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AAA TENANT - a triple-A tenant is one with exceptionally high credit worthiness and whose national or local name will add prestige to a shopping center or office building.

AAR - Arizona Association of Realtors

ABANDONMENT - the voluntary relinquishment of rights of ownership or other interest, such as an easement, by failure to use the property, coupled with an intent to abandon or give up the interest.

ABATEMENT - a reduction or decrease. Usually applies to a decrease of assessed valuation of ad valorem taxes after the assessment and levy.

ABR - Accredited Buyers Representative. A professional designation for real estate professionals.

ABSENTEE OWNER - an owner who does not reside on the property and generally relies on someone else to manage the investment. An example is a slum landlord is most often an absentee owner.

ABSOLUTE - is something that is unrestricted and without limitations or conditions.

ABSTRACT - the notes made by a title examiner based on a summary of the public records relating to the title to a particular piece of land. An attorney or title insurance company reviews an abstract of title to determine whether there are any title defects which must be cleared before a buyer can purchase clear, marketable, and insurable title. The title agency produces a binder from the information in the abstract.

ABSTRACT CONTINUATION - a partial abstract beginning at the terminal date of an existing abstract and showing instruments recorded between such terminal date and a subsequent date.

ABSTRACT EXTENSION - see **ABSTRACT CONTINUATION**

ABSTRACT OF JUDGMENT - a summary of the essential provisions of a court judgment, which when recorded in the county recorder's office creates a lien upon the property of the defendant in that county, both presently owned or after acquired.

ABSTRACT OF TITLE - a compilation of the recorded documents relating to a parcel of land, from which an attorney may give an opinion as to the condition of title. Still in use in some states, but giving way to the use of title insurance.

ABSTRACT PLANT - see **TITLE PLANT**

ABSTRACTER'S CERTIFICATE - a certificate contained in an abstract which shows the time period and scope of the search of public records done by the abstracter.

ABUTMENT - a specific part of a column, support or wall on which an object rests.

ABUTTING OWNER - an owner whose land adjoins a public road or any other contiguous real property.

ACCELERATING PAYOFF PROGRESSIVE EQUITY LOAN - a residential property loan which calls for a payment increase over the first 6 years. Level payments are made for the remaining years and the loan paid off during the 15th year. There is no prepayment penalty and PMI is required.

ACCELERATION - the right of the lender (mortgagee) to demand immediate repayment of the mortgage loan balance upon default of the borrower (mortgagor). Default can consist of many things. Due on sale clause may cause the lender to call the note if the property was sold without the lender's knowledge or approval.

ACCELERATION CLAUSE - a condition in a real estate financing instrument giving the lender the power to declare all sums owing lender immediately due and payable upon the happening of an event, such as the sale of the property, or a delinquency in the repayment of the note.

ACCEPTANCE - an expression, for real estate must be in writing, showing the intent of a person receiving an offer to accept and be bound by the terms of the accepted offer.

ACCESS - a means by which property is approached, or a method of entrance into or upon a property. Also see **INGRESS AND EGRESS**.

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

ACCORD - an agreement by which one accepts something different, usually less, from what is owed as full satisfaction. The amount owed may be in dispute or simply accepted as full satisfaction by the creditor or claimant.

ACCORD AND SATISFACTION - the agreement and acceptance of an accord.

ACCRETION - the gradual addition to the shore or bank of a waterway. The land generally becomes the property of the owner of the shore or bank, except where statutes specify otherwise.

ACCRUED - anything that has accumulated over a period of time.

ACCRUED DEPRECIATION - the amount reserved each year in the accounting system for replacement of a building or other asset. Also the useful life of a property at any given time.

ACKNOWLEDGMENT - a written declaration by a person executing a legal document that this is his signature and voluntary act. This confirmation is made to an authorized officer of the Court or notary public who signs a statement also called an acknowledgment.

ACQUISITION COSTS - costs of acquiring property other than purchase price, escrow fees, title insurance, lenders fees, etc.

ACRE - 43,560 square feet of land.

ACREAGE ZONING - zoning intended to reduce residential density by requiring larger building lots.

ACT OF GOD - damage caused by nature such as floods, winds, etc., rather than destruction by man.

AD VALOREM - a method of taxation using the value of the thing taxed to determine the amount of tax. An example is a tax of \$5.00 per \$1000 of value per house.

ADD-BACK - the practice of deferring the payment of a portion of the interest due, or part of the principal and adding the deferred amount as a balloon payment at the end of the loan, or some other determined time.

ADD-ON INTEREST - a method of charging interest usually used in the financing of automobiles, but not generally used in real estate financing. Interest is computed on the total amount borrowed and added on to the principal. Each payment is then deducted from this total amount.

ADDENDUM - an addition to another document or contract.

ADJUSTABLE RATE MORTGAGE - a loan on which the monthly payments will increase or decrease over time, based on changes in the ARM's interest rate index. ARM payments typically are adjusted every six months or once a year. Some common indices to which ARMS are tied include the Federal Reserve District Cost of Funds, one-year T-note and six-month T-bill.

ADJUSTED BASIS - the original cost basis of real property reduced by certain deductions and increased by certain improvements.

ADJUSTED GROSS INCOME - gross income of a building if fully rented, less an allowance for estimated vacancies.

ADJUSTMENT INTERVAL - on an adjustable rate mortgage, the time between changes in the interest rate and/or monthly payment, typically one, three or five years, depending on the index.

ADMINISTRATOR - a person appointed by the Court to settle the estate of a person who dies without a will. The feminine form is Administratrix.

ADVANCE FEE - a fee charged by a broker to a seller to cover all or a portion of the broker's costs of promoting the property. The fee is generally credited against commissions but is not refunded if no commissions are received.

ADVERSE ACTION - a denial of a loan in an amount and on terms acceptable to the borrower.

ADVERSE POSSESSION - a claim made against land titled in another person based on open, notorious and hostile possession and use of the land to the exclusion of the titled owner.

ADVERTISING - in real estate, advertising is regulated by various rules and regulations established by federal, state, local, and private authorities. A broker for example needs a client's written authorization to advertise a property.

AFFIDAVIT - a written statement made under oath before a notary public or other judicial officer.

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

AGENCY AGREEMENT - see NONEXCLUSIVE LISTING

AGENT - see REAL ESTATE AGENT

AGGRIEVED - loss or injury from infringement or denial of rights, such as one who is the victim of discrimination. Also refers to an injured party or a person who has lost some personal or property rights or has had an obligation or burden imposed on him or her.

AGREEMENT - acceptance by all parties to a contract, idea, project or an understood and accepted change to the correct or alteration to the original document without changing its principal essence or initial desire (to sell or buy a home).

AGREEMENT OF SALE - see PURCHASE CONTRACT

AIR RIGHTS - the right to use the open space or vertical plane above a specified piece of property. Ownership of land includes the right to sell the open space above it, but those rights are now limited due to airplane traffic and some line of sight restrictions.

ALL-INCLUSIVE DEED OF TRUST - similar to a wraparound mortgage except that a Deed of Trust is used instead of a mortgage. Also see WRAPAROUND MORTGAGE.

ALTA - see AMERICAN LAND TITLE ASSOCIATION

ALTERNATIVE FINANCING - some type of mortgage financing other than a 30 year fixed rate mortgage, usually provided by a mortgage broker or lender..

AMERICAN LAND TITLE ASSOCIATION - a national association of title insurance companies, abstracters, and attorneys specializing in real property law which speaks for the title insurance and abstracting industry with headquarters in Washington, DC.

AML'S - adjustable mortgage loans, see ADJUSTABLE RATE MORTGAGE.

AMORTIZATION - the principal pay down of a loan generally made by periodic payments calculated to pay off the debt at the end of a fixed period, including accrued interest on the outstanding balance.

AMORTIZATION SCHEDULE - a timetable for payment of a mortgage showing the amount of each payment applied to interest and principal and the remaining balance.

AMORTIZED LOAN - a loan to be repaid, with interest and principal, by a series of regular payments that are equal or nearly equal, without any other special payments prior to maturity.

ANNUAL PERCENTAGE RATE - a interest rate reflecting the cost of a mortgage as a yearly rate. This rate is likely to be higher than the stated note rate or advertised rate on the mortgage, because it takes into account any points and other credit costs. This allows mortgage consumers to compare different types of mortgages based on the annual cost for each loan.

APARTMENT BUILDING - a building having separate units for permanent tenants who rent or lease them. These units usually have a common entrance and hallways, and are maintained by the owner.

APPEL LOAN - see ACCELERATING PAYOFF PROGRESSIVE EQUITY LOAN

APPLICATION - an oral or written request for an extension of credit. Usually a printed form on which the lender collects credit, income and debt information from and about the prospective borrower, plus facts about the property being used to secure the loan. A fee sometimes is charged at the time of application.

APPRAISAL - a written estimate of value on a piece of real estate by an qualified person, generally an appraiser, who is considered to be an expert in real estate property valuations. The result of the appraisal usually determines how much money the lender will loan on that property. A fee may be charged for the appraisal.

APPRAISAL METHODS - the three major methods of appraisal are the cost approach, the income approach and the market value or comparables approach.

APPRAISED VALUE - the opinion or estimated property value in dollar terms as determined by an appraiser or other qualified person.

APPRAISERS LONG REPORT - see NARRATIVE REPORT

APPRAISERS NARRATIVE - see NARRATIVE REPORT

APPRECIATION - an increase in the value of a house due to changes in market conditions or other causes.

APPURTENANCE - a minor right or privilege that is incident to, but outside of, the principal property, such as right of way to a highway across the land of another. Water rights are also an example.

APPURTENANT - belonging to, or accessory to, or incident to a principal property. Anything attached to the land or used with it and considered a part of the real property passing with the ownership.

APR - see Annual Percentage Rate

ARBITRAGE - the spread or difference between interest rates and is a common item in all-inclusive or wraparound mortgage financing. Also the simultaneous purchase and sale of mortgages or mortgage backed securities in different markets to profit from price differentials.

ARM - see Adjustable Rate Mortgage

ARMLS - Arizona Regional Multiple Listing Service

ARREARS - payment made after it is due is in arrears. Also interest is said to be paid in arrears, since it is paid to the date of payment rather than in advance.

AS IS - see CAVEAT EMPTOR

ASSEMBLAGE - the combining of two or more adjoining lots into one large tract.

ASSESSED VALUE - the valuation placed upon property by a public tax assessor for purposes of taxation.

ASSESSMENT - an additional tax levied on a property, individual lots or all property in the immediate area for a specific purpose such as road construction, sidewalks, sewers, street lights, etc. or a value placed on the worth of a property by a taxing authority.

ASSETS - what a person owns such as a car, stocks, bonds, mutual funds and real estate.

ASSIGN - to transfer interest.

ASSIGNEE - one who receives an assignment or transfer of rights. For example an assignment of a purchase contract transfers the right to buy property to the assignee.

ASSIGNMENT - the act of transferring ownership of something from one person to another. Also the instrument of paper by which one person transfers ownership of a right or object to another.

ASSIGNMENT OF RENTS - an agreement between a property owner and the mortgagee by which the mortgagee receives, as security, the right to collect rents from the mortgager's tenants, but doesn't interfere with the sole obligation of the mortgager to the tenants under their lease.

ASSIGNOR - the one who assigns to another person.

ASSOCIATE BROKER - real estate classification used in some states to describe a person who has qualified as a real estate broker, but still works for another broker.

ASSUMABLE MORTGAGE - a mortgage that can be taken over (assumed) by the buyer when a home is sold.

ASSUMED MORTGAGE - a loan in which the buyer assumes the obligations of an already existing mortgage on a property.

ASSUMPTION - The agreement between buyer and seller where the buyer takes over the payments on the existing mortgages from the seller and assumes title to the property.

ASSUMPTION OF A DEED OF TRUST - An agreement in which the buyer accepts liability for payment of a seller's existing promissory notes secured by a Deed of Trust.

ASSUMPTION OF MORTGAGE - is when someone purchases real estate subject to existing mortgage(s), the purchaser agrees to make the monthly mortgage payments on the existing mortgage(s), but the original mortgagor remains personally liable if the purchaser fails to make the monthly payments. Since the original mortgagor remains liable in the event of default, the mortgagee's consent is not required to a sale subject to a mortgage.

ATRIUM - the main area of a structure with a ceiling of translucent material, or open, that allows sunlight into the interior.

ATTACHMENT - seizure of property through Court process to repay a debt.

ATTIC - accessible space located between the top of the ceiling and the underside of the roof.

ATTORNEY-IN-FACT - A type of agency relationship where one person holds a power-of-attorney, allowing him to execute legal documents on behalf of another. Decisions made by the attorney-in-fact are binding on the principal.

AVENUE - a fully improved through roadway, serving local and minor collector traffic.

AVIGATION EASEMENT - an easement over private property abutting an airport runway which limits the height of crops, trees, structures, etc., in the aircraft's take off and landing path.

B

BACKUP OFFER - an offer to buy submitted to the seller with an understanding that the seller has already accepted a prior offer. Sometimes called a secondary offer.

BALLOON NOTE - a loan that has a series of monthly payments (interest only, interest & principle, or no payments at all) with the remaining balance due in a large lump sum payment at the end of the term.

BALLOON PAYMENT - A mortgage obligation which has a balance due and payable at the end of the mortgage term and which has a final installment payment larger than preceding installment payments on a promissory note.

BALLOON PAYMENT MORTGAGE - see **BALLOON NOTE**

BALTIMORE METHOD - an appraisal method for determining value of corner lots by using the property on either side of it.

BANKRUPT - one who is adjudicated bankrupt by a court having proper jurisdiction. To be declared bankrupt may be voluntary or involuntary. Voluntary bankruptcy is petitioned by the debtor, involuntary by the creditors.

BANKRUPTCY - a provision of Federal Law whereby a debtor surrenders his assets to the Bankruptcy Court and is relieved of the future obligation to repay his unsecured debts. A Trustee in Bankruptcy administers the assets, selling them to pay as much of the debt as possible. After bankruptcy, the debtor is discharged and his unsecured creditors may not pursue further collection efforts against him. Secured creditors, those holding deeds of trust or judgment liens against the real estate, continue to be secured by the real estate but they may not take other action to collect from the debtor.

BASIS POINT - lenders use basis points to measure interest rates in yield calculations. One basis point equals 1/100th of 1% in interest. 100 basis points equals 1% interest.

BEDROOM COMMUNITY - see **SUBURB**

BEFORE AND AFTER METHOD - an appraisal method used in both condemnation and modernization. In condemnation the method is used in a partial taking. For example, the value of the total land owned by A is \$1.00 per sq. ft. After a partial taking, the remaining land of A is worth \$.75 per sq. ft. A should then receive \$1.00 per sq. ft. for the property taken plus 25¢ per sq. ft. for the remaining parcel. In the event the remaining property is worth \$1.25 after the taking, realizing an increased value, the payment to A could be less than the value of the property taken. In modernization an appraiser may take the value of property before and after remodeling to determine if the value increased more than modernization costs.

BELLWETHER BOND - see **TREASURY BONDS**

BENCHMARK - a permanent reference mark for surveyors.

BENEFICIARY - a person named to receive a benefit from a trust or one for whose benefit a trust is created, such as a lender whose loan is secured by a deed of trust.

BENEFICIARY STATEMENT - the statement of a beneficiary under a Deed of Trust stating the principal balance due on a promissory note and other information concerning the loan.

BENEFICIARY'S DEMAND - the payment required by a beneficiary under a Deed of Trust before authorizing a reconveyance, the removal of the lien on title to property created by a deed of trust.

BFP - see **BONA FIDE PURCHASER**

BID - an offer.

BIG GUY - see **HOEL, JEFF**

BINDER - a title insurance binder is the written commitment of a title insurance company to insure title to the property subject to the conditions and exclusions shown on the binder. Also a memorandum of agreement to issue other types of insurance giving temporary coverage until a formal policy is issued. In some states a preliminary agreement, secured by the payment of earnest money, under which a buyer offers to purchase real estate.

BLANKET MORTGAGE - a mortgage covering more than one property of the mortgagor, such as a mortgage covering all the lots of a builder in a subdivision. Also a mortgage (general mortgage) covering all real property of the mortgagor, both present and future.

BONA FIDE PURCHASER - a purchaser in good faith, for valuable consideration, without notice or knowledge of adverse claims of others.

BOND - an amount of money, often posted with the Court, to guarantee against loss as a result of a possible claim. In a real estate transaction there may be a lien on a piece of property, the owner may post a bond to have the lien removed from the property, freeing title to the property, and allows the parties to argue over the money rather than the title of property.

BOOK DEPRECIATION - depreciation reserved, on the financial books or records) by an owner for future replacement or retirement of an asset.

BORROWER - see **MORTGAGOR**

BOULEVARD - a major collector with or without a median strip and is general shorter than a highway, usually serving through traffic on a continuous route.

BREACH OF CONTRACT - failure to perform provisions of a contract.

