

REAL ESTATE GLOSSARY

This Glossary is provided courtesy of

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A

Abandonment

Failure to occupy and use a property, which can result in a loss of rights.

Abatement

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

Abstract of Title

Historical summary of all of the recorded instruments and proceedings that affect title to a property.

Abut

To touch, border on, be adjacent to, or share a common boundary with.

Acceleration Clause

A loan provision that gives the lender the right to declare the entire amount immediately due and payable upon violation of another specific loan provision, commonly referred to as the Due on Sale Clause.

Acceptance

Agreeing to the terms of an offer to enter into a contract, thereby creating a binding contract. Taking delivery of a deed from the grantor.

Accession

The acquisition of title to additional property by its annexation to real estate already owned. This can be the result of human actions (as in the case of fixtures) or natural processes.

Accommodation Recording

Recording of instruments with the county recorder by a title company merely as a convenience to a customer and without assumption of responsibility for correctness or validity.

Accretion

The gradual addition to the shore or bank of a waterway by deposits of sand or silt.

Accrued Interest

Interest that has been earned but not paid.

Acknowledgment

A declaration by a person who has signed a document that such signature is a voluntary act, and is made before a duly authorized person.

Acquisition Cost

The price and all fees required to obtain a property.

Acquisition Loan

Money borrowed for the purpose of purchasing a property.

Acre

A two dimensional measure of land equaling 4,840 square yards or 43,560 square feet.

Ad Valorem

A Latin phrase meaning "according to value". It's used to refer to taxes that are based on the value of the property.

Addendum

Something added as an attachment to a contract.

Adjacent

Nearby, next to, bordering, or neighboring; may or may not be in actual contact.

Adjoining

Contiguous, attached, sharing a common border.

Adjustable Rate Mortgage (ARM)

A mortgage that permits the lender to adjust the mortgage's interest rate periodically on the basis of changes in a specified index. Interest rates may move up or down, as market conditions change. This interest rate is usually less than a fixed rate mortgage, but can become higher in the future.

Adjusted Tax Basis

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

Adjustment Date

The date the interest rate changes on an adjustable rate mortgage.

Administrator

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

Adverse Possession

A means of acquiring title to real estate where an occupant has been in actual, open, notorious, exclusive and continuous occupancy of property for the period required by state law.

Affidavit

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

Affirm

1. To confirm or ratify.
2. To make a solemn declaration that is not under oath.

Age, Actual

The age of a structure from a chronological standpoint (as opposed to its effective age); how many years it has been in existence

Age, Effective

The age of a structure indicated by its condition and remaining usefulness (as opposed to its actual age). Good maintenance may increase a buildings effective age, and poor maintenance may decrease it

Agency

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

Agency coupled with an Interest

An agency in which the agent holds a legal interest in the subject of the agency.

Agency, Apparent

When third parties are given the impression that someone who has not been authorized to represent another is that person's agent, or else given the impression that an agent has been authorized to perform acts which are in fact beyond the scope of his or her authority. Also called 'Ostensible Agency'.

Agency, Dual

When an agent represents both parties to a transaction, as when a broker represents the buyer and the seller.

Agent

One who has authorization, either expressed or implied, to act for or represent another party, usually in business matters, such as issuing title insurance policies on behalf of a title insurer for a portion of the premium.

Agent, General

An agent authorized to handle all the principal's affairs in one area or in specified areas.

Agent, Gratuitous

An agent that does not have legal right to claim compensation for his or her services.

Agent, Special

An agent with limited authority to do a specific thing or conduct a specific transaction.

Agent, Universal

An agent authorized to do everything that can be lawfully delegated to a representative.

Agreement for Deed

see Contract for Deed.

Agreement of Sale

A written contract entered into between the seller (vendor) and buyer (vendee) for sale of real property (land) on an installment or deferred payment plan. It is also known as an agreement to convey, a long form Security Agreement or a real estate installment contract.

Air Lot

A parcel of property above the surface of the earth, not containing any land; i.e. - a condominium unit on the fourth floor

Air Rights

The right to undisturbed use and control of the airspace over a parcel of land; may be transferred separately from the land.

