensee who is a member of the National Association of REALTORS® (NAR) and affiliated state/local boards. Only members may use the term REALTOR®, as it is a registered trademark of NAR.

Reasonable Accommodation Any change in practices (e.g., rules, services, policies) that enables a qualified individual with a disability to enjoy equal opportunities.

Reasonable Modification A structural change that is made to allow persons with disabilities the full enjoyment of the housing and related facilities.

Reasonable Skill and Care A fiduciary duty that requires agents to protect clients from foreseeable harm, act in accordance with the high standards set by their profession, and perform their duties as promised.

Receiver A court-appointed person who is charged with preserving a property, collecting rents, and doing anything necessary to maintain the property's condition.

Recession A period of temporary economic decline, generally identified by two successive quarters of a reduction in gross domestic product.

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Reciprocity The recognition that states give whereby a licensee of one state can be involved in real estate transactions in other states.

Recital An element in a deed that identifies how and when the grantor took title to the property. *Also called Source Clause.*

Reconciliation The analysis and weighting of the values arrived at from the different appraisal approaches to arrive at a final opinion of value.

Recording Fees Fees charged for filing documents at the county recorder's office so that they become part of the public record.

Recourse Loan A loan in which, in the event of default, the lender can take action against the borrower personally in addition to foreclosing on the property.

Rectangular Survey System Method of land description used in about 30 states based on imaginary lines of longitude (meridians) and latitude (baselines). *Also called Government Survey System.*

Redemption Period The right of a mortgagor (borrower) to remedy a loan default within a specified time and receive the property back.

Redlining A lender's illegal decision to deny mortgage loans in certain neighborhoods, based on the neighborhood's racial or ethnic composition.

Referee's Deed A deed issued by the court to a property buyer from a bankruptcy sale.

Referral For the purposes of RESPA, any oral or written action directed to a person that has the effect of affirmatively influencing the selection of a provider of a settlement service or business.

Referral Fee A fee paid from one employing broker to another employing broker for directing a buyer or seller to a real estate agent in that brokerage.

Refinancing A description of an extension of the existing financing either through the same lender or through a new financial arrangement.

Reformation Changes or modifications to a contract by a court to reflect the true intention of the parties, such as to remedy a minor clerical error.

Regression A principle that says the value of a superior property is negatively affected when it is surrounded by inferior properties.

Regulation Z The rules implementing the Truth in Lending Act that require borrowers to be shown how much they will pay for credit in dollars and percentages; require the use of the annual percentage rate (APR) and full disclosure of credit terms in advertising once any specific financials are mentioned.

Rejection An irreversible refusal of an offer by an offeree.

Reliction When a body of water gradually recedes, exposing land that was previously underwater.

Remainder A future interest in real property that becomes possessory when a life estate terminates, and that is held by someone other than the grantor of the life estate.

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Remainderman A person, other than the grantor, who has a future interest in the fee estate when a life estate ends. A remainder interest is inheritable.

Remaining Economic Life The period of usefulness that a building has remaining as of the effective date of the appraisal.

Remediation The act of stopping or reversing something specific, often environmental damage.

Rent Consideration paid by a tenant to a landlord in exchange for possession and property use.

Rent Roll A report or spreadsheet listing key information about a property (i.e., total number of units, tenant names and apartment numbers, lease dates, and the rent each tenant pays).

Rent Survey A compilation of the rents being generated (and often rent history) in a particular market for a particular property type.

Rentable Square Feet The usable square feet plus a pro-rata portion of the common areas shared among all of the tenants, such as corridors, lobbies, and restrooms. This is the number typically used for calculating base rent. *Also called* **Gross Square Feet**.

Renunciation When someone who has been granted something or has accepted something later gives it up or rejects it, as when an employing broker withdraws from an agency relationship with a principal.

Replacement Building the functional equivalent of the original building, using modern materials, usually the same size, layout, quality, and utility as the original.

Replacement Cost The cost of constructing a building that is the functional equivalent of the original building, using modern techniques and materials.

Reproduction Building an exact duplicate of the original building, giving the new structure the exact same look and feel as the original.

Reproduction Cost The cost of constructing a building that is an exact replica of the original building, using the same construction techniques and materials.

Request to Remedy or Repair A written list of items that the buyer asks the seller to repair prior to closing.

Rescission When a contract is terminated, and each party gives anything acquired under the contract back to the other party (both parties are returned to their original position).