BREACH OF WARRANTY - in real property, the failure of the seller to pass title as either expressed or implied by law in the conveying document.

BREAST HEIGHT - the height at which the diameter of a tree is measured. A height of 4 1/2 feet above the ground level.

BRIDGE LOAN - a temporary mortgage loan to help a borrower obtain the necessary cash funds to purchase another home, prior to the sale of their currently owned home.

BRIDGE MORTGAGE - see **BRIDGE LOAN**

BROKER - see **REAL ESTATE BROKER OR MORTGAGE BROKER**

BUILDING AND LOAN ASSOCIATION - an organization for the purpose of accumulating a fund by subscription and savings of its members to assist them with loans for building or purchasing real estate.

BUILDING DEPARTMENT - a city, county, or state agency that controls the issuance of building permits for construction.

BUILDING LINE OR SETBACK - distances from the ends and/or sides of the lot beyond which construction may not extend. The building line may be established by a filed plat of subdivision, by restrictive covenants in deeds or leases, by building codes, or by zoning ordinances.

BUILDING RESTRICTION LINE - a required set-back a certain distance from the road within which no building may take place. This restriction may appear in the original plat of subdivision, restrictive covenants or by building codes and zoning ordinances.

BUILDING VALUE - an appraisal approach to determine value by using actual construction costs in a new building, by a depreciated construction cost method if it is only a few years old, or by the estimated present construction costs method if an older building.

BUILT-INS - certain items or equipment such as some kitchen appliances, bookcases, desks, shelving, cabinets and furniture that is permanently affixed to real property and is understood to be included when the property is sold.

BUNDLE OF RIGHTS - an ownership concept describing all those legal rights that attach to the ownership of real property. When purchasing real estate, one actually buys the rights previously held by the seller, except for those that are limited or reserved by the sale, if any.

BUREAU OF VITAL STATISTICS - see VITAL STATISTICS

BUY-BACK AGREEMENT - a provision in a sales contract that provides that the seller, or sometimes the sellers designee, will buy back the property within a specified period of time, at a pre-agreed upon price.

BUY-SELL OFFER - an offer by one owner, partner or other shareholder of a business or real estate syndicate to buy out the interest of another owner, partner or other shareholder of the same business or real estate syndicate, or to sell the offeror's interest at the same price or proportionate price if unequal ownership. An example is if A and B each own a 1/2 interest in a real estate lot. A offers to buy B's interest for \$10,000 or to sell A's interest to B for \$10,000. Theoretically very fair, since B has the option to buy or sell. However, B's interest may be worth \$12,000, but B is financially unable to buy A's interest also worth \$12,000.

BUY DOWN - is an artificial subsidy paid by someone such as the buyer, seller, builder, relative or other third party to provide a lower interest rate to reduce the monthly payments on a mortgage loan for the borrower for a limited period of time.

BUYER'S AGENT - a licensed real estate agent acting exclusively on behalf of the buyer.

BUYER'S BROKER - an individual in charge of a real estate company that can recruit agents to represent buyers exclusively, if the broker desires.

BUYER'S EXPENSES - cost of abstracts, title searches, recording fees, escrow fees, real estate commissions, transaction fees, attorney's fee, mortgage title insurance, survey, appraisal, home warranty, pest inspections, HOA transfer fees, points, FHA/VA charges and mortgage connected fees. This is a partial list, but many of these are often split between buyer and seller. The agreement of sale negotiated previously between the buyer and the seller may state in writing who will pay each of the above costs. The costs of closing usually are about 3 percent to 6 percent of the mortgage amount.

BY-LAWS - rules and regulations governing an association or corporation.

C

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

CANCELLATION CLAUSE - a clause in a lease or other contract, setting forth the conditions under which each party may cancel or terminate the agreement. The conditions may be as simple as giving notice or complex and require payment by the party desiring to cancel.

CAPITAL ASSETS - assets of a permanent nature used to produce income, such as machinery, buildings, equipment, land, etc. Capital assets must be distinguished from inventory. For example a machine which makes widgets would be a capital asset to a widget manufacturer, but inventory to the company whose business is to sell such machines.

CAPITAL GAINS - gains realized from the sale of capital assets including real estate. Generally, the difference between cost and selling price, less certain deductible expenses. Used mainly for income tax purposes.

CAPITALIZATION - A method used to estimate value of a property based on the rate of return on investment.

CAPS - provisions of an adjustable rate mortgage (ARM) by a rate cap limit how much the interest rate can change at each adjustment period (e.g., every six months, once a year) or over the life of the loan. A payment cap limits how much the payment due on the loan can increase or decrease.

CARPORT - a roofed space having at least one side open to the weather and is primarily design for and used by motor vehicles.

CARRYBACK - see SELLER CARRYBACK

CARRYING CHARGES - the costs involved in keeping a property which is intended to produce income, either by sale or rent, but has not yet done so.

CASH FLOW - the amount of cash derived over a certain period of time from an income producing property, such as a rental house.

CASH OUT - in a listing or real estate sale, cash-out refers to the sellers interest to receive the complete agreed upon sales price in cash at the time of closing.

CASH RESERVE - a requirement by some mortgage lenders that buyers have cash remaining after closing such as requiring borrowers to have reserves equal to two mortgage payments.

CAVEAT EMPTOR - buyer beware. The buyer must inspect the property and satisfy himself it is adequate for his needs. The seller is under no obligation to disclose defects but may not actively conceal a known defect or lie if asked.

CC&R's - see COVENANTS, CONDITIONS, AND RESTRICTIONS

CERTIFICATE OF ELIGIBILITY - the document given to veterans or reservists who have served a minimum of 90 days of continuous active duty (including training time). This form may be obtained by sending separation papers form, DD-214, to a local VA office with a request form, VA 26-8261/a. This document allows reservists or veterans to obtain lower down payment FHA loans.

CERTIFICATE OF OCCUPANCY - a certificate issued by a local governmental body stating that the building is in a condition to be occupied and conforms to local codes, ordinances and regulations.

CERTIFICATE OF REASONABLE VALUE - a document issued by the Veterans Administration which acts as an appraisal, showing the property's current value.

CERTIFICATE OF SATISFACTION - a document signed by the Note holder and recorded in the land records evidencing release of a deed of trust, mortgage or other lien on the property.

CERTIFICATE OF TITLE - a written opinion by an attorney setting forth the status of title to the property as shown on the public records. The certificate does not certify as to matters not of record and affords no protection unless the author was negligent.

CERTIFICATE OF VETERAN STATUS - see CERTIFICATE OF ELIGIBILITY

CHAIN OF TITLE - a chronological list of documents comprising the record history of title to a specific parcel of real property.

CHAINS AND LINKS - are measurements that in real estate surveying definitions a chain is 66 feet long or 100 links with each link being 7.92 inches. The measurement may change when used in fields other than surveying.

CHATTEL - personal property.

CLASSIFIED PROPERTY TAX - a property tax which varies in rate depending on the use or zoning classification of the property.

CLEAR TITLE - a title that is free of liens and legal questions as to ownership of the property.

CLEARANCE LETTER - a letter from a bonafide and licensed termite inspection company disclosing the results of a property inspection.

CLIENT - also known as the principal and is the buyer represented by a buyer's agent or the seller represented by the seller's agent.

CLOSING - the time and date set for the transfer of the property from seller to buyer and/or for the signing of the loan and legal documents necessary to convey the property so that an exchange of a deed in return for other considerations can be made.

CLOSING COSTS - see BUYER'S EXPENSES

CLOSING DAY - the day on which the formalities of a real estate sale are concluded. The final closing merely confirms the original agreement reached in the agreement of sale.

CLOSING STATEMENT - see HUD-1

CLOSURE - refers to the process of metes and bounds property descriptions of returning to the point of beginning. Unless a parcel is thus closed, there is no legal description.

CLOUD ON TITLE - an outstanding claim or encumbrance which adversely affects the marketability of title.

CO-SIGNOR - see GUARANTOR

CO-TENANCY - ownership in the same land by more than one person.

COINSURANCE - when more than one insurance company shares the risk of a particular transaction or series of transactions. Lenders may require co-insurance on large commercial projects.

COLLATERAL - property pledged to secure a loan or mortgage.

COMMERCIAL BANKS - local, state and national banks which provide the primary source for construction financing. Many also loan money for permanent mortgages on housing.

COMMERCIAL PROPERTY - property which is zoned commercial, for business use, such as stores, restaurants, etc., falling between residential and industrial.

COMMINGLING - to mix funds held in trust with other funds. For example a real estate broker or builder mixes deposits, that should be in a trust account, with his funds by putting the deposits in his general account. Although commingling is in itself a violation for which a real estate broker may lose his license, it does not mean that by commingling, the real estate broker or builder intended to misappropriate the funds.

COMMISSION - money paid to a real estate broker by the seller as compensation for finding a buyer and completing the sale. Usually it is a percentage of the sale price such as 6 percent or more on houses and 10 percent or more on land.

COMMITMENT - a pledge, promise, or firm agreement, often subject to conditions, given by a lender to a borrower to make a specific mortgage loan. Also a promise by an investor to purchase mortgages from a lender with specific terms or conditions. A written agreement from a title insurer to provide a contractual obligation to insure title to real property.

COMMITMENT FEE - An upfront charge paid to bind an agreement to lend an amount of money at a specific interest rate.

COMMITMENT LETTER - the commitment letter generally states the amount of the loan and the interest rate, as well as the conditions that must be satisfied by the borrower before the loan will be made.

COMMITMENT TO INSURE - see COMMITMENT

COMMUNITY PROPERTY - property acquired by husband and wife during a marriage and not acquired as separate property by either spouse. Each spouse has equal rights to the property, including the rights of survivorship.

COMPARABLES - see MARKET VALUE APPROACH

COMPARISON METHOD - see MARKET VALUE APPROACH

COMPENSATION - the penalty paid by the mortgagor to discharge a fixed rate mortgage prior to maturity.

CONDEMNATION - the taking of private property for public use by a government unit, against the will of the owner, but with payment of just compensation under the government's power of eminent domain. Condemnation may also be a determination by a governmental agency that a particular building is unsafe or unfit for use.

CONDITIONAL SALE CONTRACT - a sale in which the title to property or goods remains with the seller until the purchaser has fulfilled the terms of the contract, usually payment in full.

CONDOMINIUM - a system of individual fee simple property ownership in which the homeowner holds title to an individual dwelling unit plus an interest in common areas of a multi-unit project.

CONDOMINIUM COST APPROACH - a method used by an appraiser to estimate replacement cost of improvements less depreciation.

CONFIRMATORY DEED - see CORRECTION DEED

CONSERVATOR - also called a Guardian and is a person designated by the Court to protect and preserve the property of someone who is not able to manage their own affairs.

CONSOLIDATE - to unite, join, combine, or incorporate by reference, such as to combine two mortgages on one property into a single loan, or to combine two or more parcels of land - a reverse of the subdivision process, or to join a land sale registration with an earlier registration, especially when the property is developed and sold in succeeding phases or increments.

CONSTANT INSTANT RATE - see LOAN CONSTANT

CONSTRUCTION LOAN - a short-term interim loan for financing the cost of construction of buildings or homes. The lender advances funds to the builder at periodic intervals as the work progresses.

CONSTRUCTIVE MORTGAGE - see EQUITABLE MORTGAGE

CONTINGENCY - a condition that must be met before a contract is legally binding.

CONTRACT FOR DEED - a method of financing through a written contract where title remains in the seller's name until the buyer's contract has been fulfilled. The seller will then convey title of the property to the purchaser.

CONTRACT FOR SALE - see CONTRACT FOR DEED

CONTRACT OF PURCHASE - see PURCHASE CONTRACT

CONTRACT OF SALE - see PURCHASE CONTRACT

CONTRACTOR - In the construction industry, a contractor is one who contracts to erect homes and buildings or portions of them. There are also contractors for each phase of construction: heating, electrical, plumbing, air conditioning, road building, bridge and dam erection, and others.

CONTROLLED ACCESS ROAD - see LIMITED ACCESS HIGHWAY (OR ROAD)

CONVENTIONAL LOAN - a mortgage not insured by FHA or guaranteed by the VA or Farmers Home Administration (FMHA).

CONVENTIONAL MORTGAGE - see CONVENTIONAL LOAN

CONVERSION OPTION - the right for the borrower for a fee, to convert an adjustable rate mortgage into a fixed rate mortgage within a specific period of time.

CONVERTIBILITY - see CONVERSION OPTION

CONVERTIBLE ARM - see CONVERSION OPTION

CONVEY - to transfer title to property from one to another.

CONVEYANCE - the transfer of title or an interest in real property by means of a written instrument such as a deed or an assignment of lease.

COOLING-OFF PERIOD - a grace period provided by law or by contract in which a party the contract can legally back out of the contract. Also a right of rescission.

COOP - see COOPERATIVE

COOPERATIVE - a corporation or association owns title to the real estate. A resident or tenant purchases stock in the corporation which entitles him to occupy a unit in the building or property owned by the cooperative. While the resident does not own his unit, he has an absolute right to occupy his unit for as long as he owns the stock.

COOPERATIVE HOUSING - an apartment building, group of dwellings owned by a corporation, the stockholders of which are the residents or users of the dwellings. It is operated for their benefit by their elected board of directors.

CORRECTION DEED - a deed used to correct a prior erroneous deed, as when a Grantor's name has been misspelled or when some other minor mistake of fact has been made. A correction deed is also used to correct or change an inaccurate description of a parcel, often when a property is resurveyed.

CORRELATIVE WATER RIGHT - a law in some states that allows a riparian owner who has rights in a common water source is entitled to take only a reasonable amount of the total water supply for the beneficial use of the land, such as irrigation.

COUNTER-OFFER - an offer made by the lender to grant credit other than in the amount or terms requested by the applicant. More commonly, a purchase offer made back to the buyer by the seller in response to a previous offer or vise-versa

COVENANT - a written agreement, restriction or a clause in a mortgage on the use of land or promising certain acts that obligates or restricts the borrower and which, if violated, can result in foreclosure. see also COVENANTS, CONDITIONS AND RESTRICTIONS.

COVENANTS, CONDITIONS AND RESTRICTIONS - restrictions limiting the use of real property. Covenants are created by deed and may "run with the land," binding all subsequent purchasers of the land, or may be "personal" and binding only between the original seller and buyer. The determination whether a covenant runs with the land or is personal is governed by the language of the covenant, the intent of the parties, and the law in the State where the land is situated. Covenants that run with the land are encumbrances and may affect the value and marketability of title. Covenants may limit the density of buildings per acre, regulate size, style or price range of buildings to be erected, or prevent particular businesses or activities from operating or happening in a given area.

CREATIVE FINANCING - when institutional financing such as traditional loans or alternative financing does not solve the home purchasing problem, another party such as the seller or an investor may provide non institutional financing. This non-institutional financing may be very "creative" as the seller does not have to follow the same stringent lending rules institutional lenders must follow.

CREDIT REPORT - a report of an individual's credit history prepared by a credit bureau and used by a lender in determining a loan applicant's creditworthiness.

CROSS DEFAULT - a clause inserted in a mortgage document whereby default on one property is deemed as default on another property and claim or legal action can be commenced on both properties simultaneously.

CRV - see CERTIFICATE OF REASONABLE VALUE

CUL-DE-SAC - a street that is open at one end and usually has a circular turn around at the other end. Also a blind alley.

CURRENT INDEX - the current value of a recognized index as calculated and published nationally or regionally. The current index changes periodically and is used in calculating the new note rate at each adjustment period.

CUSTOMER - buyer who works with a seller's agent is considered a "customer" rather than a "client" of the seller's agent because there is no "fiduciary relationship." Buyer has no representation.

D

DBH - diameter breast height, see BREAST HEIGHT.

DEBTS - see LIABILITIES

DEBT-TO-INCOME RATIO - the ratio, always expressed as a percentage, which results when a borrower's monthly payment obligation on long-term debts is divided by his or her net effective income (FHA/VA loans) or gross monthly income (conventional loans).

DECLARATION OF HOMESTEAD - see HOMESTEAD

DECLARATION OF TRUST - a written acknowledgment by one holding legal title to property, that the property is held in trust for the benefit of another.

DECLINING BALANCE INTEREST - interest on real estate loans is generally figured based on the balance owing after each payment is made.

DECLINING BALANCE METHOD OF DEPRECIATION - depreciation by a fixed annual percentage of the balance after deducting each yearly depreciation amount.

DEDICATION - the donation of land for public use by its owner.

DEED - the written document by which title to real property is transferred from one owner to another. The deed should contain an accurate description of the property being conveyed, should be signed and witnessed according to the laws of the State where the property is located, and should be delivered to the purchaser at closing day. There are two parties to a deed: the grantor and the grantee. Once recorded at the Courthouse, the original piece of paper is not needed to convey title in the future.