Alien Ownership Law

A state statute that provides that purchasers of agricultural land in Minnesota must be U.S. citizens or permanent resident aliens.

Alienation

To convey or transfer title and possession of property.

Alienation Clause

A provision in a security instrument that gives the lender the right to declare the entire loan balance due immediately if the borrower sells or otherwise transfers the property. Also called a 'Due on sale clause'.

Alienation, Involuntary

Transfer of an interest in property against the will of the owner, or without the action of the owner, occurring through operation of law (foreclosure), natural processes, or adverse possession.

Alienation, Voluntary

Voluntary transfer of an interest in property from one person to another.

Allodial System

A system of individual ownership of land (as opposed to the feudal system, in which all land was owned by the sovereign).

Alluvion

The solid material deposited along the shoreline or riverbank by accretion. Also called Alluvium.

ALTA: (American Land Title Association)

Organization composed of title insurance firms which sets standards for the industry, including title insurance policy forms used on a national basis.

Amenity

A feature of the home or property that serves as a benefit to the buyer but that is not necessary to its use; may be natural (like location, woods, water) or man-made (like a swimming pool or garden).

Amortization, Negative

The addition of unpaid interest to the principle balance of a loan, thereby increasing the amount owed.

Amortization Schedule

A table that shows how much of each payment will be applied toward principal and how much toward interest over the life of the loan. It also shows the decrease of the loan balance until it reaches zero.

Amortize

The process of paying the principal and interest on a loan through regularly scheduled installments.

Annexation

Attaching personal property to real property, so that it becomes part of the real property (a fixture) in the eyes of the law.

Annexation, Actual

The physical attachment of personal property to real property.

Annexation, Constructive

The association of personal property with real property in such a way that the law treats it as a fixture, even though it is not physically attached. For example, a house key.

Annual Cap

The maximum amount the interest rate on an adjustable rate mortgage can be raised or lowered in the course of one twelve month period.

Annual Percentage Rate (APR)

Effective rate of interest rate for a loan per year including fees and points. Disclosure is required by the Truth-in-Lending Law.

Anticipation, Principle of

An appraisal principle holding that the value is created by the expectation of benefits to be received in the future.

Appeal

When one of the parties in a lawsuit asks a higher court to review the judgment or verdict reached by a lower court.

Application

The first step in the official loan approval process; this form is used to record important information about the potential borrower necessary to the underwriting process.

Apportionment

A division of property (as among tenants in common when the property is sold or partitioned) or liability (as when responsibility for closing costs is allocated between the buyer and seller) into proportionate, but not necessarily equal parts.

Appraisal

An estimate of value of property resulting from analysis of facts about the property; an opinion of value.

Appraised Value

Opinion or estimate of a value of a property, values are determined by one of three methods: comparable sales (residential), replacement cost (insurance), or income approach (commercial).

Appraiser

One who estimates the value of property, especially an expert qualified to do so by training and experience

Appreciation

The increase in the value of a property due to changes in market conditions, inflation, or other causes.

Appropriation

Taking property, or reducing it to personal property, to the exclusion of other people.

Appropriation, Prior

A system of allocating water rights, under which a person who wants to use water from a certain lake or river is required to apply for a permit; a permit has priority over other permits that are issued later.

Appropriative Rights

The water rights of a person who has a prior appropriation permit.

Appurtenance

Anything that is incident to, attached to, or pertains to the land, but is not necessarily a part of it. An appurtenance is ordinarily transferred with the land, but some appurtenances may be transferred separately.

Appurtenances, Intangible

Rights that go with ownership of a piece of property that do not involve physical objects or substances; for example, an access easement (as opposed to mineral rights).

Arm's Length Transaction

1. A transaction in which both parties are informed of the property's merits and shortcomings, neither is acting under unusual pressure, and the property has been exposed on the open market for a reasonable length of time.
2. A transaction in which there is no preexisting family or business relationship between the parties.

Arrearage

Amount of money behind in payments. Includes back payments, late penalties, legal fees and accrued interest.

Arrears

Mortgage payment includes interest for prior month, or overdue payments in default.

Artificial Person

A legal entity such as a corporation, which the law treats as an individual with legal rights and responsibilities, as distinguished from a natural person, a human being. Sometimes called a legal person.