Reserve Requirement The percentage of customers' deposits that commercial banks are required to keep on deposit, either on hand at the bank or in the bank's own accounts; in other words, money the bank cannot lend to other people.

Reserves Cash on deposit or other highly liquid assets a borrower must have to cover two months of PITI mortgage payments after they make the cash down payment and pay all closing costs.

Reserves for Replacement An amount of money, considered as an operating expense, set aside for future replacement of major items, such as the roof or heating system.

Resident Manager Represents a property management firm and may live on the premises of the building being managed.

Residential Lead-Based Paint Hazard Reduction Act A federal law that requires sellers and landlords to disclose known lead paint hazards for homes built before 1978.

Residual Income The amount of a borrower's income remaining after subtracting taxes, housing expenses, and all recurring debts and obligations; a factor when qualifying prospective borrowers for VA-guaranteed loans.

Restitution The return of consideration by both parties when a contract is rescinded.

Restrictive Covenant A restriction on real property use imposed by a former owner; promise to do or not do an act relating to real property; usually an owner's promise to not use property in a particular way. May or may not run with the land.

Retaliatory Eviction When a lessor attempts to remove a tenant in retaliation for complaining about code violations or for participating in a tenants' rights group; generally illegal.

Return of Investment The protection of an investor's equity in an investment.

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

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

Reversion A future interest that becomes possessory when a temporary estate (such as a life estate) terminates, and that the grantor (or grantor's successors in interest) holds. *Also called Reversionary Interest.*

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

Revocation The termination of an offer by the offeror by withdrawing the offer before it is accepted.

Rider An addition, amendment, or addendum to a document or contract.

Right of First Offer A right to have the first chance to buy or lease property if the owner decides to sell or lease it.

Right of First Refusal An agreement to be given the first chance to buy or lease property if the owner decides to sell or lease it after receiving a bona fide offer from a third party. *Also called Right of Pre-emption.*

Right of Redemption The legal ability to buy back one's property within the time specified in each state after a judicial sale by paying the debt, interest, and certain costs.

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

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Right of Survivorship A characteristic of statutory survivorship tenancy, joint tenancy, and tenancy by the entirety; surviving co-tenants automatically acquire a deceased co-tenant's interest in the property.

Right of Way (ROW) An easement giving the holder the right to cross another person's land.

Ringman An individual positioned among auction attendees to spot bidders for the auctioneer.

Riparian Rights Water rights of landowners whose land touches a natural body of flowing water, such as a stream, a creek, or a river.

Risk The probability that events will not occur as expected.

Risk Management The process of identifying potential hazards and threats and then implementing procedures necessary to minimize their impacts.

Robocalls Prerecorded marketing telephone calls delivered to a broad audience via an automated dialing system.

Root of Title The deed or other document of transfer that was the first recorded, going back at least as far as required by state law.

Rough-Ins Any type of interior work to a house or building that is not part of the finish work (e.g., plumbing, HVAC, electrical).

Roundtable Closing A settlement procedure conducted with all parties present.

Rule of Capture A legal principle that grants a landowner the right to all oil and gas produced by wells on their land, even if it migrated from underneath land belonging to another.

Runs with the Land (Appurtenance) Rights, conditions, or restrictions that are associated with the property (as opposed to the individual who owns the property) will pass from owner to owner when the land is conveyed.

S

S Corporation A business entity that operates like a corporation but is treated like a partnership for tax purposes.

Safeguards Rule A provision of the federal Gramm-Leach-Bliley Act that requires all financial institutions to implement and maintain safety measures to protect the confidentiality and integrity of personal customer information.

Safety App Mobile phone software that can be used for personal security, such as tracking devices or alarms.

Sale-and-Leaseback A method for financing commercial or industrial properties in which a company constructs the building, and then becomes a tenant by selling the building to an investor who becomes their lessor.

Sales Comparison Approach An appraisal method that estimates the value of real property by performing a market analysis of the area where the subject property is located; data regarding comparable properties are collected, and adjustments are made for the differences between the subject and comparable properties. *Also called Market Data Approach.*

Sales Contract An agreement in which the buyer and seller agree to the terms and conditions of the sale of property. *Also called* **Purchase Agreement**.

Salesperson A real estate licensee who works under the supervision of a broker. *Also called* **Sales Associate**.

Satisfaction of Lien The document a mortgagee gives the mortgagor acknowledging the debt has been paid in full and the mortgage is no longer a lien against the property. *Also called* **Discharge of Mortgage, Satisfaction of Mortgage, or Release of Lien**.