DEED IN LIEU OF FORECLOSURE - a deed to a lender given by an owner conveying mortgaged property in which the mortgage is in default. It is an alternative to a foreclosure auction. It's main disadvantage to a lender is that the deed does not wipe out junior liens, as a foreclosure action would.

DEED OF CONFIRMATION - see CORRECTION DEED

DEED OF TRUST - a three party security document conveying title to land to a trustee, secured by the performance of an obligation, such as the repaying of a loan. Some states use a deed of trust while other use a mortgage as security for a mortgage loan.

DEFAULT - failure to meet legal obligations in a contract, specifically, failure to make the monthly payments on a mortgage. In the event of default, the mortgage may give the lender the right to accelerate payments, take possession and receive rents, and start foreclosure. Defaults may also come about by the failure to observe other conditions in the mortgage or deed of trust.

DEFEASIBLE TITLE - title which is not absolute but possibly may be annulled or voided at a later date.

DEFECT OF RECORD - any encumbrance on a title that is made a part of the public record.

DEFERRED INTEREST - see NEGATIVE AMORTIZATION

DEFERRED INTEREST MORTGAGE - a mortgage in which the payment is not sufficient to pay the principal and the interest. The interest is deferred and will be paid at a later date.

DEFICIENCY - an additional debt for a borrower when foreclosure fails to raise sufficient revenue to cover the outstanding debt on a home loan.

DEFICIENCY JUDGMENT - if the foreclosure sale does not bring sufficient proceeds to pay the costs of sale and the note in full, the holder of the note may obtain a judgment against the maker for the difference.

DEFLATED MORTGAGE - a mortgage in which the parties agree to reduce the amount of the principal debt and increase the interest rate. In this way, the seller receives the same amount of dollars, but the buyer obtains a greater interest deduction.

DELAYED EXCHANGE - an exchange that occurs when the sale or relinquished property is sold and the acquisition or replacement property is thereafter identified and acquired or replaced. The time limits are 45 days to identify and 180 days to close.

DELINQUENCY - failure to make payments on time. This can lead to foreclosure.

DELIVERY - The final, unconditional and absolute transfer of a DEED to the Grantee so that the Grantor may not revoke it.

DEMAND NOTE - a note having no date for repayment, but due on demand of the lender.

DEMISING WALL - a partition or dividing wall found in a building housing two or more tenants, separating the area leased by one party from that leased by others.

DENSITY - The number of homes built on a particular acre of land. Allowable densities are determined by local jurisdictions.

DEPARTMENT OF VETERANS AFFAIRS - an independent agency of the federal government that federally insures mortgage loans for honorably discharged veterans and their surviving spouses under its guidelines and dollar amounts.

DEPOSIT - see EARNEST MONEY

DEPRECIATION - a decline in the value of a house due to changes in market conditions or other causes.

DERAIGN - to prove ownership of land. Also to trace title.

DIMINISHING ASSETS - see WASTING ASSETS

DIRECT REDUCTION MORTGAGE - an amortized mortgage. One on which principal and interest payments are paid at the same time, usually monthly, with interest being computed on the remaining balance.

DIRECTIONAL GROWTH - the direction or location toward which a community appears destined to grow. This directional growth is considered in mortgage underwriting and appraisal because it plays a role in determining the present and future value of real estate.

DISCLOSED DUAL AGENCY - occurs when one real estate brokerage company represents both the buyer and the seller.

DISCLOSURE STATEMENT - an information report required under the Federal Truth-in-Lending law to be given consumer borrowers by creditors.

DISCOUNT - the paying of discount points to reduce the interest rate temporarily or permanently for a home purchaser.

DISCOUNT POINT - see POINTS

DISPOSITION OF REAL ESTATE STATEMENT - a statement that the buyer will occupy the property being purchased even though the buyer owns other property. The buyer states that the other property will be sold or rented. Particulars must be given as to any loan on the property and the equity or rent payment amounts.

DISTRESSED PROPERTY - a property at risk of foreclosure due to non-payment of a home loan by the current occupant.

DOCUMENTARY STAMPS - a state tax, in the forms of stamps, required on deeds and mortgages when real estate title passes from one owner to another. The amount of stamps required varies with each state.

DOCUMENTARY TRANSFER TAX - a tax on recorded transfers of title to real property.

DOMICILE - the state where an individual has his or her true, fixed, permanent home and where that person has the intention of returning whenever he or she leave it. Not to be confused with residence as a person may have several residences, but only one domicile.

DOUBLE DECLINING BALANCE METHOD OF DEPRECIATION - a use of the declining balance method, but with double the depreciation allowable by straight line. An accelerated method.

DOUBLE ESCROW - two concurrent escrow's on the same property, having the same parties as buyer and seller of the property. An example is as follows: *Escrow 1* - A buys from B. *Escrow 2* - A sells the same property to C. A is using C's money to buy B's property. The process is illegal in many states unless full disclosure is made.

DOWER - A spouse's interest in the property of a deceased spouse.

DOWNPAYMENT - the difference between the sales price and the mortgage amount. A down payment is usually paid at closing.

DRY MORTGAGE - a mortgage or deed of trust in which the lender looks solely to the real property for recovery of the debt in case of default. There is no personal liability for any deficiency upon foreclosure.

DUAL AGENCY - Representation of opposing parties (buyer and seller) at the same time in the same transaction. This situation most often refers to cases where the Realtor is the agent for both parties.

DUAL AGENCY DISCLOSURE - a document signed by the real property seller that attests to the fact that the sellers understand the potential conflicts of dual agency, and furthermore that the sellers have had ample opportunity to ask questions and seek outside advice, if they desire.

DUE ON SALE CLAUSE - a clause in the deed of trust or mortgage that makes the loan non-assumable by providing the note holder may call the loan immediately due and payable upon a sale or conveyance of an interest in the property.

DUMMY PURCHASER - see STRAW MAN

DUPLEX - a structure that provides housing for two families and supplies each with separate entrances, kitchens, bedrooms, living rooms and bathrooms. A two family dwelling with units either side by side or one above the other.

E

E & O - see ERRORS AND OMISSIONS INSURANCE

EARLY OCCUPANCY - refers to a buyer or tenant taking possession of real property prior to closing.

EARNEST MONEY - the deposit given by a buyer to a seller to show that the buyer is serious about purchasing the home. Earnest money is often refundable to home buyers in the event a contingency of the sales contract cannot be met

EARNEST MONEY CONTRACT - see PURCHASE AGREEMENT

EASEMENT - the right to use the land of another for a specific limited purpose. Examples include utility lines, driveways, and ingress and egress. Easements can be temporary or permanent.

EASEMENT BY NECESSITY - see EASEMENT OF NECESSITY

EASEMENT OF NECESSITY - an easement granted by a court when it is determined that said easement is absolutely necessary for the use and enjoyment of the land. Commonly given to landlocked parcels.

EASEMENT RIGHTS - see EASEMENT

EOCA - see EQUAL CREDIT OPPORTUNITY ACT

ECONOMIC OBSOLESCENCE - a loss of value, typically incurable, resulting from extraneous factors that exist outside the property itself. A type of depreciation caused by environmental, social or economic forces over which the owner has little or no control. Examples may be a new highway built near a building that changes it's access, a change in zoning, a well maintained house in a deteriorating neighborhood or changes in land use or population movement

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EGRESS - see INGRESS (ingress and egress)

EMINENT DOMAIN - the power of the state to take private property for public use upon payment of just compensation.

EMPTY NESTER - a term used to represent a family whose children have grown and left home. Commonly used in real estate advertising to attract people to retirement or townhome units.

ENCROACHMENT - an obstruction, building, or part of a building that intrudes beyond a legal boundary onto the land of another, such as a fence or driveway over the property line.

ENCUMBER - to burden a parcel of land with a lien or charge such as a mortgage

ENCUMBRANCE - any lien, liability or charge against a property.

ENTITLEMENT - the VA home loan benefit given to qualified veterans which is used to guarantee a VA home or business loan.

EPA - Environmental Protection Agency

EQUAL CREDIT OPPORTUNITY ACT - a federal law that prohibits lenders from denying mortgages on the basis of the borrower's race, color, religion, national origin, age, sex, marital status, or receipt of income from public assistance programs.

EQUITABLE CONVERSION - a legal fiction applied to a land contract which treats the buyer's interest as a real property interest even though the seller holds legal title, and the seller's interest as a security interest. This enables the buyer to act as the owner of the property without having true legal title. Also see CONTRACT FOR DEED.

EQUITABLE MORTGAGE - a lien against real property which is enforceable in a court of equity, but does not legally constitute a mortgage. Also a deed given as security for a debt that can be held to be a mortgage rather than a transfer of title.

EQUITY - the value of a homeowner's unencumbered interest in real estate. Equity is computed by subtracting from the property's fair market value the total of the unpaid mortgage balance and any outstanding liens or other debts against the property. When the mortgage and all other debts against the property are paid in full the homeowner has 100% equity in his property.

EQUITY BUILD UP - the gradual reduction of the outstanding principal due on the mortgage, usually through periodic amortized payments.

EQUITY LINE OF CREDIT - a combination of a line of credit and equity loan. A maximum loan amount is established based on credit and equity. A mortgage or deed of trust is recorded against the potential borrower's property for said maximum loan amount. The potential borrower has the right to borrow, as needed or desired, up to the maximum loan amount of the mortgage.

EQUITY LOAN - a loan based on the borrower's equity in his or her home.

EQUITY PARTICIPATION - see EQUITY SHARING

EQUITY SHARING - any two or more purchasers that wish to purchase real estate together can divide the property's appreciation or equity. A lender or investor can offer a lower interest rate in return for a share of anticipated equity.

ERRORS AND OMISSIONS INSURANCE - a form of insurance which covers liabilities for errors, mistakes and negligence in the usual listing and selling activities of a real estate office or escrow company. It does not cover fraudulent behavior.

ESCALATION CLAUSE - a clause in a lease providing for an increased rental at a future time. This may be accomplished by several types of clauses, such as *fixed increase* - a clause which calls for a definite periodic rental increase, *cost of living* - a clause which ties the rent to a government cost of living index with periodic adjustments as the index changes, *direct expense* - where the rent is adjusted according to changes in the expenses of the property paid by the lessor, such as tax increases, increased maintenance costs, etc.

ESCROW - refers to a neutral third party, such as a title insurance company, who carries out the instructions of both the buyer and seller to handle all the paperwork of settlement or closing of a real estate transaction, including holding all funds such as the earnest money. Escrow may also refer to an account held by the mortgage company into which the home buyer pays money for future tax or insurance payments.

ESCROW ACCOUNT - see ESCROW

ESCROW INSTRUCTIONS - a document in writing during a real estate sales transaction that details the procedures necessary to close a transaction and directs the escrow agent how to succeed. Sometimes the buyer and seller execute separate instructions and sometimes the purchase agreement itself serves as the escrow instructions.

EXAMINATION OF TITLE - to review and study the instruments and muniments incident to a chain of title and to determine their effect and condition in order to reach a conclusion as to the status of the title.

EXAMINER - see TITLE EXAMINER

EXCEPTION - a provision in a title insurance binder or policy which excludes liability regarding a specified title defect or an outstanding lien or encumbrance.

EXCESS CONDEMNATION - taking by right of eminent domain, more property than actually necessary for the intended purpose. This happens frequently with the excess property being sold at auction after completion of the project.

EXCHANGE - a transaction involving the transfer of one piece of investment or income property and receipt of a like kind property which will be used as income or investment property. When certain criteria are met, as set forth in Section 1031 of the Internal Revenue Code, the income taxes on any gain realized from the sale of the relinquished property are deferred. Also see DELAYED EXCHANGE, SIMULTANEOUS EXCHANGE.

EXCLUSIVE AGENCY - a listing agreement giving a sole agent the right to sell a property for a specified time, but reserving to the owner the right to sell the property himself without owing a commission. It is exclusive in the sense that the property is listed only with one broker.

EXCLUSIVE LISTING - a written contract between a property owner and a real estate broker, whereby the owner promises to pay a fee or commission to the broker if certain real property of the owner is sold during a stated period, regardless of whether the broker is or is not the cause of the sale. The broker promises to put forth its best efforts to sell the property, and may make specific promises as to advertising or other promotion in certain instances.

EXCLUSIVE RIGHT TO SELL/RENT AGREEMENT - see LISTING

EXECUTE - to create and make valid a real estate instrument. A deed is said to be executed when it is signed, sealed, witnessed and delivered. Also means to perform or do whatever is required.

EXECUTOR - a person named in a will to carry out its terms and administer the estate. The feminine form is Executrix.

EXEMPLARY DAMAGES - damages to punish, often to make an example of, the offender. This is done when the wrong is deliberate or grossly negligent and compensatory damages do not appear to be sufficient.

EXPERT TESTIMONY - testimony by one acknowledged to have special training and knowledge in a particular subject. Only testimony on the subject in which the witness is "expert" is considered expert testimony.

EXPOSURE - the degree to which a property for sale, lease, etc., is made noticeable and exposed to potential buyers, tenants, etc., through advertising, multiple listing groups, and so on. Also the direction in which a property faces.

F

FAIR CREDIT REPORTING ACT - A consumer protection law that sets up a procedure for correcting mistakes on one's credit record.

FANNIE MAE - see FEDERAL NATIONAL MORTGAGE ASSOCIATION

FARMERS HOME ADMINISTRATION - provides financing to farmers and other qualified borrowers who are unable to obtain loans elsewhere.

FDIC - see FEDERAL DEPOSIT INSURANCE CORPORATION

FEDERAL DEPOSIT INSURANCE CORPORATION - the federal corporation which insures against loss of deposits in banks, up to a maximum amount.

FEDERAL FAIR HOUSING LAW - in 1968, Congress enacted Title VIII of the Civil Rights Act, called the Federal Fair Housing Act, which declared a national policy of providing fair housing throughout the US.

FEDERAL HOME LOAN BANK BOARD - a regulatory and supervisory agency for federally chartered savings institutions.

FEDERAL HOME LOAN BANKS - banks created under the Federal Home Loan Bank Act of 1932, in order to keep a permanent supply of money available for home financing. The banks are controlled by the Federal Home Loan Bank Board. Savings and loans, insurance companies and other similar companies making long term mortgage loans may become members of the Federal Home Loan Bank System, and thus may borrow from one of the regional banks throughout the country.

FEDERAL HOME LOAN MORTGAGE CORPORATION - an affiliate of the Federal Home loan Bank which creates a secondary money market in conventional residential loans and in FHA and VA loans by purchasing mortgage loans from members of the Federal Reserve System and the Federal Home Loan Bank Systems.

FEDERAL HOUSING ADMINISTRATION - a division of the Department of Housing and Urban Development. Its main activity is the insuring of residential mortgage loans made by private lenders. FHA also sets standards for underwriting mortgages.

FEDERAL LAND BANK - a privately owned cooperative organization administered by the Farm Credit Administration to provide low cost, long term loans to farmers and livestock corporations who belong to the Federal Land Bank Association. There are 12 federal land banks, one in each farm credit district.

FEDERAL NATIONAL MORTGAGE ASSOCIATION - a tax-paying corporation created by Congress that purchases and sells conventional residential mortgages as well as those insured by FHA or guaranteed by VA.

FEE - generally a charge made by a landlord to a tenant, which is not refundable. Also used to represent property ownership, see FEE SIMPLE.

FEE SIMPLE - absolute ownership of real property.

FHA - see FEDERAL HOUSING ADMINISTRATION

FHA LOAN - a loan insured by the Federal Housing Administration open to all qualified home purchasers.

FHA MORTGAGE INSURANCE - requires a small fee (up to 3.8 percent of the loan amount) paid at closing or a portion of this fee added to each monthly payment of an FHA loan to insure the loan with FHA. The lower the down payment, the more years the fee must be paid.

FHLBB - see FEDERAL HOME LOAN BANK BOARD

FHLMC - see FEDERAL HOME LOAN MORTGAGE CORPORATION

FIDUCIARY - a relationship that implies a position of trust or confidence wherein one person is usually entrusted to hold, seek, sell or manage property or money for another.

FIDUCIARY DUTIES - relationship based on trust which includes undivided loyalty, obedience, full disclosure, confidentiality, reasonable care and diligence, accounting of money and property.

FINANCIAL STATEMENT - an accounting statement showing assets and liabilities of a person or company. Used generally for large loans or other instances when the credit report or history of payment of debts in itself is not sufficient.

FINANCING STATEMENT - lenders record financing statements to evidence personal property, such as a new furnace, siding or windows, is subject to a lien.

FINDER'S FEE - a fee paid to someone who finds a buyer or property for a broker, buyer, etc. The term is sometimes used to attempt to pay a commission to an unlicensed person. Generally, a finder's fee is considered a commission and may only be paid to one who holds a real estate license.

FIRM COMMITMENT - see COMMITMENT

FIRST MORTGAGE - the mortgage that has first claim in the event of default.

FIRST REFUSAL RIGHT - a right, usually given by an owner to a lessee, which gives the lessee a first chance to buy the property if the owner decides to sell. The owner must have a legitimate offer which the lessee can match or refuse. If the lessee refuses, the property can then be sold to the offeror.

FIRST RIGHT OF REFUSAL - see FIRST REFUSAL RIGHT

FIRST USER - a tax term signifying the one who builds or buys property and is the first one to put the buildings to use. Certain tax advantages may be given to a first user. The term concerns only depreciable property (improvements) and prior use of the only (farming) would not be considered.

FIXED RATE MORTGAGE - a mortgage in which the interest rate and monthly payment does not change during the entire term of the loan.

FIXED SCHEDULE MORTGAGE - a mortgage with a payment schedule that is established at closing for the life of the loan. The payment and interest rate are not necessarily level.

FIXTURE - An item of personal property attached to real property so that it can not be removed without damage to the real property. Fixtures are part of the real property.

FLOATING LIEN - a lien such as a mortgage which will attach to property that is later acquired. To be a floating lien, the mortgage must contain a special clause, otherwise the security is limited to the property existing at the time of the mortgage.

FLOOD INSURANCE - insurance required for properties in federally designated flood areas.

FMHA - see FARMERS HOME ADMINISTRATION

FNMA - see FEDERAL NATIONAL MORTGAGE ASSOCIATION

FNMA BUY DOWN - see BUY DOWN

FORBEARANCE - the lender's postponement of foreclosure to give the borrower time to catch up on overdue payments.

FORECLOSURE - a legal term applied to any of the various methods of enforcing payment of the debt secured by a mortgage, or deed of trust, by taking and selling the mortgaged property, and depriving the mortgagor of possession.

FORECLOSURE SALE - the sale of real property given to secure performance of an obligation after the obligation has been breached.

FORFEITURE - the taking of an individual's property by a government, because the individual has committed a crime. Except as noted, in the United States, private property cannot be taken, except by eminent domain upon payment of just compensation, or for nonpayment of taxes.

FRANCHISE - a statutory right which could not be exercised in the absence of the statute, such as the statutes enabling persons to form a corporation. Since a corporation is created by the statute, it could not be formed except by the grant of the legislature. Also a combination of individual ownership and central control. One may own a fast food restaurant, hotel, hardware store, etc., yet use the name of a national company. Each individual owner pays for the name use, advertising, and may be required to make certain purchases from the national company. The real estate brokerage business was slow to use the franchise method, but now has many companies operating in this manner.

FREDDIE MAC - see FEDERAL HOME LOAN MORTGAGE CORPORATION

FREE AND CLEAR TITLE - see CLEAR TITLE

FREEHOLDER - one that owns land that he or she can transfer without anyone's permission.

FRM - see FIXED RATE MORTGAGE

FRONT FOOT - a measurement of property frontage abutting the street line where each front foot is presumed to extend the depth of the lot. Lots with varying depths can be compared by using a depth table. When a lot measurement is given, generally the first number is the front footage, such as a 75 x 100 lot where 75 is the front footage.

FRONT FOOT COST - a determination of the value of real property based on a value per foot as measured along the frontage of a parcel. Generally used with commercial property.

FRONTAGE STREET - a street that is parallel or adjacent to a major street providing access to abutting properties, but protected from heavy through traffic.

FSBO - a piece of real estate being sold by the property owner without using a real estate agent/broker.

FULL DISCLOSURE - in real estate, revealing all the known facts which may affect the decision of a buyer or tenant. A broker must disclose known defects in the property for sale or lease. A builder must give to a potential buyer the facts of his new development revealing things like adequate school facilities, sewer facilities, an airport nearby, etc. A broker cannot charge a commission to a buyer and seller unless both know of any disclosure and agree.

FULLY INDEXED NOTE RATE - as related to adjustable rate mortgages, the index value at the time of application plus the gross margin stated in the note.

FUNCTIONAL OBSOLESCENCE - a loss of value of an improvement or real property due to functional inadequacies, often caused by age or poor design.

FUTURE ACQUIRED PROPERTY - property acquired after a loan or sale. A loan agreement may state that the loan is a lien on all property presently owned or which the borrower may acquire in the future.

FUTURE INTEREST - A present interest, but only a future right to possession and enjoyment of the land, such as a remainder interest, reversionary interest, etc.

G

GAIN - the profit from the sale of an asset.

GAP FINANCING - see BRIDGE LOAN

GAP IN TITLE - a break in the title chain, such as when the records do not reflect any transfer to a particular grantor. This could happen if the grantor failed to record a deed.

GAPS - see HIATUS

GARNISHMENT - a legal proceeding under which a person's money in control of another, such as salary, is taken for payment of a debt. The amount which may be taken is set by statute, usually as a percentage and in most states, a judgment is necessary before garnishment.

GDSR - see GROSS DEBT SERVICE RATIO

GEM - see GROWING EQUITY MORTGAGE

GENERAL LIEN - see LIEN

GENERAL MORTGAGE - see BLANKET MORTGAGE

GENERAL PARTNERSHIP - a partnership made up of general partners, without special or limited partners.

GENERAL WARRANTY DEED - a deed which conveys not only all the grantor's interests in and title to the property to the grantee, but also warrants that if the title is defective or has a "cloud" on it (such as mortgage claims, tax liens, title claims, judgments, or mechanic's liens against it) the grantee may hold the grantor liable.

GEODETIC SURVEY SYSTEM - The United States Coast and Geodetic Survey System. The skeleton of the system consists of a network of bench marks covering the entire country. Each bench mark is unique because it is located by its latitude and longitude. Originally the system was developed to identify tracts of land owned by the federal government, but through the use of satellites has been extended throughout the nation. In many states, the property tax rolls reflect a specific property today through its specific latitude and longitude, along with other traditional identification methods.

GI LOAN - see VA LOAN

GINNIE MAE - see GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GNMA - see GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GORES - see HIATUS

GOVERNMENT LOT - see QUARTER SECTION

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION - an agency of HUD designed to attract capital into the mortgage markets and provide a secondary mortgage market for residential mortgages, insured or guaranteed by FHA or VA.

GOVERNMENT SURVEY METHOD - a system of land description that applies to much of the land in the US, particularly in the western states. Through a checkerboard system that starts with north/south meridians and east/west base lines, the system divides the country into quadrangles, then to townships and ranges and then to sections. A section is the smallest subdivision usually surveyed by government surveyors and is 1 mile square. Also see GEODETIC SURVEY SYSTEM

GPARM - see GRADUATED PAYMENT MORTGAGE

GPM - see GRADUATED PAYMENT MORTGAGE

GRADUATED PAYMENT ADJUSTABLE RATE MORTGAGE - see GRADUATED PAYMENT MORTGAGE

GRADUATED PAYMENT MORTGAGE - a mortgage that usually starts the borrower with low payments which are gradually increased over 3-10 years, until the loan is fully amortized. Negative amortization usually occurs until the payment reaches the level payment stage. Usually government insured loans, but could also be conventional.

GRANT DEED - a written instrument transferring title to real property.

GRANTEE - The person receiving an interest in property.

GRANTOR - The person granting, selling or giving up an interest in property.

GRANTOR-GRANTEE INDEX - the record of the passing of title to all the properties in a county as kept by the county recorder's office. Property is checked by tracing the names of the sellers and buyers. Title companies usually have more efficient methods by keeping records according to property description rather than people's names.

GREEN TEAM - a group of committed and experienced Western Wisconsin Realtors® committed to great service, honest information about the trends in real estate today that are sweeping America - Going Green, foreclosure, investment.

GRI - Graduate , Realtors Institute. A professional designation for real estate professionals.

GROSS DEBT SERVICE RATIO - the total annual mortgage payment, property taxes and condo fees expressed as a percentage of annual gross income.

GROSS INCOME - Income before expenses

GROSS INCOME MULTIPLIER - a figure which, when multiplied by the annual gross income, will theoretically determine the market value. A general rule of thumb which varies with specific properties and areas.

GROSS LEASE - a lease which obligates the lessor to pay all or part of the expenses of the leased property, such as taxes, insurance, maintenance, utilities, etc.

GROSS MARGIN - with regard to an adjustable rate mortgage, an amount expressed as percentage points, stated in the note which is added to the current index value on the rate adjustment date to establish a new note rate.

GROSS MONTHLY INCOME - the total amount the borrower earns per month, before any expenses are deducted.

GROUND LEASE - the owner grants a long term lease of the land (usually 99 years) and allows the lessee to build and use the land as agreed. At the end of the term, the land and all improvements revert to the owner.

GROUT - the thin mortar used in masonry work to fill joints between bricks, blocks, tiles, etc. Also a variety of plaster used to finish ceilings of superior quality.

GROWING EQUITY MORTGAGE - this is a long term mortgage whereby the borrower agrees to increase the payment each year by an agreed amount. The extra payments are applied to the loan principal, which in turn would pay off the mortgage in 12-20 years.

GUARANTEED SALES PROGRAM - a service offered by some brokers in which they will purchase a piece of property from a seller, at a pre-determined price, if the property is not sold within a specified period of time.

GUARANTOR - A person who formally undertakes to do the duties of the borrower in the event of the borrower's default.

GUARANTY - a promise by one party to pay a debt or perform an obligation contracted by another if the original party fails to pay or perform according to a contract.

GUARDIAN - one appointed by the Court to administer the affairs of a minor or incapable adult. A guardian ad litem is appointed to protect one's interest in a particular legal action.

H

HABITABLE - premises being in a condition fit to live in.

HABITABLE ROOM - habitable rooms are the only ones counted on county tax records to determine number of rooms in a property. A room used for living purposes, such as a den, bedroom or kitchen, as opposed to a bathroom or hallway.

HARD MONEY MORTGAGE - a mortgage given in return for cash, rather than to secure a portion of the purchase price, as with a purchase money mortgage.

HAZARD INSURANCE - a form of insurance in which the insurance company protects the insured from specified losses, such as fire, windstorm and other common hazards. Many lenders require borrowers to carry it in an amount at least equal to the mortgage.

HEIR - one who by law, rather than by will, receives the estate of a deceased person.

HEREDITAMENTS - anything which could be considered real property. Also anything which may be inherited.

HIATUS - gap or space left between two parcels of land and not included in the legal description of either parcel.

HIGH RATIO MORTGAGE - mortgage which is greater than 75% of the value of the property.

HIGH RISE - a popular expression for a condominium or apartment buildings generally higher than six stories. However, there is no national height standard.

HIGHWAY - a roadway generally serving through traffic on a continuous route providing the primary access between communities.

HOA - home owners association

HOEL, JEFF - an outstanding EDINA REALTY Realtor®, whose skills and talent are available to buyers and sellers in Western Wisconsin and Minnesota. Jeff has earned higher real estate certifications such as the coveted GRI, ABR, E-Pro and GREEN designations, and is considered by his peers and clients to be a top real estate marketing strategist.

HOLDBACK - portion of a loan held back by the lender until a contingency is met. In the sale of a home insured by VA or FHA funds may be held back to make necessary improvements to bring the property to VA or FHA standards. The money to make these repairs may not be available until closing. One and one-half to double the estimated amount necessary is held back. If repairs are not made in the time allowed, these funds are used to make the repairs. In construction financing, funds are held back until, for example, a certain percentage of a subdivision has been sold, or a certain portion of a building has been constructed.

HOLDER IN DUE COURSE - a holder of a check or note who takes, for value and in good faith, the note before it is overdue or the check without knowledge that it has bounced, if, in fact it has.

HOLDING ESCROW - an arrangement whereby an escrow agent holds the final title documents to a contract for deed.

HOLDING PERIOD - the time period used by the IRS to determine a long or short term capital gain. The period during which the taxpayer owns the capital asset.

HOME LOAN - a loan secured by a residence for one, two, three or four families under either a mortgage or deed of trust.

HOME PAGE - a location on the internet. For real estate in Arizona go to www.landking.com.

HOME WARRANTY INSURANCE - private insurance insuring a buyer against defects, usually in plumbing, heating and electrical, in the home that has been purchased. The period of insurance varies and both new and used homes may be insured.

HOMEOWNER'S INSURANCE - see HAZARD INSURANCE

HOMEOWNER'S WARRANTY - type of insurance policy that covers certain repairs such as plumbing or heating of a newly purchased home for a certain period of time.

HOMESTEAD - the dwelling (house and contiguous land) of the head of a family. Some states grant statutory exemptions, protecting homestead property (usually to a set maximum amount) against the rights of creditors. Property tax exemptions, for all or part of the tax, are also available in some states. Statutory requirements to establish a homestead may include a formal declaration to be recorded.

HOMESTEAD DEED - a declaration filed in the land records that an individual is asserting his homestead exemption. That exemption allows one to protect some assets (amount varies by state) against the claims of creditors.

HOUSING COUNSELING - legal advice covering property law and foreclosure

HOUSING EXPENSES-TO-INCOME RATIO - the ratio, expressed as a percentage, which results when a borrower's housing expenses are divided by his/her net effective income (FHA/VA loans) or gross monthly income (conventional loans).

HOUSING FINANCE AGENCY - state agency that offers below-market-rate home financing for low-and moderate-income households.

HOUSING RATIO - see HOUSING EXPENSES-TO-INCOME RATIO

HOUSING STARTS - number of houses on which construction has begun. The figures are used to determine the availability of housing, need for real estate loans, need for labor and materials, etc.

HUD - U.S. Department of Housing and Urban Development. Office of Housing/Federal Housing Administration within HUD insures home mortgage loans made by lenders and sets minimum standards for such homes.

HUD-1 Statement - a form required by federal law that must be signed by the borrower and others at closing. It describes how moneys were distributed at closing and lists the settlement costs paid by the borrower, as well as the amounts the borrower places in escrow for future payment of charges such as taxes or insurance premiums.

HYPOTHECATE - to mortgage or pledge without delivery of the security to the lender.

I

IMPACT FEES -a municipal assessment against new residential, industrial or commercial development projects to compensate for added costs of public services.

IMPOUND - that portion of a borrower's monthly payments held by the lender or servicer to pay for taxes, hazard insurance, mortgage insurance, lease payments, and other items as they become due.

IMPOUND ACCOUNT - an account established by a lender to collect a borrower's property tax and insurance payments. Impound accounts are normally required on mortgages with down payments of 10 percent or less.

IMPROVEMENTS - generally buildings, but may include any permanent structure or other development, such as a street, utilities, etc.

IMPUTED INTEREST - interest applied by law.

INCHOATE INSTRUMENT - an unrecorded instrument, such as a deed, which is valid only between the parties and those having actual notice, but not against all others as it would be after recording.

INCOME APPROACH - a method used by an appraiser to estimate the value of a property by calculating its generated income.

INCREASING AND DIMINISHING RETURNS - an economic theory that an increase in capital or manpower will not increase production proportionately (five workers may do less than five times the work of one worker- and two workers may do more than twice the work of one worker). When the increase in production is proportionately greater than the addition, there is an increasing return, when production is proportionately less than the addition, the return diminishes.

INCUMBRANCE - see ENCUMBRANCE

INCURABLE DEPRECIATION - an appraisal term meaning the deterioration of an item that would make it impossible or too expensive to restore or replace.

INDEMNITY - protection against actual loss or damage as a result of the matter mentioned. An indemnity is not an absolute guarantee that something won't happen, it states the terms under which an actual loss will be compensated.

INDEX - a published number used to determine if interest rates and rates that are earned by other investments have gone up or down over time, which is then used to adjust the interest rate on an adjustable mortgage up or down. A wide variety of indexes may be used with adjustable rate mortgages.

INDIRECT COSTS - development costs not related to the land or structure, such as legal and architectural fees, financing and insurance costs during construction.

INDIVIDUAL RETIREMENT ACCOUNT - savings programs available to individuals. The plans allow for a certain amount to be deposited each year. This money is not subject to income tax for that year or following years as long as it is not withdrawn. The money is taxed as withdrawn upon retirement, usually when the depositor is in a lower tax bracket. During the life of the account, the money may be put into various interest bearing investments.

INDORSEMENT - an additional provision attached to a title or other insurance policy.

INDUSTRIAL TAX EXEMPTION - an exemption from local property taxes granted to encourage industries to come into an area. Has been used successfully in the South. Usually granted for a definite period.

INFLATION - a rise in the price of goods and services caused when demand exceeds supply and is a common result of economic growth. Inflation pushes interest rates up as investors demand higher returns to offset the fact they will be receiving, as a return on their investment, dollars that are worth less than they initially invested.

INGRESS - (and egress) applied to easements, meaning the right to go in and out over a piece of property but not the right to park on it.

INHERITANCE TAX - a tax on the transfer of property from a deceased person and is based on the right to acquire the property rather than the property itself.

INITIAL NOTE RATE - with regard to an adjustable rate mortgage, the note rate upon origination. This rate may differ from and is usually less than the fully indexed rate.