Savings and Loan Association An institution whose primary function is to promote thrift and homeownership. All savings and loan associations must be chartered, either by the federal government or by the state in which they are located. Federally chartered savings and loan associations are owned by the depositors.

Scarcity A physical characteristic of real property that says there is a limited supply of real estate; the perceived supply of a good or service relative to the demand for the item.

Sealed-Bid A method of selling in which prospective buyers submit bids that are opened at a designated time, with the high bid winning. Most auctioneers argue that this is not an auction, as there is no transparency and no genuine competitiveness.

Second Mortgage A mortgage subordinate to a first mortgage. *Also called* **Junior Mortgage**.

Secondary Financing A loan obtained in addition to a first mortgage that is used to pay for part of the purchase price or closing costs.

Secondary Market Private investors and government enterprises and agencies that buy and sell mortgages.

Secret Profit A financial benefit that an agent takes from a transaction without authorization from the principal and without informing the principal of the benefit retained (this is a violation of an agent's duties of loyalty and disclosure).

Section Part of a township, one-mile by one-mile square. Used for the rectangular survey system; one section equals 640 acres and 36 sections equal one township.

Section 203(b) FHA Loan The basic FHA-insured fixed-rate, long-term financing program for the purchase of a one- to four-unit owner-occupied home.

Section 502 Loan A home financing program through the U.S. Department of Agriculture that either guarantees loans made by approved private lenders or makes direct loans if no local lender is available.

Section 8 A federal program that authorizes the payment of rental housing assistance to private landlords on behalf of low-income households.

Securitization The act of pooling mortgages and then selling them as mortgage-backed securities.

Security An investment that creates a financial interest in a business with no management authority; the federal Securities and Exchange Commission regulates securities; states generally require that securities dealers be licensed.

Security Deposit Money a tenant gives a landlord at the beginning of the tenancy to ensure the tenant will comply with the lease terms. The landlord may retain all or part of the deposit at the end of the tenancy to cover unpaid rent, repair costs, or other damages.

Seizin The possession of a freehold estate; ownership. *Also spelled Seisin or Seizen.*

Self-Dealing When a fiduciary takes advantage of their position in a transaction and acts in their own interests rather than in the interests of their clients.

Self-Employment Tax Medicare tax and Social Security tax not paid by an employer.

Self-Help Eviction When a lessor uses physical force, a lockout, or a utility shutoff to remove a tenant, instead of going through the legal process; generally illegal.

Seller's Agent A licensee representing the interests of the seller of a property. *Also called Listing Agent.*

Seller's Market A situation in the housing market where a large number of buyers are looking for housing in an area of limited availability.

Selling Agent The licensee who secures a buyer for a property; may also be the buyer's agent if an agency relationship was created.

Service Animal A dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability.

Servicing The process of collecting loan payments, keeping records, and handling defaults.

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

Servient Tenement Property burdened by an easement; the owner of the servient tenement (the servient tenant) is required to allow someone who has an easement (the dominant tenant) to use their property.

Setback The minimum distance that a building must be from a designated position, such as a property line, as determined by zoning requirements.

Settlement Officer The person charged with coordinating the activities and documentation necessary for completing a real estate transaction; usually the one who prepares the settlement statement and conducts the closing. *Also called Closing Officer, Closing Agent, Escrow Agent, or Title Agent.*

Settlement Services Any service provided in connection with a prospective or actual settlement of a real estate transaction, including, but not limited to, those provided by lenders, title companies, real estate brokers, property inspectors, attorneys, appraisers, etc.

Settlement Statement A detailed accounting of a real estate transaction, usually prepared by the settlement officer, showing cash received and disbursed as well as buyer and seller debits and credits.

Severable The concept that one part or provision of a contract that can be held unenforceable without making the entire contract unenforceable.

Severalty Ownership Ownership by one person.

Severance A process through which fixtures are detached from the land and so revert back to personal property.

Share Loan A co-op loan signifying a buyer is purchasing shares in a corporation rather than a mortgage for property ownership.

Sheathing A layer of boards or other wood or fiber materials applied to the outer studs, joists, and rafters to strengthen the structure and serve as a base for exterior weatherproof covering.

Sheriff's Deed A deed issued by the court to a property buyer from a foreclosure sale.

Sheriff's Sale A foreclosure sale held after a judicial foreclosure. *Also called Execution Sale.*

Short Sale A lender-approved sale from which the proceeds are not sufficient to cover the mortgage amount(s).

Showings Touring properties with a buyer.