INSIDE LOT - any lot located between the corner lots on a given block.

INSPECTION - a visit to and review of the premises.

INSTALLMENT CONTRACT - a method of purchasing by installment (usually monthly) payments. When referring to real property, it is usually called a land contract. Also see CONTRACT FOR DEED.

INSTITUTIONAL LENDERS - banks, savings and loan associations, and other businesses which make loans to the public in the ordinary course of business, rather than individuals, or companies which may make loans to employees.

INSTRUMENT - any written document by which something is done regarding rights or interests in real estate.

INSURABLE TITLE - title subject to a defect or claim which a title insurance company is willing to insure against.

INSURED CLOSING LETTER - an indemnity given to a lender from a title insurance company, agreeing to be responsible if the escrow officer does not follow the lender's instructions or misappropriates the loan proceeds. Lender's usually require an insured closing letter be on file for each settlement.

INSURED MORTGAGE - a mortgage insured against loss to the mortgagee in the event of default and a failure of the mortgaged property to satisfy the balance owing plus costs of foreclosure. This type of mortgage may be insured by FHA, VA, or by independent mortgage insurance companies.

INSURER - one that insures, sometimes called an underwriter, such as a title insurance company.

INTEREST - the cost of borrowing money, usually expressed as a percentage over time.

INTEREST CAP - see CAPS

INTEREST DIFFERENTIAL - a method of compensation calculated by taking the difference between the contract rate and the current market rate and multiplying the balance by the remaining term.

INTEREST RATE - the percentage of an amount of money which is paid for its use for a specified time. Usually expressed as an annual percentage.

INTEREST RATE CAP - see CAPS

INTERESTS - estates, rights, or legal claims in and to real estate.

INTERIM FINANCING - a temporary construction loan made during the completion of a home, building or project. A permanent loan usually replaces this loan after completion and/or sale of the property.

INTERIM FINANCING - see CONSTRUCTION LOAN

INTERIM LOAN - see INTERIM FINANCING

INTERIOR LOT - see INSIDE LOT

INTERNET - the computer super highway of the future. For real estate in Arizona and Minnesota go to www.landking.com.

INTERPLEADER - a court action which may be filed in an existing case to be the initial action. One holding funds which are in dispute, but not having an interest in the funds, would file an interpleader. An example is an escrow agent is holding a deposit of a buyer which funds both buyer and seller claim to be entitled. Escrow is willing to give the funds to either buyer or seller but does not want to be liable for giving the funds to the wrong party. The interpleader filed by the escrow agent asks the court to determine to whom the funds should be awarded.

INTERSTATE LAND SALES - sales of land to a buyer in another state. Because the buyer is usually totally dependent on the seller for information regarding the property, federal disclosure laws have been passed to aid the buyer. The buyer also has a period (now 3 days) after signing a purchase agreement, in which to rescind.

INTESTATE - an estate without a Will.

INTRINSIC VALUE - an appraisal term meaning the result of a person's individual choices and preferences for a given geographic area based on the features and amenities the area has to offer.

INVERSE CONDEMNATION - an action for just compensation brought by the person whose property has been effectively taken, substantially interfered with, or taken without just compensation.

INVESTOR - a money source for a lender.

INVOLUNTARY CONVERSION - conversion of real property to personal property (money) without the voluntary act of the owner. This occurs when property is taken by eminent domain. The owner is allowed to convert back to real property (buy another property) without paying tax on the gain from the condemnation. This must be done within a set time and the prices of the old and new property are considered to form a new tax base.

IRA - see INDIVIDUAL RETIREMENT ACCOUNT

IRONCLAD AGREEMENT - an agreement that cannot be broken by the parties to it.

J

JEFF HOEL - see HOEL, JEFF

JOINT APPRAISAL - an appraisal by more than one appraiser, but one which states common conclusions of all.

JOINT OWNERSHIP AGREEMENT - an agreement between owners defining their rights, ownership, monetary obligations and responsibilities. This could be between and investor and an occupant or the occupants.

JOINT TENANCY - see JOINT TENANTS

JOINT TENANTS - a form of co-ownership giving each tenant equal interest with the common law right of survivorship means the survivor inherits the property without reference to the decedent's will. Creditors may sue to have the property divided to settle claims against one of the owners.

JUDGEMENT - see JUDGMENT

JUDGMENT DOCKET - the record book of a county clerk where a judgment is entered in order that it may become a lien upon the property of the debtor.

JUDGMENT LIEN - a judgment is a lien against all real property owned by the judgment debtor in the county where the judgment is docketed (recorded).

JUDGMENT PROOF - one against whom a judgment creditor cannot collect (no assets). If one can show he was defrauded by a judgment proof real estate licensee, he may recover from the state fund in states having such a fund

JUDGMENT- the decision of a court of law. Money judgments when recorded, become a lien on real property of the defendant.

JUMBO LOAN - a loan which is larger (more than \$207,000 as of 1/1/96) than the limits set by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Because jumbo loans cannot be funded by these two agencies, they usually carry a higher interest rate.

JUMBO VA LOAN - a loan for an amount greater than the allowable 100% financed amount. It is determined by subtracting the maximum allowable 100% financed amount from the purchase price and financing 75% of the difference.

JUNIOR MORTGAGE - mortgage of lesser priority than the prior recorded mortgage.

JUST COMPENSATION - in condemnation the amount paid to the property owner. The theory is that in order to be just and fair, the property owner should be no richer or poorer than before the taking.

K

KEENE'S CEMENT - an unusually tough and durable gypsum plaster to which alum has been added. Used primarily for walls of commercial buildings.

KEOGH PLAN - a retirement plan whereby a self-employed person may set aside a certain portion of income (tax deferred) into a retirement account The money is taxable upon withdrawal at retirement when the person's tax bracket is often lower.

KEY LOT - a lot that has added value because of its strategic location, especially when it is needed for the highest and best use of contiguous property. Also a lot which adjoins the rear property line of a corner lot and fronts on a secondary street.

KEYMAN INSURANCE - insurance through loss, such as through death or disability, of a key important person in a company. The liability is the estimated cost of the loss through business lost and replacement of the individual. Some lenders require this insurance before lending to small companies which rely on one or a few key people.

KICKERS - different types of equity participation a lender may seek as a condition for lending money, such as participation in rentals, profits or extra interest.

KNOCK DOWN - any parts of a building which can be easily assembled, installed, or removed, such as certain types of window frames, partitions, etc.

KNOT - the hard, often discolored, irregular shaped defects in wood boards, caused by cutting at the point where the branch of the tree meets the trunk. Also can be a measure of speed.

L

LACHES - an unreasonable delay by a party making a claim or bringing an action, so that the rights of said party are waived. Laches are not controlled by a statute of limitations.

LANAI - a popular term in the western or southern states for a balcony, verandah, porch or covered patio.

LAND - see REAL ESTATE and REAL PROPERTY

LAND BANK - land purchased and held for future development.

LAND CONTRACT - see CONTRACT FOR DEED

LAND INSTALLMENT CONTRACT - see CONTRACT FOR DEED

LAND PATENT - see PATENT

LAND RESIDUAL TECHNIQUE - an appraisal technique through which land value is determined by first determining the net return attributable to the building only, and deducting it from the total return to the property (which can be estimated). The residual amount is then capitalized to find the land value. Also see BUILDING VALUE.

LANDKING - the internet name and address for Jeff Hoel of EDINA REALTY. Also see HOEL, JEFF.

LANDLOCKED - real property that has no access to a public road or way that would be subject to an access easement. Also see EASEMENT OF NECESSITY.

LANDMARK - a stake, stream, cliff, monument or other object or feature which can be used to fix or define land boundaries.

LANDOWNER'S ROYALTY - in oil and gas leases, the portion of the value of each barrel of oil which goes to the property owner.

LANE - a narrow roadway without curbs or sidewalks, and generally is found in older developments.

LATE CHARGE - the penalty a borrower must pay when a payment is made after the due date.

LATERAL SUPPORT - the right of a landowner to the natural support of his land by adjoining land. The adjoining owner has the duty not to change his land to cause this support to be weakened or removed.

LEASE - a grant of the use of lands for a term of years in consideration of the payment of a monthly or annual rental.

LEASE PURCHASE OPTION - see LEASE WITH OPTION TO PURCHASE

LEASE TO PURCHASE - see LEASE WITH OPTION TO PURCHASE

LEASE WITH OPTION TO PURCHASE - a lease under which the lessee has the right to purchase the property. The price and terms of the purchase must be set forth for the option to be valid. The option may run for the length of the lease or only for a portion of the lease period

LEASE-PURCHASE MORTGAGE LOAN - an alternative financing option that allows low and moderate income home buyers to lease a home from an entity with an option to buy, and with each month's rent payments consisting of PITI payments on the first mortgage, plus an extra amount that is earmarked for a savings account in which money for a down payment accumulates.

LEASEHOLD ESTATE - see CONTRACT FOR DEED.

LEASEHOLD INTEREST - a less than freehold estate that a tenant possesses in real property. In a lease situation, the tenant possesses a leasehold, and the landlord possesses the reversion estate. When the lease terminates, the property will revert to the landlord. A tenant may sell its interest in the leasehold estate.

LEGAL DESCRIPTION - a description of real property sufficient to locate it on the ground by reference to surveys, approved recorded maps and physical monuments present.

LEGAL OWNER - the term has come to be used as a descriptive difference from the equitable owner. The legal owner has title to the property, although the title may actually carry no rights to the property other than a lien.

LENDER - see MORTGAGEE

LENDER'S POLICY - see TITLE INSURANCE

LESSEE - a tenant holding a lease.

LESSEE'S INTEREST - in appraising the value of a lessee's interest to determine the value of a potential sublease or assignment (sale) of the lease, the value is the market value of the property, less the interest of the lessor. The lessor's interest would be largely determined by the ratio of the return on the lease to the market value without the lease.

LESSOR - one who gives a lease to a lessee.

LEVEL PAYMENT MORTGAGE - a mortgage with identical monthly payments over the life of the loan.

LEVY - to assess, to seize or collect. An example is to levy a tax is to assess a property and set the rate of taxation.

LIABILITIES - what a person owes on credit card, loans, mortgages, bills, etc.

LICENSE LAWS - all states require real estate license applicants to pass an examination designed to test their real estate knowledge and competency.

LIEN - a charge against a property similar to a mortgage. A security instrument for repayment of a debt owed and the lien must be removed to clear title. Such debts may include obligations not met or satisfied, judgments, unpaid taxes, materials, or labor. In some localities it is called particular lien, specific lien or special lien.

LIEN WAIVER - in construction, a waiver of mechanic's lien rights, signed by subcontractors, so that the owner or general contractor can receive a draw on a construction loan.

LIFE CAP - see CAPS

LIFE ESTATE - the right to use, occupy and own for the life of an individual.

LIFE OF LOAN CAP - a cap which covers the entire life or term of the loan. A typical life of the loan in use today, would be a 5% interest rate cap.

LIFETIME CAP - see CAPS

LIKE-KIND PROPERTY - a federal tax term relating to the nature of real estate rather than its quality or quantity.

LIMITED ACCESS HIGHWAY (OR ROAD) - a roadway with access only at specific intervals, usually by way of ramps.

LIMITED DUAL REPRESENTATION AGREEMENT - a document used for the purpose of disclosure to buyers and sellers or the landlord and tenant of a specific real property that the real estate broker represents both the buyer and seller or both the landlord and tenant in the respective transaction.

LINE OF SIGHT EASEMENT - a right that restricts the use of land within the easement area in any way that interferes with the view.

LIQUIDATED DAMAGES - a definite amount of damages, set forth in a contract, to be paid by the party breaching the contract. Also a predetermined estimate of actual damages from a breach.

LIS PENDENS - recorded document showing a pending litigation filed in the court. These show up on the preliminary title report and must be dealt with when transferring ownership or refinancing.

LISTING - a written employment agreement between a property owner and a real estate broker authorizing the broker to find a buyer or tenant for certain real property, under certain terms and conditions as set forth in that agreement.

LISTING AGENT - real estate person acting on behalf of the seller. The agent who lists the home for sale.

LISTING AGREEMENT - see LISTING

LISTING BROKER - a company and its agents that lists homes and represents sellers.

LISTING CONTRACT - see LISTING

LISTOR - a real estate sales person who obtains the listing on a particular property.

LOAN (203K) - see REHABILITATION MORTGAGE LOAN

LOAN APPLICATION - the loan application is the source of information on which the lender bases a decision to make the loan; defines the term of the loan, gives the name(s) of the borrower(s), place of employment, salary, bank accounts and credit references, and describes the real estate that is to be mortgaged. It also stipulates the amount of the loan being applied for and the repayment terms.

LOAN COMMITMENT - See COMMITMENT LETTER

LOAN CONSTANT - the yearly percentage of interest which remains the same over the life of an amortized loan, and is based on the monthly payment in relation to the principal originally loaned. An example is a \$1,000 loan at 9% interest for 20 years and is amortized at \$900 per month. The constant interest rate is figured by finding one year's payments ($\$900 \times 12 \text{ months} = \$10,800$), and expressing this amount as a percentage of the principal originally borrowed (10.8% of \$1,000).

LOAN DISCOUNT POINTS - see POINTS

LOAN POLICY - see TITLE INSURANCE

LOAN RATIO - see LOAN-TO-VALUE RATIO

LOAN SERVICING - the collection of mortgage payments from borrowers and related responsibilities of a loan servicer.

LOAN-TO-VALUE RATIO - the relationship between the amount of the mortgage loan and the appraised value of the property expressed as a percentage.

LOCK BOX - a special lock placed on or nearby the door of a listed piece of property designed to facilitate the showing of the property by other real estate agents.

LOCK-IN - a written agreement guaranteeing the home buyer a specified interest rate provided the loan is closed within a set period of time. The lock-in also usually specifies the number of points to be paid at closing.

LONG TERM CAPITAL GAIN - gain on the sale of a capital asset which has been held for a specified time or longer. Long term capital gains are taxed at a special rate and not as ordinary income.

LOOP - a looped roadway having two access points off the same roadway.

LOSS MITIGATION - steps arranged between a lender and borrower to ensure repayment of a home loan and stop foreclosure.

LOT, BLOCK AND SUBDIVISION - a description of real property that identifies a parcel of land by reference to lot and block numbers appearing on maps and plats of recorded subdivided land.

LTV - see LOAN-TO-VALUE RATIO

M

MADE-LAND - artificially formed land, either by filling or dredging.

MAI - Member, Appraisal Institute, a designation given to a qualified appraiser.

MAJORITY - The age at which a person may handle his own affairs.

MARGIN - the amount a lender adds to the index on an adjustable rate mortgage to establish the adjusted interest rate.

MARKET PRICE - the actual amount for which a piece of property is sold.

MARKET VALUE - the highest price that a buyer would pay and the lowest price a seller would accept on a property. Market value may be different from the price a property could actually be sold for at a given time.

MARKET VALUE APPROACH - appraising the value of a property by comparing the price of similar properties recently sold. The similarity of the properties, location and circumstances of the sale are the important characteristics to be considered.

MARKETABLE TITLE - a title that is free and clear of objectionable liens, clouds, or other title defects. A title which enables an owner to sell his property freely to others and which others will accept without objection.

MASTER DEED - the principal conveyance document used by the owners of land on which condominiums are located.

MATURITY - termination period of a note. Also defined as the date a note becomes due.

MEANDER LINE - an artificial line used by surveyors to measure the natural, uneven, winding property line formed by rivers, streams, and other water sources bordering a property.

MECHANIC'S LIENS - the right of an unpaid contractor, laborer or supplier to file a lien against property to recover the value of his work

MERGER OF TITLE - a lesser interest in real property being merged or absorbed into a greater interest. An example situation is where a lessee purchases the property being leased. The interest as a lessee is merged into the interest as an owner, thus ending the leasehold interest.

METES AND BOUNDS - a means of describing land by directions and distances rather than reference to a lot number. Generally used when land has not been subdivided into lots.

MIL - see MORTGAGE INFORMATION LETTER

MILE - a linear measurement equal to 5,280 feet on land and a nautical mile is 6,076 feet across water.

MILL - one-tenth of a cent. Some states use a mill rate to compute property taxes.

MINERAL RIGHTS - rights to subsurface land and profits.

MINIMUM LOT AREA - a zoning ordinance to establish a minimum lot size upon which a building may be erected.

MIP - see MORTGAGE INSURANCE PREMIUM

MISREPRESENTATION - a false statement or concealment of a material fact made with the intention of inducing some action by another party.

MISTAKE - an error or misunderstanding. A contract is voidable if there is a mistake that is mutual, material, unintentional and free from negligence.

MLS - real estate multiple listing service

MONEY MARKET MUTUAL FUNDS - funds which invest in the money market through a variety of interest bearing securities such as treasury bills and bank certificates of deposit. None is invested directly into real property or real property securities.

MONTH TO MONTH TENANCY - a tenancy where no written lease is involved and rent is being paid monthly. Some obligations as to notice of moving or eviction may exist per statute.

MONUMENT - a visible marker set by government surveyors, either natural or artificial, used to establish the boundaries and lines of a survey.

MORATORIUM - temporary suspension of payments due under a financing agreement in order to help a distressed borrower recover and avoid a default and foreclosure.

MORE OR LESS - for real property indicates that a dimension or size is approximate.

MORIN, ROBYN - one of the founding members of the Green Team. An outstanding and committed EDINA REALTY agent, locally active in the community, passionate about her work and the roles of the real estate professional now and into the future.

MORTGAGE - a voluntary lien filed against property to secure a debt, usually a loan. If the borrower defaults on the note, the lender can foreclose. The lender must institute a court action and the borrower may have the right to reclaim the property after foreclosure.

MORTGAGE ASSUMPTION - see Assumption of Mortgage

MORTGAGE BANKERS - individual lenders who make mortgage loans from borrowed funds and then sell the loans to investors, usually mortgage companies as opposed to savings and loans or banks, the traditional VA/FHA lenders.

MORTGAGE BONDS - bonds issued by corporations, which offer first mortgages on real Property of the corporation as security for the payment of the bonds.

MORTGAGE BROKER - an individual in the business of assisting in arranging, funding or negotiating contracts for a client but who does not loan the money himself. Brokers usually charge a fee or receive a commission for their services.

MORTGAGE COMMITMENT - see COMMITMENT

MORTGAGE COMPANY - a company that borrows money from a bank, lends it to consumers to buy homes, then sells the loans to investors.

MORTGAGE INFORMATION LETTER - a letter issued by the lender which indicates the payoff balance of a loan as well as any other requirements of loan payoff.

MORTGAGE INSURANCE - money paid to insure the mortgage when the down payment is less than 20 percent. See private mortgage insurance, FHA mortgage insurance.

MORTGAGE INSURANCE PREMIUM - the payment made by a borrower to the lender for transmittal to HUD to help defray the cost of the FHA mortgage insurance program and to provide a reserve fund to protect lenders against loss in insured mortgage transactions.

MORTGAGE INTEREST DEDUCTION - the ability of mortgage borrowers to deduct interest paid on a home loan for purposes of federal and state income taxes.

MORTGAGE LIFE INSURANCE - a term life insurance policy for the amount of the declining balance of a loan secured by a mortgage or deed of trust. The beneficiary under the policy is the mortgagee. In the event of death, some policies also cover disability, of the insured, the mortgage is paid in full.

MORTGAGE LOAN - a contract in which the borrower's property is pledged as collateral. It is repaid in installments. The mortgagor (buyer) promises to repay principal and interest, keep the home insured, and pay all taxes.

MORTGAGE MODIFICATION - refinancing of a debt or extension of the repayment period for a mortgage to recover an outstanding debt and stop foreclosure.

MORTGAGE NOTE - the written agreement to repay a loan. The agreement is secured by the mortgage, serves as proof of an indebtedness, and states the manner in which it shall be paid. The note further states the actual amount of the debt that the mortgage secures and renders the mortgagor personally responsible for repayment.

MORTGAGE ORIGINATION FEE - charge for the work involved in preparing and servicing a mortgage application (usually 1% of the loan amount).

MORTGAGE SERVICING - controlling the necessary duties of a mortgagee such as collecting payments, releasing the lien upon payment in full, foreclosing it in default, and making sure the taxes are paid, insurance is in force, etc. Servicing may be done by the lender or a company acting for the lender, for a servicing fee.

MORTGAGEE - the lender of money for the purchase of real estate. One who holds a mortgage on real estate.

MORTGAGEE'S POLICY - see TITLE INSURANCE

MORTGAGOR - see BORROWER

MUTUAL SAVINGS BANK - an institution owned by its depositors, as evidenced by certificates of deposit rather than stock. These institutions are active in long term real estate financing, as opposed to commercial banks, which concentrated more on short term loans.

N

NAR - National Association of Realtors

NARRATIVE REPORT - complete appraiser's report that presents all the information pertinent to the property and the market for that property.

NEGATIVE AMORTIZATION - occurs when your monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan. The danger of negative amortization is that the home buyer ends up owing more than the original amount of the loan.

NEGATIVE CASH FLOW - When the rental income on investment property does not cover the mortgage payments, taxes, insurance, maintenance and other costs of the investment.

NEGATIVE EASEMENT - an easement which has the effect of preventing the land owner from doing something otherwise permitted. An example may be a building restriction or view easement.

NEGOTIABLE INSTRUMENT - according to the Uniform Negotiable Instruments Act, an instrument is negotiable when it is in writing and signed, containing an unconditional promise or order to pay a certain amount of money, on demand, or at a definite future date, to the bearer, to order, or to a named or certain drawee.

NEIGHBORHOOD - a contiguous area that shows common characteristics of population and similarity of land usage.

NET EFFECTIVE INCOME - the borrower's gross income minus federal income tax.

NET LEASE - a lease requiring the tenant to pay, in addition to a fixed rental, the expenses of the property leased, such as taxes, insurance, maintenance. etc. In some states the terms net net, net net net, triple net, and other such repetitions are used.

NET WORTH - The difference between total assets and total liabilities.

NO BONUS CLAUSE - a clause under the eminent domain section of a lease, giving the lessee the right to recover only the value of his physical improvements in the event of a taking, and not the value of the leasehold interest (the difference between the fixed rent of the lease and current market rental value). This is not applicable in all states.

NOMINAL INTEREST RATE - stated interest rate in a note or contract that may differ from the true or effective interest rate, especially if the lender discounts the loan or advances less than the full amount.

NOMINEE - see STRAW MAN

NON ASSUMPTION CLAUSE - a statement in a mortgage contract forbidding the assumption of the mortgage without the prior approval of the lender.

NON-JUDICIAL FORECLOSURE - foreclosure on a mortgage without use of a court order (only applicable in certain states or when a borrower has signed a document permitting sale of the property to recover debt.

NONBEARING WALL - a wall used only to separate areas, and which carries only its own weight

NONEXCLUSIVE LISTING - a listing under which the real estate broker has an exclusive listing as opposed to other agents, but the owner may sell the property without using an agent, and not be liable to pay a commission.

NONRECOURSE LOAN - a loan not allowing for a deficiency judgment. The lender's only recourse in the event of default is the security (property) and the borrower is not personally liable.

NONRECOURSE MORTGAGE - see DRY MORTGAGE

NOTARY PUBLIC - a person authorized by law to acknowledge and certify documents and signatures.

NOTE - the borrower's legally binding written promise to repay a debt to a lender on a specified date.

NOTE RATE - the interest rate that must be paid back on the mortgage note in addition to the principal amount owed.

NOTICE OF CESSATION - a notice stating that work has stopped on a construction project. Done to accelerate the period for filing a mechanics lien.

NOTICE OF DEFAULT - a formal written and recorded notice of a borrower's failure to perform the obligations in a deed of trust and that legal action may be taken.

NOTORIOUS POSSESSION - a requirement for adverse possession. Possession so open (notorious) that the owner is presumed to have notice of it and its extent.

NOVATION - substitution of a new obligation for an old one or substitution of new parties to an existing obligation, as where the parties to an agreement accept a new debtor in place of the old one.

NUNCUPATIVE WILL - an oral will, usually in a deathbed situation, before witnesses, who later testify to its authenticity.

O

OATH - an attestation by a person which binds him or her legally and morally. Usually attesting to the truth of something, as an affidavit, or the validity of one's signature. A promise to tell the truth. Also, a promise to carry out a duty with high morality (oath of office). An oath has religious connotations and usually involves the word "swear", and may contain the phrase "so help me God", or require the one taking the oath to put his or her hand on a bible.

OEO - Office of Equal Opportunity

OFFER - a proposal when accepted becomes a contract or part thereof.

OFFICE - a zoning designation allowing businesses to carry on their paperwork, rather than manufacturing or sale of inventory to the public on the site. Some businesses may be conducted entirely out of such space, when only paperwork is involved.

OFFSET STATEMENT - a statement given to a buyer of rental property by a tenant, setting forth the amount of rent and terms of the rental agreement. Also a statement by an owner or lien holder to a buyer, setting forth the balance due on existing liens against the property being purchased.

ON OR BEFORE - contract language referring to the time for performance of a specified act.

ONCE IN A LIFETIME TAX EXCLUSION - a forgiveness of a portion, up to \$125,000, of the tax due on the sale of a residence by a senior citizen. As the term denotes, the exclusion can be taken only once.

ONE, TWO, THREE FINANCING - a method of creative financing by which the buyer first assumes an existing loan, secondly, the buyer secures a second loan from a third party lender, and thirdly, takes a third loan from the seller.

OPEN MORTGAGE - a mortgage which allows pre-payment of the mortgage in whole or in part at any time.

OPEN-END MORTGAGE - a mortgage with a provision that permits borrowing additional money in the future without refinancing the loan or paying additional financing charges. Open-end provisions often limit such borrowing to no more than would raise the balance to the original loan figure.

OPINION OF TITLE - see TITLE OPINION

OPTION - a right given for a consideration to keep an offer to purchase or lease open for specific time.

ORAL CONTRACT - a verbal unwritten contract. All real estate contracts must be in writing except for leases made for a period of one year or less. However, for the protection of all parties, ALL real estate transactions of any stature should be in writing always.

ORINATION FEE - the fee charged by a lender for processing a loan application. It is generally stated as a percentage of the mortgage amount, or points. Today, it usually amounts to 1% of the loan applied for.

OVERALL INTEREST CAP - see CAPS

OVERRIDE - a rental amount paid due to sales of the tenant. For example a lease for a service station may contain a provision for a certain addition to the rent for every gallon of gasoline over a certain amount sold each month. The amount over is called the override.

OWNER FINANCING - a purchase in which the seller provides all or part of the financing.

OWNER WILL CARRY MORTGAGE - see SELLER CARRYBACK

OWNER'S INTEREST - see EQUITY

OWNER/OCCUPANT - property owner who physically occupies the property. Owner/occupants generally get preferred mortgage rates over an investor/owner.

OWNERS DUPLICATE CERTIFICATE OF TITLE - a duplicate of the certificate of title which is issued to the owner of registered land as a safeguard against erroneous or fraudulent documents being filed and to evidence title in case the original is destroyed. The duplicate will be needed at closing to record documents.

OWNERS POLICY - see TITLE INSURANCE

OWNERSHIP - rights to the use, enjoyment, and alienation of property, to the exclusion of others. Concerning real property, absolute rights are rare, being restricted by zoning laws, restrictions, liens, etc.

P

PARAGRAPH 17 - location in the FNMA and FHLMC uniform instrument that contains the "due on sale" clause. Also could just refer to the due on sale provision of any mortgage.

PARKWAY - a major collector roadway usually with a medial strip with landscape setbacks and park like areas on each side of the right of way. Usually heavy planted with trees and shrubs.

PARTIAL CLAIM - a one-off payment to pay off an outstanding debt on an FHA-insured loan from the FHA Insurance Fund to prevent foreclosure.

PARTIAL RELEASE - a release of a portion of property covered by a mortgage. A subdivider will obtain a partial release as each lot is sold, upon payment of an agreed upon amount. In areas where the subdivider is not usually the builder, it may be necessary to sell groups of lots to obtain a partial release. In areas where deeds of trust are used instead of mortgages, a partial reconveyance is the document used most often.

PARTICIPATION CERTIFICATES - mortgage securities, rather than mortgages. The advantage of the certificate is that it is readily marketable or pledgeable.

PARTITION - the forced division of land among parties who were formerly co-owners. A partition suit may ask to divide the land or if that is not practical, sell the land and divide the proceeds.

PARTY WALL - a wall that is located on or at a boundary line between two adjoining parcels and is used or intended to be used, by the owners of both properties in the construction or maintenance of improvements on their respective lots. Such a wall is often designed to serve simultaneously as the exterior wall of two adjacent structures.

PATENT - a document or grant by which the Federal or State government originally transferred title to public lands to an individual. The first in a series of transfers by which title comes down to present owners.

PATENT DEFECT - a defect plainly visible or as would be discovered by the exercise of ordinary care. A patent defect in a legal description is one which cannot be corrected on its face and a new description must be used.

PAYMENT ADJUSTMENT PERIOD - this is the time frame between payment adjustments made on adjustable rate mortgages. Usually 1, 3 or 5 years.

PAYMENT CAP - see CAPS

PAYMENT RATE - the effective rate of interest the buyer is paying at a certain time, regardless of the overall interest rate of the note.

PAYOFF AMOUNT - A total balance, amount of a full payment on existing loan or lien.

PAYOFF ESCROW - an escrow, specifically for the purpose of paying off an existing lien. Usually part of an existing escrow, and called a sub escrow.

PERCOLATION TEST - an engineer's test of the soil to determine the ability of the ground to absorb and drain water.

PERK TEST - see PERCOLATION TEST

PERMANENT - see BUY DOWNS

PERMANENT LOAN - a long term mortgage of 10 years or more.

PERSONAL PROPERTY LOAN - a loan which is secured by both real and personal property. The minimum ratio of personal to real property is set by law. The credit of the borrower is a major consideration in making the loan.

PERSONALTY - see CHATTEL

PHYSICAL DETERIORATION - a form of depreciation or a reduction in utility or value caused by the impairment action of the physical elements such as sun ,wind, snow or just ordinary wear and tear.

PIPESTEM LOT - a lot connected to a public street by a narrow strip of land. Usually several adjacent pipestems are combined to form one driveway with each owner having a mutual reciprocal easement to use and maintain the driveway to the street.

PITI - the four major components of monthly housing payments -- principal, interest, taxes and insurance.

PLACE - a cul-de-sac serving more than three lots and exceeding 125 feet in length.

PLAINTIFF - the party bringing a civil action against a defendant.

PLANNED DEVELOPMENT - a subdivision of five or more individually owned lots with one or more other parcels owned in common or with reciprocal rights in one or more other parcels. The lots are generally small, being the exact size of the improvements or slightly larger.

PLANNED UNIT DEVELOPMENT - see PLANNED DEVELOPMENT

PLAT - a map or chart of a lot, subdivision or community drawn by a surveyor showing boundary lines, buildings, improvements on the land, and easements. Also showing the division of the land into blocks, lots, parcels, and in some cases indicating the property dimensions.

PLAT BOOK - the public record of maps of subdivided land. Also see PLAT.

PLAT MAP - see PLAT

PLEDGED ACCOUNT - a buy down that uses a principal amount paid plus interest earned on the principal to reduce a borrower's interest rate and payment. Also see BUY DOWNS

PLOT PLAN - a plan showing the layout of improvements on a property site.

PMI - see PRIVATE MORTGAGE INSURANCE

PMM - see PURCHASE MONEY MORTGAGE

POINTS - one point equals 1% the mortgage amount. Points are charged by lenders to increase the lenders return on the mortgage and reduce the borrowers interest rate. Typically, lenders may charge anywhere from zero to three points. Loan points are tax deductible. Buyers are prohibited from paying points on HUD or Veterans' Administration guaranteed loans

POLICY - a written contract of title insurance.

POSSIBILITY OF REVERTER - the term shows no estate interest in property, but only the chance that an estate will exist at a future time. If a property were sold on the condition that it be used for a park, and, if not used for a park, would revert back to the seller, the seller would have a possibility of reverter.

POWER OF ATTORNEY - see ATTORNEY-IN-FACT

PRE-FORECLOSURE - the time period before a foreclosure auction, when homeowners and investors can arrive a private sale.

PRECLOSING - a preliminary meeting prior to the formal closing date to review and sign certain documents.

PREPAIDS - expenses necessary to create an escrow account or to adjust the seller's existing escrow account. Can include taxes, hazard insurance, private mortgage insurance and special assessments.

PREPAYMENT - a privilege in a mortgage permitting the borrower to make payments in advance of their due date.

PREPAYMENT PENALTY - An additional charge imposed by the lender for an early repayment of debt. Prepayment penalties are allowed in some form (but not necessarily imposed) in 36 states and the District of Columbia.

PREPAYMENT PENALTY - see COMPENSATION

PREQUALIFICATION - the process of determining how much money a prospective home buyer will be eligible to borrow before a loan is applied for.

PRESCRIPTIVE EASEMENT - the granting of an easement by a court, based on the presumption that a written easement was given, although none existed, after a period of open and continuous use of land.

PRICE TAKE-OFF METHOD - see QUANTITY SURVEY METHOD

PRIMARY MORTGAGE MARKET - lenders such as savings and loans, commercial banks and mortgage companies who make mortgage loans directly to borrowers. These lenders may sell their loans to the secondary mortgage market such as FNMA, FHLMC and GNMA.

PRIMARY MORTGAGE MARKET - the market that loans are originated and funded to borrowers in.

PRIME RATE - the most favorable interest rate charged by lenders on a short term loans to qualified customers.