Site A tract of land that has been prepared for construction, i.e., includes access, utilities, etc.

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

Situs A place where something exists; an area with preferred features, giving it value to the property.

Slab-on-Grade Construction A concrete foundation built directly on the ground.

Slander Defamation of another's character or reputation through that which is spoken or heard.

Sloped Joist A roof construction with joists angled up from the outer load-bearing walls to the pitch of the roof allowing for vaulted ceilings.

Social Media Various online tools and applications that allow users to create online communities in order to communicate and share ideas and content.

Sole Proprietorship A business owned and managed by one person (or for tax purposes, legally married spouses) who is personally liable for all business debts. It could be organized under a fictitious or assumed name.

Spam The use of any electronic messaging system to send unsolicited bulk messages indiscriminately.

Special Agent An agent authorized by the principal to perform a specific activity or participate in a specific transaction, for example, a real estate broker acting under a listing agreement. *Also called Limited Agent.*

Special Assessment A tax levied only against properties that benefit from a public improvement (e.g., a sewer or streetlight) to cover the cost of the improvement; creates a special assessment lien (an involuntary, specific lien).

Special Warranty Deed A deed in which the grantor warrants against defects that have occurred after the grantor acquired title.

Specific Lien A lien that attaches only to a particular parcel of property.

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Specific Performance Legal remedy in which a court orders someone who has breached a contract to perform as agreed, rather than paying monetary damages.

Specifications Written documents describing in detail the requirements for the scope of construction, including materials, standards, and expected quality of the finished structure. *Also called Specs.*

Sphere of Influence A group of people known to a salesperson who know, trust, and are likely to do business with the salesperson, including referring business.

Spot Zoning A rezone, usually illegal, that favors (or restricts) a particular property owner (or a small group of owners) without justification.

Square Foot Method A cost approach appraisal method for determining the cost of a building, relying on cost manuals.

Squatter A person who unlawfully occupies an uninhabited building or unused land.

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

Stakeholder Someone with a vested interest in a project.

Standard Coverage A title insurance policy that protects against possible clouds or problems with the title, such as liens or unpaid taxes; protects the homeowner from claimants not listed in the insurance policy, as well as from defects and mistakes in the public record such as forged documents and improper deeds; does not require a physical inspection of the property.

Statute A law passed by a state legislature.

Statute of Frauds A state law that requires certain types of contracts to be in writing and signed to be enforced.

Statute of Limitations A law requiring parties to file a particular type of lawsuit within a specified time after the event giving rise to the suit occurred.

Statutory Nonemployee A special IRS category of workers that applies to most real estate licensees; although they work independently and are self-employed, they are not independent contractors for tax purposes because they are subject to their broker's supervision.

Statutory Right of Redemption Allows a borrower to redeem property for a set period after a foreclosure sale, regardless of the timing of other events. Time frames for statutory right of redemption vary by state; not available in all states.

Statutory Right of Reinstatement A way for borrowers to cure the default by bringing the mortgage current—including all accumulated costs and fees—between the time they receive a notice of foreclosure and the time a foreclosure action is filed.

Statutory Year A year in which each month is treated as having 30 days (and the year having 360 days), as opposed to using the actual number of days in each month. *Also called Banker's Year.*

Steering Channeling prospective buyers or tenants to or away from particular neighborhoods based on their race, religion, national origin, ancestry, or membership in any other protected class.

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Stigmatized Property A property that is undesirable to most people because of a past event, such as a crime or death. Such stigmas as not considered material facts that must be disclosed.

Straight Loan A non-amortized loan in which the regular payments cover only the interest over the term of the loan. *Also called* **Bullet Loan**.

Straight-Line Depreciation Simple depreciation method that takes the total cost of a building and divides that by the number of years the building is expected to be useful.

Straw Buyer A person who receives payment from a conspirator for the use of that person's name and credit history to apply for a loan, generally as part of a mortgage fraud scheme.

Strict Foreclosure An uncommon foreclosure action where the court establishes a date by which the borrower must pay the balance in full; once the deadline passes, the lender is awarded title to the property.

Stud A vertical beam that serves to frame a structure (also known as a wood-framing member).

Subagent An agent of an agent; a person given authority by an agent to assist in carrying out orders of that agent's principal.

Subdivided Land Land that has been divided into two or more parcels for the purpose of development, such as a residential subdivision.

Subject Property Property for which a value estimate is sought.