PRINCIPAL - The amount of the mortgage debt which is presently owed. Also, one of the main parties in a real estate transaction, such as the buyer and the seller are principals in the purchase of real estate.

PRIVATE MORTGAGE INSURANCE - in the event that you do not have a 20 percent down payment, lenders will allow a smaller down payment - as low as 5 percent in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance will usually require an initial premium payment and may require an additional monthly fee depending on you loan's structure.

PRO-RATE - to allocate between seller and buyer their proportionate share of an obligation paid or due.

PROBATE - Court process to prove a valid will. To divide or assess proportionately.

PROCEEDS - see

PROMISSORY NOTE - a written promise, signed by the borrower, to repay a loan.

PROPERTY MANAGEMENT - the branch of the real estate business dealing with the management of property. The property may be a rented house or a large office or industrial complex. The duties may range from merely collecting rents to complete management of all maintenance and may also include being leasing agent or sales agent.

PROPERTY REPORT - see PUBLIC REPORT

PROPERTY SURVEY - a survey to determine the true boundaries of real property.

PROPERTY TAX - a tax levied by the government against either real or personal property.

PUBLIC LAND - federal government land that is no longer needed for government purposes and is available for purchase by a private citizen.

PUBLIC REPORT - a report issued by many state government real estate departments that contain a wide variety of information of interest to a prospective buyer of subdivided property.

PUBLIC SALE -sale, auction open to the public.

PUD - planned unit development, see **PLANNED DEVELOPMENT**

PURCHASE AGREEMENT - see **PURCHASE CONTRACT**

PURCHASE CONTRACT - a preliminary agreement, secured by the payment of earnest money, between a buyer and seller as an offer to purchase real estate. This agreement not only secures the right to purchase real estate upon agreed terms for a limited period of time but should explain, in detail, exactly what the purchase includes, what contingencies there are, when the buyer can move in, what the costs are to be paid by who, and what recourse the parties have if the contract is not fulfilled or if the buyer cannot get a mortgage commitment at the agree-upon terms.. If the buyer changes his mind or is unable to purchase, the earnest money is forfeited unless the agreement expressly provides that it is to be refunded.

PURCHASE MONEY MORTGAGE - seller financing as a part of the purchase price.

PURCHASE PRICE - see **MARKET PRICE**

Q

QUADRANGLE - a tract of land in the government survey measuring 24 miles on each side of the square.

QUADRANT - a quarter section of a circle. Also one of the quarters created by two intersecting roads or streets.

QUALIFICATION - reviewing process of a prospective borrower credit and payment capacity prior to approving a loan.

QUALIFYING RATIOS - Guidelines applied by lenders to determine how large a loan to grant a home buyer.

QUANTITY SURVEY METHOD - a process of arriving at an estimate of new construction costs by a detailed estimate of quantities of necessary building materials plus labor costs.

QUARTER SECTION - one quarter of a section. A quarter section, commonly called a quarter, contains 160 acres.

QUESTION OF LAW - given the facts, what laws, if any, are applicable. Generally decided by a judge, even in a jury trial.

QUIET TITLE - A lawsuit brought to remove a claim or objection on title.

QUIETUS- final disposition of a claim or debt.

QUITCLAIM DEED - a deed which transfers whatever interest the maker of the deed may have in the particular parcel of land. A quitclaim deed is often given to clear the title when the grantor's interest in a property is questionable. By accepting such a deed the buyer assumes all the risks. Such a deed makes no warranties as to the title, but simply transfers to the buyer whatever interest the grantor has.

R

RADON - A radioactive gas found in some homes that in sufficient concentrations can cause health problems.

RAM - see **REVERSE ANNUITY MORTGAGE**

RAPID PAYOFF MORTGAGE - see **GROWING EQUITY MORTGAGE**

RATE - usually refers to the rate for title insurance. The cost per dollar unit of title insurance.

RATE CAP - see CAPS

RATE INDEX - see INDEX

RATE LOCK - see LOCK-IN

RATE OF RETURN - the annual percentage of return on investment on income property.

RATIFICATION - affirming a prior act which was not legally binding, where the affirmation gives the act legal effect. Occurs when an unauthorized agent acts, and the principal later affirms the action, giving authority retroactively.

READY, WILLING AND ABLE - a real estate phrase referring to a buyer who is legally and financially able to consummate a deal.

REAL ESTATE - land and anything permanently affixed to the land, such as buildings, fences, and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other such items which would be personal property if not attached. The term is generally synonymous with real property, although in some states a fine distinction may be made. May also refer to rights in real property as well as the property itself, see REAL PROPERTY.

REAL ESTATE AGENCY DISCLOSURE AND ELECTION - a document individually signed by buyers or seller that discloses to the respective parties what type of agency relationship or representation they have with the broker in the transaction.

REAL ESTATE AGENT - a person licensed to negotiate and transact the sale or purchase of real estate on behalf of others.

REAL ESTATE BROKER - a properly licensed party who for consideration or promise of consideration, serves as a special agent to others to facilitate the sale, purchase or lease of real property. A broker is an independent business person who sets office policy, hires and fires employees and salespeople, determines their compensation and supervises their activities. The broker is free to accept or reject agency relationships with principals. Brokers represent their principals and accept the fiduciary responsibility of exercising care, skill, and integrity in carrying out their instructions. Brokers cannot legally refuse, due to race, religion, sex, or national origin, to show, sell, rent, or otherwise negotiate regarding property listed with them. The broker must submit all offers to the principal.

REAL ESTATE LIEN NOTE - a formal written document showing the existence of a debt and stating the terms of repayment, which also identifies and creates a claim, encumbrance, or charge on property for payment of the debt.

REAL ESTATE SETTLEMENT PROCEDURES ACT - a 1974 federal law, later revised, that allows consumers to review information on known or estimated settlement costs once after application and once prior to or at settlement. The law requires lenders to furnish the information after application only.

REAL PROPERTY - the surface of the earth, the air above, and the ground below, as well as all appurtenances to the land, including buildings, structures, fixtures, fences, and improvements erected upon or affixed to the same but excludes growing crops. The term real property also includes the interests, benefits, and rights inherent in the ownership of specific real estate.

REALTOR® - a registered title given to all real estate brokers or agents who, as a member of a local Board of REALTORS®, a state association of REALTORS® and the NATIONAL ASSOCIATION OF REALTORS®, adheres to high standards of professionalism and a strict code of ethics driven by the NAR and adopted by individual state and local associations to govern real estate practices of its members. IMPORTANT NOTE - A person may be a licensed real estate broker or salesperson and NOT be a REALTOR®.

REBATE - a discount or reduction in price of a product or interest, not given in advance, but handed back because of prompt payment or other reason. Many states regulate gifts and educational aids given to real estate brokers, by supporting companies such as title and mortgage companies, calling these in effect, a price discount or illegal rebate or kickback.

RECAPTURE OF DEPRECIATION - taxing as ordinary income, upon the sale of property. the amount of depreciation taken above the straight line depreciation method.

RECISION - the cancellation of a contract.

RECONVEYANCE - a document, executed when obligations in a deed of trust have been met, that removes the lien on title to property created by a deed of trust.

RECORD TITLE - title as it appears from an examination of the public records.

RECORDING - The act of filing documents in the office of the County Recorder.

RECORDING FEES - A charge paid to a city, county or other appropriate branch of government, but usually the county clerk, for recording the transfer of real property by making it part of the public records.

RECTANGULAR SURVEY SYSTEM - see GOVERNMENT SURVEY METHOD

REDEEM - see REDEMPTION

REDEMPTION - the process of canceling or removing a defeasible title to land, such as is created by a mortgage foreclosure or tax sale.

REDEMPTION PERIOD - a time period during which a mortgage land contract, deed of trust, etc., can be redeemed. Usually set by statute, and after judicial foreclosure.

REFERRAL - in real estate the act of recommending or referring one person to another. Also a sales lead.

REFINANCE - Obtaining a new mortgage loan on property already owned, often to replace existing loans on the property.

REFINANCING - The process of paying off one loan with the proceeds from a new loan secured by the same property.

REFORMATION DEED - see CORRECTION DEED

REGISTERED LAND - see TORRENS TITLE

REGRESSION - in appraisal work, a principal that states that between dissimilar properties, the value of the better property is affected by the presence of the lesser quality property.

REHABILITATION MORTGAGE LOAN - is a federally insured, FHA loan (203K) designed to allow the investor or homeowner to purchase, refinance, repair or rehabilitate residential housing. This loan can only be used on 1 to 4 family dwelling units that are at least one year old.

REINSTATEMENT - payment of a note, mortgage, deed of trust, etc., to bring it from default to good standing. Also restoring the previously used entitlement of a veteran to enable the veteran to purchase property under a VA program.

REINSURANCE - the transferring of a portion of the liability to other insurers.

REISSUE RATE - a discounted rate for title insurance when the title was previously insured with an owner's title insurance policy issued within the last ten years.

RELEASE - to relieve from debt or security or abandon a right such as the release of a mortgage ;lien from a part or all of the land mortgaged. Also the name of the instrument affecting the release.

RELOCATION COMPANY - a company retained by large corporations to help their employees move from one location to another.

REMAINDER - an interest in land that is postponed until the termination of some other interest such as a life estate.

RENEGOTIABLE RATE MORTGAGE - see ADJUSTABLE RATE MORTGAGE

RENT WITH OPTION TO BUY - see LEASE-PURCHASE MORTGAGE LOAN

REO (REAL-ESTATE OWNED) - real estate that becomes the property of a lender due to failure of a foreclosure auction to raise sufficient funds to cover the outstanding debt on a loan.

REPAYMENT PLAN - a plan for the repayment of missed loan payments over a set period of time.

REQUEST FOR RECONVEYANCE - a written instruction by a beneficiary under a deed of trust acknowledging that the obligations in the deed of trust have been met, and directing that the lien on title to the property created by the deed of trust be removed.

RESCIND - to cancel or annul.

RESERVATION - a right created and retained by a grantor. The reservation may be temporary (such as a life estate) or permanent (such as an easement running with the land). Also public land reserved for a special purpose, such as an Indian reservation.

RESERVES - see IMPOUND

RESIDENCE - ones home or place of abode. Residence is defined differently for tax, license and education qualification purposes.

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT AND RECEIPT FOR DEPOSIT - see PURCHASE CONTRACT

RESPA - see REAL ESTATE SETTLEMENT PROCEDURES ACT

RESTORATION OF ELIGIBILITY (VA) - see REINSTATEMENT

RESTRAINT OF ALIENATION - restrictions placed against the transfer or sale of property. Certain restrictions are allowed but must conform to the rule against perpetuities and free right of an owner to sell. An example would be selling on the condition that the grantee could resell only to members of a certain family would be too restrictive and not valid.

RESTRICTIONS - see COVENANTS, CONDITIONS AND RESTRICTIONS

RESTRICTIVE COVENANTS - see COVENANTS, CONDITIONS AND RESTRICTIONS

REVERSE ANNUITY MORTGAGE - a mortgage where the properties equity is used to give the homeowner a monthly income.

REVERSION - a provision in a conveyance that the land will return to the grantor upon the happening of an event or contingency.

RIDER - a supplement, addition, or endorsement to a document.

RIGHT OF REDEMPTION - the right of foreclosed homeowners to buy back their property after a foreclosure auction for the price of the winning bid (only applicable in some state).

RIGHT OF RESCISSION - state and federal laws that allow consumers who refinance first mortgages and certain second mortgages to cancel their contract and receive a refund of all fees. This must take place within three business days following the closing, or following the delivery of the required information and rescission forms and disclosures, whichever occurs last.

RIGHT OF WAY - a strip of land which is used as a roadbed, either for a street or railway. The land is set aside as an easement or in fee, either by agreement or condemnation. May also be used to describe the right itself to pass over the land of another.

RIPARIAN RIGHTS - the rights of an owner of land adjacent to water.

ROAD - a collector roadway in the rural district generally without full improvements such as curbs and sidewalks.

ROLLOVER MORTGAGE - a mortgage where the payments are only guaranteed for 3, 4 or 5 years. The payments would be renewed for successive terms according to prevailing interest rates.

ROM - see ROLLOVER MORTGAGE

RPM - rapid payoff mortgage, see GROWING EQUITY MORTGAGE

RRM - renegotiable rate mortgage, see ADJUSTABLE RATE MORTGAGE

RURAL - a land use classification pertaining to the country, as opposed to urban. Also land devoted to agriculture.

RURBAN - fringe areas of a city where the land use is in a stage of transition from rural to urban.

S

S & L's - see SAVINGS AND LOAN ASSOCIATION

SAFETY CLAUSE - a clause in a listing protecting the broker from having buyer and seller wait until the listing expires to make a deal, thereby avoiding the payment of commission. The clause states that if the property is sold during a specified period after the expiration of the listing, or any extension thereof, to a buyer provided during the listing period by the broker, the commission shall be paid.

SALE PRICE - see MARKET PRICE

SALES AGREEMENT - see PURCHASE CONTRACT

SALES CONTRACT - see PURCHASE CONTRACT

SAM - see SHARED APPRECIATION MORTGAGE

SATISFACTION OF MORTGAGE - also called a "release of mortgage," a document issued by the lender when the mortgage is paid in full.

SAVINGS AND LOAN ASSOCIATION - originally an association chartered to hold savings and make real estate loans. Federally insured and regulated, S & L's are active in long term financing rather than construction loans. Changes in federal controls have enabled these associations to offer checking accounts, consumer loans, and other services previously only offered by banks and credit unions.

SBA - Small Business Administration.

SCENIC EASEMENT - an easement used to create a preservation of property in a natural state.

SEARCH - see TITLE SEARCH

SECOND MORTGAGE - a mortgage which is recorded after a first mortgage is already recorded. The second mortgage is subordinate to the first mortgage.

SECONDARY FINANCING - see SECOND MORTGAGE

SECONDARY MORTGAGE MARKET - A market for the purpose of purchase and sale of existing mortgages usually at discounted prices to obtain more funds to make additional loans. The secondary market consists of FHLMC, FNMA, GNMA and several private firms and investors.

SECTION 1031 - from the 1986 tax code, no gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment. Tax exchanges are not tax free, but only tax deferred.

SEED MONEY - front money for a project.

SELLER CARRYBACK - an agreement in which the owner or seller of a property provides financing, often in combination with an assumed mortgage.

SELLER FINANCING - see SELLER CARRYBACK.

SELLER'S AGENT - see LISTING AGENT

SELLER'S EXPENSES - see BUYER'S EXPENSES

SELLER'S PROPERTY DISCLOSURE STATEMENT - because in many states sellers are obligated by law to disclose all known material facts about the property to the buyer, this document assists the seller in making that disclosure. Since it is a legal document, buyers may rely on the information it provides, however, buyers are always encouraged to obtain a professional home inspector which may reveal even information the seller did not know.

SEQUESTRATION, WRIT OF - the taking custody of one's property, albeit real or personal, to force compliance with a court order.

SERVICING - all the steps and operations a lender performs to keep a loan in good standing, such as collection of payments, payment of taxes, insurance, property inspections and the like.

SET BACK - see SETBACK

SET BACK LINES - those lines which delineate the required distances for the location of structures in relation to the perimeter of the property.

SETBACK - zoning restrictions on the amount of land required surrounding improvements; the amount of space required between the lot line and the building line; usually contained in local zoning restrictions or building codes.

SETTLEMENT - see CLOSING

SETTLEMENT COSTS - see BUYER'S EXPENSES

SETTLEMENT SHEET - see HUD-1

SHARED APPRECIATION MORTGAGE - a mortgage in which a borrower receives a below-market interest rate in return for which the lender, or another investor such as a family member or other partner, receives a portion of the future appreciation in the value of the property. May also apply to mortgages where the borrower shares the monthly principal and interest payments with another party in exchange for a part of the appreciation.

SHERIFF'S DEED - deed given by a court to effect the sale of property to satisfy a judgment.

SIMULTANEOUS EXCHANGE - a simultaneous exchange occurs when the sale or relinquished property is sold and the acquisition or replacement property is concurrently acquired.

SINGLE-FAMILY RESIDENCE - a detached structure maintained, designed and used for a single family dwelling unit.

SITE - a position, location and situation of a piece of land.

SOLAR EASEMENT - an easement to protect an owners access to light and the rays of the sun.

SPDS - see

SPECIAL LIEN - see LIEN

SPECIAL PURPOSE PROPERTY - land and improvements with only one highest and best use because of some special design, such as a post office, church, school, hospital or energy provider.

SPECIAL WARRANTY DEED - The seller warrants he has done nothing to impair title but makes no warranty before his ownership, see WARRANTY DEED.

SPECIFIC PERFORMANCE - A legal action to complete the performance of a contract.

SPECIFIC TAX - a method of taxation that is determined irrespective of value of the thing taxed. An example is a tax of \$5.00 per house.

SREA - Society of Real Estate Appraisers, a professional designation.