Sublease An agreement in which a tenant transfers less than their entire leasehold estate to another person (the sublessee), such as the right to possess the entire premises for only a portion of the remainder of the lease term. *Also called* **Sandwich Lease**.

Subordination Agreement A written agreement between lienholders on a property that changes the priority of mortgages, judgments, and other liens.

Subordination Clause A contract clause that gives a mortgage recorded at a later date the right to take priority over an earlier recorded mortgage or existing lease.

Subprime Loans Loans that have more risks than allowed in the conforming market. *Also called* **B-C Loans** or **B-C Credit**.

Substantial Performance When a promisor doesn't perform all of the promisor's contractual obligations but does enough so that the promisee is required to fulfill the promisee's part of the deal.

Substitution A principle that says an informed buyer will not pay more for a property, or a feature in a property, than a comparable alternative.

Subsurface Rights Rights a landowner has to the land below the surface to the center of the earth, even if these rights are not specifically documented.

Suit A court action to enforce a legal claim or right.

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

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Superfund Amendments and Reauthorization Act (SARA) An act that amended CERCLA, designated more money to the Superfund trust, and established new environmental laws and regulations.

Supply and Demand An economic principle that says that for all products, goods, and services when supply exceeds demand, prices will fall, and when demand exceeds supply, prices will rise.

Surplus Land The portion over and above what is necessary for the highest and best use of the subject property and does not have a stand-alone highest and best use.

Survey The formal process of locating and measuring the boundaries of a property and identifying the improvements, encroachments, and easements that are associated with that parcel.

SWOT Analysis A business planning technique that identifies and examines strengths, weaknesses, opportunities, and threats.

Syndicate An association of people or entities formed to operate an investment business. A syndicate is not a recognized legal entity; it can be organized as a corporation, partnership, or trust. *Also called Syndication.*

T

Tacking Successive periods of use or possession by more than one person that are added together to equal the number of years required under state law for easement by prescription or adverse possession.

Takeout Loan A loan that provides permanent financing after construction is complete.

Taking The government's unconstitutional condemnation of private property for public use without just compensation.

Task Force A temporary workgroup formed to accomplish a specific objective or project.

Tax Base The total tax-assessed value of all real property in a particular jurisdiction.

Tax Depreciation The expensing of the cost of business or investment property over a set number of years, determined by the IRS to be an asset's useful life (27 1/2 years for residential property and 39 years for commercial nonresidential property).

Tax Rate The rate, normally stated in units of \$100, multiplied by the assessed value of property to determine the amount of the property tax due.

Tax Ratio A percentage applied to a property's market value to determine its assessed value for the purpose of taxation.

Tax Shelter Property or other investments that give owners certain income tax advantages, such as deductions for property taxes, mortgage interest, and depreciation.

Taxation The right of government to require contribution from citizens to pay for government services.

Technically Exhaustive Inspection An inspection that involves extensive measurements and testing, such as measuring and testing loads in the electrical system, pressurizing the water and drainage systems, and measuring flow rate, which is beyond the scope of a normal home inspection.

Tenancy at Sufferance Possession of property by a tenant who once had a valid lease but stays on after the lease expires without the landlord's permission. *Also called* **Estate at Sufferance**.

Tenancy at Will When a tenant is in possession with the owner's permission, but with no definite lease term and no payment (or irregular rent payments); e.g., a landlord lets a holdover tenant remain on the premises without paying rent until the landlord finds a new tenant. *Also called* **Estate at Will**.

Tenancy by the Entirety A form of property co-ownership by a married couple or partners in a legal civil union in which each spouse or partner has an equal and undivided share of the entire property. Not recognized in every state.

Tenancy from Period to Period A leasehold that is automatically renewed for the same term as in the original lease; notice needed to terminate. *Also called* **Periodic Tenancy** or **Estate from Year to Year**.

Tenancy in Common A form of co-ownership in which two or more persons each have an undivided interest in the entire property (unity of possession), but no right of survivorship.

Tenancy in Severalty Ownership by a single person or legal entity, as opposed to co-ownership. *Also called* **Sole Ownership** or **Separate Property Ownership**.

Tenant Someone in lawful possession of real property, especially, someone who has leased property from the owner.

Tenant, Holdover A lessee who remains in possession of property after the lease has expired without permission; a tenant who refuses to surrender possession of property at the tenancy's end.

Tendering Performance An unconditional offer by one party to perform that party's part of a contract. *Also called* **Tender**.

Term Mortgage A method of financing in which only interest is paid during the term of the loan. At maturity, generally five years or less, the entire principal is due. *Also called* **Straight Loan**.

Testate Refers to someone who has died and left a will.

Tester A person working with a fair housing organization who pretends to be interested in buying or renting property for the purpose of assessing specific treatment based on protected class. *Also called* **Checker**.

Tie-In Agreement An antitrust violation in which one transaction or agreement is contingent on a second transaction or agreement. *Also called* **Tying Agreement**.

Time is of the Essence A clause in a contract that makes failure to meet a stated deadline a material breach of the contract.

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Timeshare A form of property ownership in which several buyers purchase an interest in the same estate, with each party having the right to use the property and facilities for a designated period.

Title The actual, lawful ownership interest in a property; title is not a document but a concept.

Title Company An entity that examines and insures title claims for real estate purposes through a thorough examination of property records.

Title Insurance An insurance policy that protects the policyholder against loss or damages due to defects in the title and provides the best evidence of marketable title.

Title Report A report issued by a title company disclosing the condition of the title to a specific piece of property.

Title Search A thorough inspection of the public record to determine all rights and encumbrances affecting title to a piece of property.

Title Theory A property loan financing arrangement in which the borrower does not keep the title to the property during the loan term. The seller gives the buyer a deed to the property, but when the borrower signs the mortgage for the loan, the borrower gives the title back to the mortgage holder (lender).

Title, Equitable An interest in property created upon the execution of a valid sales contract, whereby actual title will be transferred by deed at a future date (typically closing).

Title, Legal The interest in property held by the rightful owner.

Topography A description of surface features of land.

Tortious Interference The causing of harm by disrupting something that belongs to someone else, for example, interfering with a contractual relationship so that one party fails to execute their promise.

Total Debt-to-Income Ratio The relationship of a borrower's total monthly debt to gross monthly income, expressed as a percentage ($\text{Total Debt} / \text{Income} = \text{Ratio} \%$). Debt obligations include housing and long-term debts with more than 10 payments remaining. *Also called Total Debt Service Ratio, Back-End Ratio.*

Townhome Property developed for co-ownership where each co-owner has a separate fee simple interest in an individual unit, including its roof and basement, as well as the land directly beneath the unit, and an undivided interest in the common areas of the property. *Also called Townhouse.*

Township A square division of land, six miles by six miles, in the rectangular survey system. One township contains 36 sections.

Township Line East-west lines that run parallel to baselines in the rectangular survey system.

Township Tier The six-mile distance between township lines in the rectangular survey system.

Trade Fixture An item of personal property that is annexed to leased property, is necessary to a trade or business, and may be removed by the tenant before expiration of the lease.

Traditional Agency An agency relationship where the seller is the only client, and the buyer has no representation.

Transactional Brokerage A brokerage relationship in which a licensee provides only administrative services to buyers and sellers to assist in a transaction, remaining neutral and having no fiduciary responsibility toward either party. *Also called* **Facilitational Brokerage**, **Transaction Broker**, or **Non-Agency**.

Transfer Tax A tax levied when real property changes ownership from one person to another; may be levied by the state, the county, the municipality, or some combination of entities. Usually paid by the seller. *Also called* **Excise Tax**.

Transferability The ability to freely buy, sell, encumber, or dispose of property in any way the owner sees fit.

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

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

Triple Net Lease A lease in which the tenant pays all the expenses associated with the owning the property, in addition to paying the rent. *Also called* **Net-Net-Net**.

True Tax The amount of property tax that would be assessed against a specific property before any exemptions held by the present owner are subtracted.

Trusses A framework of rafters, posts, and beams that forms the support for a roof.

Trust A legal arrangement in which title to property (or funds) is vested in one or more trustees who manage the property (or invest the funds) on behalf of the trust's beneficiaries, in accordance with instructions set forth in the document establishing the trust.

Trust Account A separate account maintained by a broker for the deposit of a client's money.

Trust Funds Funds held on behalf of another, such as an earnest money check held for a buyer who is making an offer to purchase real estate.

Trustee A person appointed to manage a trust on behalf of the beneficiaries; in a trust deed, an independent third party that holds the trust instrument.

Trustee's Deed A deed, executed by a trustee, transferring title from the trust to the successful bidder at a trustee's sale.

Trustee's Sale A nonjudicial foreclosure sale under a deed of trust.

Trustor The property owner who grants a trust to a third party for the benefit of someone else.

Truth in Lending Act (TILA) A federal act designed to promote the informed use of consumer credit through proper disclosure and allow for the rescission of certain transactions secured by a borrower's principal dwelling. It is administered by the Consumer Financial Protection Bureau.