STARKER EXCHANGE - see DELAYED EXCHANGE

STATE STAMPS - see DOCUMENTARY STAMPS

STATUTE OF FRAUDS - a law requiring certain agreements to be in writing in order to be enforceable, including an agreement for the sale of real property.

STATUTE OF LIMITATIONS - the time period to file a law suit to enforce a claim or it is barred by law.

STRAIGHT NOTE - a promissory note calling for payment of principal in one sum rather than in installments.

STRAW MAN - one who purchases property for another in order to conceal the identity of the real purchaser.

STREET - see Avenue.

STRUCTURAL CAVITIES - Inaccessible spaces in a building, generally between walls or partitions.

SUBDIVISION - the division of a tract of land which is recorded among the land records that divide the land into separate parcels and often into lots and streets.

SUBDIVISION REPORT - see PUBLIC REPORT

SUBJECT TO CLAUSE - a clause in a deed, stating that the grantee takes title subject to an existing mortgage. The original mortgagor is alone responsible for any deficiency, should there be foreclosure of the mortgage. Note this differs from an assumption clause whereby the grantee assumes and agrees to pay the existing mortgage.

SUBORDINATION - giving a lien or interest an inferior status.

SUBSIDIZED SECOND MORTGAGE - an alternative financing option for low and moderate income households that also includes a down payment and a first mortgage, with funds for the second mortgage provided by city, county, or state housing agencies, foundations, or nonprofit corporations. Payment on the second mortgage is often deferred or carries no or low interest rates, and part of the debt may be forgiven for each year the family remains in the home.

SUBURB - a town or community located near and economically linked to a central city.

SUPPLEMENTAL ABSTRACT - see ABSTRACT CONTINUATION

SURFACE RIGHTS - the rights or easements to use the surface of land, including the right to drill or mine through the surface when subsurface rights are involved.

SURVEY - the measurement report of land prepared by a licensed and registered land surveyor, showing the land with its elevations, improvements, boundaries, and its relationship to surrounding tracts of land. A survey is sometimes required by the lender to assure him that a building is actually sited on the land according to its legal description.

SWEAT EQUITY - when a purchaser performs work or services on the property he intends to purchase, equity may be earned by the purchaser.

SWING LOAN - see BRIDGE LOAN

SYNDICATE - an association of individuals, formed for the purpose of carrying on some particular business venture in which the members are mutually interested.

T

T-BILLS - see TREASURY BILLS

T-BONDS - see TREASURY BONDS

T-NOTES - see TREASURY NOTES

TACKING - annexing a lien to one superior to it in order to gain the priority of the superior lien and defeat an intermediate lien. This is generally not allowed. Also annexing periods of possession to add up to enough time for successful adverse possession. For example if A begins adverse possession, A dies and A's son takes up possession adding A's time to his own. This is not always allowed.

TAKE OUT COMMITMENT - agreement by a lender to place a long term loan on real property after completion of construction, and replace the short term construction or builder's loans.

TAX - is an enforced charge imposed on persons, purchases, real property and/or income, to be used to support all government levels and school districts. The governing body in turn utilizes the funds in the supposed best interest of the general public.

TAX AND INSURANCE RESERVE - see IMPOUND ACCOUNT

TAX BASE - the assessed valuation of real property, which is multiplied by the tax rate to determine the amount of tax due.

TAX DEED - deed from tax collector to governmental body after a period of non-payment of taxes according to statute. Also a deed to a purchaser at a public sale of land taken for delinquent taxes. The purchaser receives only such title as the former owners had, and strict procedures must be followed to prevent attachment of prior liens.

TAX LIEN - see LIEN

TDSR - see TOTAL DEBT SERVICE RATIO

TEN THIRTY ONE - see SECTION 1031, EXCHANGE

TENANCY BY ENTIRETY - see TENANTS BY THE ENTIRETY

TENANCY IN COMMON - see TENANTS IN COMMON

TENANT AT WILL - one who holds possession of premises by permission of the owner or landlord, but without agreement for a fixed term of possession.

TENANTS BY THE ENTIRETY - a husband and wife own the property with the common law right of survivorship so, if one dies, the other automatically inherits. One may not sue the other to partition the property and a creditor of one may not claim the property or the proceeds of sale.

TENANTS IN COMMON - two or more persons own the property with no right of survivorship. If one dies, his interest passes to his heirs, not necessarily the co-owner. Either party, or a creditor of one, may sue to partition the property.

TERM - the period of time for which a mortgage contract is written at a particular interest rate.

TERM MORTGAGE - see BALLOON NOTE

TERRA COTTA LUMBER - very porous earthenware which can hold a nail and be cut without breaking or shattering.

TESTATE - to die with a Will.

TESTATOR - one who makes out a last will and testament. The feminine form is Testatrix.

THREE/TWO OPTION - an alternative financing plan, adopted in some areas, that enables households whose earnings are no more than 100 percent of the median income in their regional area to make a 3 percent down payment with their own funds, coupled with a 2 percent gift from a relative or a 2 percent grant or unsecured loan from a nonprofit or state or local government program.

TICK - bond prices are measured in 1/32 units. 1/32 of a point is one tick in price. For example, sixteen ticks (16/32) equals a half point in price.

TIMESHARE - a property co-owned by a group of people, each of whom can use it for a set period of time every year.

TIME-SHARING - a concept of ownership that increases in popularity as real estate prices rise. The purchase of an undivided interest, usually in a resort area condominium, for a fixed or variable time period. All operating and maintenance costs including taxes, insurance, maintenance, etc. are shared proportionally. Possession may be fixed, or by reservation, by lease, license, etc.

TIR - tax and insurance reserve, see IMPOUND ACCOUNT

TITLE - as commonly used is the rights of ownership and possession of particular property. In real estate usage, title may refer to the ownership interest one has in the real estate.

TITLE COMPANY - a company that specializes in insuring title to real property.

TITLE DOCUMENTS - the instruments or documents by which a right of ownership is established.

TITLE EXAMINATION - see TITLE SEARCH

TITLE EXAMINER - one who examines and determines the condition and status of real estate titles.

TITLE INSURANCE - protects lenders or homeowners against loss of their interest in property due to legal defects in title which includes mistakes made during a title search as well as matters which could not be found or discovered in the public records such as missing heirs, mistakes, fraud and forgery. Title insurance may be issued to a lender and insurance benefits will be paid only to the named insured (the lender) in the title policy, so it is important that an owner purchase an owner's title policy, if he desires the protection of title insurance.

TITLE OPINION - the conclusion and judgment of a skilled person as to the status of a title, based upon title examination. Also a document signed by an attorney, stating whether the seller has good, marketable and insurable title.

TITLE PLANT - a geographically filed assemblage of title information which is to help in expediting title examinations, such as copies of previous attorney's opinions, abstracts, tax searches, and copies or takeoffs of the public records.

TITLE POLICY - see **TITLE INSURANCE**

TITLE SEARCH - an examination of the title and public records at the local courthouse to determine what, if any, defects there are in the chain of title which would adversely affect the marketability or value of title. The title search is usually performed by an experienced title company or abstractor. A title search is often not normally ordered until major contingencies in the sales contract have been cleared, such as financing and other contingencies.

TON - generally, a measure of weight equaling two thousand pounds. Also a measure of the capacity of an air conditioner. One ton equals 12,000 British thermal units (BTU's).

TORRENS TITLE - a system whereby after court proceedings, a certificate is issued setting forth the extent of the applicant's estate in land to the exceptions shown.

TOTAL DEBT SERVICE RATIO - the total annual mortgage payment, property taxes, condo fees, heat and all other debts expressed as a percentage of gross annual income.

TOWNHOUSE - originally a house in a city as opposed to a country estate. Today, the term is applied to certain types of connected houses, whether planned unit developments or condominiums.

TRACT - a particular parcel of land.

TRANSACTION FEE - a charge made by a party involved, either the buyer or seller or both, in a real estate transaction to cover overhead or general costs not itemized elsewhere.

TRANSFER TAXES - taxes levied on the transfer of property or on real estate loans by state and/or local jurisdictions.

TREASURY AUCTION - the means by which the US Government sells its bills, notes and bonds to investors.

TREASURY BILLS - short term debt interest bearing US Government obligations sold at a weekly sale. Maturities range from 3 months to 1 year. The 1 year T-Bill is a widely used rate index of adjustable mortgage loans.

TREASURY BONDS - long term debt issued by the government. Maturities range from 20 to 30 years. The 30 year T-bond is also known as the long bond because it's the longest maturity and because it is sensitive to changes in the US economy and rate of inflation.

TREASURY NOTES - any treasury security with a maturity of 2 to 10 years. Mortgage backed securities track the 10 year T-note because the average maturity of a 30 years mortgage (about 12 years) is close to the 10 years maturity.

TRUST - a right to or in property held for the benefit of another. A trust may be written or implied. An implied trust is called a Constructive Trust.

TRUST DEED - see **DEED OF TRUST**

TRUSTEE - a party who is given legal responsibility to hold property in the best interest of or "for the benefit of" another. The trustee is one placed in a position of responsibility for another, a responsibility enforceable in a court of law.

TRUSTEE IN BANKRUPTCY - see **TRUSTEE**

TRUTH-IN-LENDING - federal and state laws that require lenders to provide borrowers with full disclosure of the true cost of a loan and easy-to-understand information about the annual percentage rate and terms of the loan. Also known as Regulation Z.

TWIN HOME - see DUPLEX

TWO-STEP MORTGAGE - a mortgage in which the borrower receives a below-market interest rate for a specified number of years (most often five, seven or ten), and then receives a new interest rate adjusted (within certain limits) to market conditions at that time. The lender sometimes has the option to call the loan due with 30 days notice at the end of five, seven or ten years.

U

UNAVOIDABLE CAUSE - a cause which reasonable prudence and care could not have prevented, such as death, illness, papers lost in the mail, etc.

UNDERLYING FINANCING - a mortgage, deed of trust, etc., prior to a land contract (contract for deed), mortgage, etc. on the same property.

UNDERWRITER - see INSURER

UNDERWRITING - the decision whether to make a loan to a potential home buyer based on credit, employment, assets, and other factors and the matching of this risk to an appropriate rate and term or loan amount.

UNDISCLOSED PRINCIPAL - a principal whose identity is not revealed by an agent.

UNIFORM LAWS - laws that are approved by the National Conference of Commissioners on Uniform State Law. Many have been adopted, in one or more states. Among these are the Uniform Commercial Code, Uniform Negotiable Instruments Act, Uniform Partnership Act, Uniform Residential Landlord and Tenant Act and so on.

UNILATERAL CONTRACT - a contract under which one party expressly makes a promise the other party, although making no reciprocal promise, may be obligated by law or may have already given consideration.

UNITY OF POSSESSION - in joint tenancy, the joint tenants must have equal rights to possession.

UNRECORDED INSTRUMENT - a deed, mortgage, etc., which is not recorded in the county recorder's office and, therefore, not protected under recording statutes. It is valid between the parties involved, but not against innocent third parties.

UPGRADES - generally improvements to property after the purchase.

USEFUL LIFE - in appraisal language for sale purposes, the true economic value of a building in terms of years of use to the owner. For tax purposes, the life set for depreciation. At any time during that period, a new life could begin for a new owner.

USURY - charging more than the maximum legally permitted rate of interest.

V

VA - see DEPARTMENT OF VETERANS AFFAIRS

VA LOAN - a long term, low or no down payment loan guaranteed by the Department of Veterans Affairs and is restricted to individuals qualified by military service or other entitlements.

VA MORTGAGE FUNDING FEE - a premium percentage, depending on the size of the down payment, paid on a VA backed loan.

VACANCY FACTOR - the estimated percentage of vacancies in a rental project. It may be based on past records of the property, or a professional guess if it is a new project. Surrounding area buildings, if similar may be used for comparison.

VACATE - to surrender possession or give up occupancy.

VACATION HOME - a residence usually in a resort or vacation area, used as a second home for recreational purposes.

VALUABLE CONSIDERATION - The granting of some beneficial right, interest, or profit or suffering of some legal detriment or default by one party in return for the performance of another, usually as an inducement for a contract.

VARIABLE RATE MORTGAGE - see ADJUSTABLE RATE MORTGAGE.

VENDEE - the buyer or purchaser of the real property under a land contract.

VENDOR - the owner or seller of the real property under a land contract.

VENEERED CONSTRUCTION - the placing of a facing material over the external surface of a structure

VENUE - the county or other geographical division in which an action or prosecution is brought for trial and which is to furnish the panel of jurors. Also the county in which an acknowledgment or notarization is made.

VERIFICATION OF DEPOSIT - a document signed by the borrower's financial institution verifying the status and balance of his/her financial accounts.

VERIFICATION OF EMPLOYMENT - a document signed by the borrower's employer verifying his/her position and salary.

VETERANS ADMINISTRATION - see DEPARTMENT OF VETERANS AFFAIRS

VITAL STATISTICS - data regarding births, deaths, marriages, health records, etc. and usually kept by a governmental bureau. Federally, the Bureau of Vital Statistics.

VOD - see Verification of Deposit

VOE - see Verification of Employment

VOLT - a term in electronics, being the force necessary to cause one ampere of electricity to flow through a conductor with a resistance of one ohm. Common household current is 110 volts, with a 220 volt circuit used for some heavy appliances. Industrial uses may require higher voltage. High voltage is generally considered over 20,000 volts.

VOLUNTARY LIEN - a lien placed against real property by the voluntary act of the owner. Also see LIEN.

VRM - see adjustable rate mortgage.

W

WAIVE - to voluntarily and intentionally abandon, relinquish, or surrender a right, benefit, privilege or claim.

WAIVER OF LIENS - see LIEN WAIVER

WALK-THROUGH - an inspection, generally the final inspection, of a home before settlement to search for problems that need to be corrected before ownership changes hands.

WALK-UP - an apartment in a building in which there are several levels and no elevator.

WALL-BEARING CONSTRUCTION - weight of roofs and floors supported entirely by the exterior walls, with no load-bearing partitions. Posts and pillars are used at points where the span is too wide for exterior wall support.

WARRANTY - A promise, either written or implied, that the material and workmanship of a product is defect-free or will meet a specific level of performance over a specified period of time. Written warranties on new homes are either backed by insurance companies or by the builders themselves.

WARRANTY DEED - a Deed by which the Grantor warrants good and clear title, free from encumbrances and defends title as to all claims - the Deed explicitly contains covenants concerning the quality of the title it conveys.

WASTING ASSETS - assets which, by use or lapse of time are consumed or reduced in book value, irrespective of market fluctuation. Includes oil, minerals, patent rights, franchises for a fixed term, etc.

WASTING PROPERTY - see **WASTING ASSETS**

WATT-HOUR - the basis used to determine electric bills. An example would be a 100 watt light bulb means if the bulb burns for one hour, it will use 100 watts of electricity.

WAY - could be a street, alley or other thoroughfare or easement permanently established for the purpose of passage of persons or vehicles.

WEEP HOLES - small holes in a retaining wall or other wall where it may be necessary to drain off excess water to avoid back pressure build-up.

WILD INTEREST - an interest of record which cannot be traced in the chain of title. Frequently occurs when an incorrect legal description appears on a document. An apparent wild interest may occur if a woman who changes her name through marriage after acquiring property, sells the property using her married name only.

WITHOUT RECOURSE - a finance term. A mortgage or deed of trust securing a note without recourse allows the lender to look only to the security (property) for repayment in the event of default, and not personally to the borrower.

WORKING DRAWING - drawing used by workman in construction that shows all structural detail such as electric, plumbing, partitions, etc.

WRAPAROUND MORTGAGE - a new larger mortgage is created which would encompass the previous mortgages. This larger newer mortgage is used to preserve the low interest rate on the earlier mortgages for a potential buyer. The payments made to the holder of the wraparound include payments due on the existing loans and the holder must forward the appropriate portions of each payment to the existing note holders.

WROUGHT IRON - an easily molded form of iron used for decorative railings, gates, furniture, etc. The term is loosely used to describe steel or aluminum used in the same manner.

X

Y

YARD - commonly defined as a measure of 36". Also commonly used to describe the area between the building and property line at a residential property, such as back yard, side yard, front yard. Could also mean an enclosure, in or out of a building used for a business purpose like a lumber yard, parts yard, storage yard, etc.

YARD LUMBER - lumber generally found in a lumber yard that is lumber graded for general building purposes.

YIELD - a return on an investment, which includes the interest rate charged, discount points paid and any other charges collected.

Z

ZERO LOT LINE - the construction of a building on any of the boundary lines of a lot. Usually built on the front line, such as a store built to the sidewalk.

ZERO SIDE YARD - the building of a subdivision with each house built on a side boundary line. This gives more usable yard space on narrow lots. An easement for maintenance is given over a portion of the lot adjoining each house.

ZONING ORDINANCES - The acts of an authorized local government establishing building codes, and setting forth regulations for property land usage.