U

Unauthorized Practice of Law A person not licensed as an attorney performing acts that may only be performed by an attorney.

Underground Storage Tank (UST) A receptacle, at least 10% of which is underground, used to store a variety of substances such as heating oil, gasoline, chemicals, and hazardous waste; an environmental hazard due to corrosion, spills, leaks, and overfills; regulated by the EPA.

Underwater A home purchase loan that has a higher balance than the market value of the property. Being underwater may limit the homeowner's options for refinancing and will prevent the homeowner from selling the property without having the assets to pay the difference needed to pay off the loan.

Underwriter Individual who evaluates a loan application to determine its risk level for a lender or investor; final decision maker on a loan application.

Underwriting A lender's process of evaluating and deciding whether to make a new loan and on what terms.

Undisclosed Dual Agency A situation where one licensee represents both buyer and seller in a single transaction without the informed consent of both parties; very often may be practiced unintentionally, possibly by implying to one party that he is represented when, in fact, there is no agency agreement. This is illegal in all 50 states.

Undivided Interest A co-tenant's interest, giving him the right to possession of the whole property, rather than a particular section of it.

Undue Influence When a person in a fiduciary capacity or in a position of authority misuses the trust or power in order to unfairly induce a party to enter into a contract.

Unearned Increment An increase in the value of real property through no efforts of the property owner, e.g., rezoning or a population shift in the area.

Unencumbered Property Property that is free and clear of any liens.

Unenforceable Contract A contract that a court would refuse to enforce ; often an oral contract or a vaguely worded contract.

Unfair Business Practice An activity that causes or is likely to cause substantial consumer injury that a consumer could not reasonably avoid; it is not outweighed by a benefit to consumers.

Uniform Commercial Code (UCC) A general set of laws adopted by most states with the purpose of providing uniformity and fairness in commercial transactions, including the sale and financing of personal property.

Uniform Residential Appraisal Report (URAR) The valuation reporting document developed and approved by Fannie Mae and Freddie Mac that is most commonly used by lenders and appraisers.

Uniform Residential Loan Application (URLA) A standardized form from Fannie Mae or Freddie Mac that lenders require potential borrowers to complete in order to gather pertinent information about the borrower and the property.

Uniform Standards of Professional Appraisal Practice (USPAP) Professional appraisal standards developed by The Appraisal Foundation, and now recognized throughout the United States as accepted standards of appraisal practice.

Unilateral Contract A contract in which only one party makes a binding promise to another party.

Unit-in-Place Method A cost approach appraisal method for determining the cost of a building that estimates the cost of reproducing a building by looking at the unit cost of each of the component parts of the structure and adding all of these unit costs together.

Unity of Interest A unity of ownership in which each co-owner has an equal interest (equal share of ownership) in a property.

Unity of Person A unity of ownership in which co-owners are considered to be a single legal entity; applies only to married couples or partners in a legal civil union and is necessary for tenancy by the entirety.

Unity of Possession A unity of ownership in which each co-owner is equally entitled to possession of the entire property because the ownership interests are undivided.

Unity of Time A unity of ownership in which each co-owner acquires title simultaneously.

Unity of Title A unity of ownership in which each co-owner acquires confirmed ownership interest through the same instrument (deed, will, or court order).

Universal Agent An agent authorized to do everything that can be lawfully delegated to a representative; an agent with unlimited authority.

Unjust Enrichment A benefit without valid basis or justification at the expense of another.

Unlawful Detainer Action A legal action to regain possession of real property, especially a suit by a lessor to evict a defaulting tenant.

Unlicensed Assistant A member of a real estate team that can help with administrative and clerical tasks but not anything that should only be handled by a licensed broker.

Unreasonable Restraint of Trade Business practices by which multiple entities or persons mutually restrict access to or otherwise limit competition in a specific trade or industry.

Unsecured Loan A loan made on the signature and credit of the borrower, not secured by collateral.

Urban Design Design addressing both the appearance and the function of buildings, streets, sidewalks, open spaces, and other features.

Urban Planning The process of creating a blueprint to guide the future development of a community.

Urban Renewal The acquisition of certain areas by government action for the purpose of redevelopment.

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

Urea-Formaldehyde Foam Insulation (UFFI) A type of insulation that can be blown in or injected behind walls and other areas that are hard to access.

Usable Square Feet The space actually available and usable for a tenant's personnel, furniture, and equipment. The actual floor space inside the exterior walls of leased premises. Space the tenant can physically use inclusive of interior walls and columns. *Also called Net Square Feet.*

USDA Rural Development Loan program from the U.S. Department of Agriculture through which the government guarantees loans or makes direct loans for the purchase of an existing home, construction or a new home, renovations or repairs, relocation of a home, or the purchase a site for the loan.

Use Variance Allows landowners to use their land in a way that is not permitted under current zoning laws, such as commercial use in a residential zone.

Usury Charging a higher interest rate than the law allows.

Utility The ability of a good or service to satisfy human wants, needs, or desires.

V

VA-Guaranteed Loan A home financing option available to eligible veterans through which the Department of Veterans Affairs guarantees loans made by approved lenders, protecting lenders from loss due to borrower default.

Valid Contract A contract that meets all of the legal requirements for contract formation.

Valuable Consideration Consideration that has monetary value; money or anything of value that can be converted to money.

Value The present worth of the future benefits of property ownership; the monetary relationship between properties and those who buy those properties.

Value in Use The value of a property as it is presently being used, without considering the highest and best use or present market value (e.g., the value that the property actually contributes to the owner's business). Also: The subjective or emotional value placed on property by one particular person.

Vapor Retarder A material that is used to reduce the flow of water vapor.

Variable Expenses Operating expenses necessary to the property, but dependent on the property's occupancy level.

Variable Interest Rate Mortgage (VRM) A type of loan in which the interest rate charged by the lender varies according to some index not controlled by the lender.

Variance A permit obtained from the local zoning authority allowing the holder to use property or build a structure in a way that deviates from strict compliance with a zoning ordinance.

Vendee The buyer in a land contract.

Vendee's Lien A lien held by the purchaser for the purchase price paid if the seller defaults on the delivery of the deed.

Vendor The seller in a land contract.

Ventilation A system that draws fresh air into a structure and removes moist, stale air.

Verification of Deposit (VOD) A form sent by a bank directly to a lender verifying the borrower's accounts.

Vicarious Liability The legal concept that a principal can be held responsible for the wrongful act of their agent if such acts occur within the scope of the agency relationship.

View Easement A negative easement that prevents a servient tenant from adding anything to their property that would affect the quality of the dominant tenant's view. *Also called Easement for Light and Air.*

VIM A formula used to derive the appropriate multiplier from the transaction data: V (Sales Price) / I (Gross Income) = M (Multiplier).

Visual Preference Survey A type of survey in which respondents are asked to evaluate various design options as depicted in drawings, photographs, or other visual representations.

Void Contract A contract that isn't enforceable because it lacks one or more of the requirements for contract formation or is otherwise defective.

Voidable Contract A contract that one of the parties can end without liability because of a lack of legal capacity or other factors such as fraud or duress.

Voltage A measure of electric potential; the energy that could be released if the electric current is allowed to flow.

Voluntary Alienation When title to property is transferred voluntarily through a sale, gift, dedication, or grant.

Voluntary Lien A lien placed against property with the consent of the owner, e.g., a mortgage or deed of trust.

W

Want The part of the auctioneer's chant that asks for an amount of the next bid.

Warehousing The process of gathering loans together for sale to investors in the secondary market.

Warranty Deed A deed in which the grantor fully warrants good and clear title to the property and agrees to defend the premises against the lawful claims of third parties.

Warranty Forever A guarantee in a deed that the grantor promises to compensate the buyer if title is not good.

Waste The actions of a life tenant who uses the property in a way that damages it or reduces its market value.

Water Rights The rights of a landowner to water adjoining or passing through property.

Water Table The distance from ground level to natural groundwater.

Wear and Tear The lessening in value of an asset due to ordinary and normal use.

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

Wetlands An ecosystem where the land is permeated with water, which either lies on or near the surface of the land; an environment where specialized plants, aquatic species, and wildlife live.

Will A legal declaration in which a person disposes of property to take effect upon their death.

Wraparound Mortgage A financing arrangement in which an existing loan on a property is retained while the lender gives the borrower another, larger loan.

Writ of Execution A court order to an officer to carry out judicial decree.

X

Y

Yield The interest earned by an investor on the investment.

Yield Spread Premium (YSP) A tool that mortgage brokers can use to lower the upfront closing costs for a borrower.

Z

Zoning Government regulation of the uses of property within specified areas.

Zoning Ordinances Local laws that divide a city or county into different areas or zones and determine how land can be used and the specific requirements for compliance.