As-Is

Without guarantees as to condition.

Assemblage

Combining two or more adjoining properties into one tract.

Assessed Value

The value placed on property by a public tax assessor for purposes of taxation.

Assessment

The valuation of property for purposes of taxation.

Assessor

A public official who determines the value of property for taxation.

Asset

Anything of value that a person owns.

Assets, Liquid

Cash and other assets that can be readily turned into cash (liquidated), such as stock.

Assign

1. (verb) To transfer rights (especially contract rights) or interests to another.
2. (noun) A successor in interest to property, other than an heir. See: Heirs and Assigns.

Assignee

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

Assignment

A transfer of contract rights from one person or company to another.

Assignment of Contract and Deed

The instrument used to substitute a new vendor for the original vendor in a contract for deed.

Assignor

The person who assigns or transfers an agreement or contract to another.

Assumable Mortgage

A mortgage that can be assumed by the buyer when a home is sold. Usually, the borrower must "qualify" in order to assume the loan.

Assume

To take on legal responsibility for a debt or other obligation that was formerly the responsibility of another.

Assumption

When a property buyer takes on personal liability for paying off the seller's existing mortgage.

Assumption Fee

A fee paid to the lender, usually by the buyer, when a mortgage is assumed.

Attachment

A court ordered seizure of property belonging to a defendant in a lawsuit, so that it will be available to satisfy a judgment if the plaintiff wins. In the case of real property, an attachment creates a lien.

Attachments, Natural

Plants growing on a piece of land, such as trees, shrubs, or crops.

Attorney in Fact

Any person authorized to represent another by a power of attorney; not necessarily a lawyer (an attorney at law).

Auditing

Verification and examination of records, particularly the financial accounts of a business or other organization.

Authority, Actual

Authority actually given to an agent by the principal, either expressly or by implication.

Authority, Apparent

Authority to represent another that someone appears to have and that the principal is estopped from denying, even though no actual authority has been granted.

Authority, Implied

An agent's authority to do everything reasonably necessary to carry out the principal's express orders.

Avigation easement

An easement over private property near an airport that limits the height of structures and trees.

Avulsion

1. A sudden (not gradual) tearing away of land by the action of water.
2. A sudden shift in a watercourse.

B**Backup Contract**

A contract to buy real estate that becomes effective if a prior contract fails to be consummated.

Bad Debt/Vacancy Factor

A percentage deducted from a property's potential gross income to determine the effective gross income, estimating the income that will probably be lost because of vacancies and tenants who don't pay.

Balance, Principle of

An appraisal principle which holds that the maximum value of real estate is achieved when the agents in production (labor, coordination, capital, and land) are in proper balance with each other.

Balloon Mortgage

A mortgage loan that requires the remaining principal balance be paid at a specific point in time. For example, a loan may be amortized as if it would be paid over a thirty year period, but requires that at the end of the tenth year the entire remaining balance must be paid.

Balloon Payment

The date when the entire remaining principle balance is due.

Bankruptcy

The financial inability to pay one's debts when due causes the debtor to seek relief through court action.

Bankruptcy Discharge

The release of a bankrupt party from the obligation to repay debts that were or might have been proved in a bankruptcy proceeding.

Base Line

In the rectangular survey system, a main east-west line from which township lines are established. Each principal meridian has one base line associated with it.

Basis

A figure used in calculating a gain on the sale of real estate for federal income tax purposes. Also called cost basis.

Basis Point

One 100th of 1%.

Basis, Adjusted

The owner's initial basis in the property, plus capital expenditures for improvements, and minus any allowable depreciation or cost recovery deductions.

Basis, Initial

The amount of the owner's original investment in the property; what it cost to acquire the property, which may include closing costs and certain other expenses, as well as the purchase price.

Bench Mark

A surveyor's mark at a known point of elevation on a stationary object, used as a reference point in calculating other elevations in a surveyed area; often a metal disk set into cement or rock.

Beneficiary

The person who receives or is to receive the benefits resulting from certain acts.

Bequeath

To transfer personal property to another by will.

Bequest

Personal property (including money) that is transferred by will.

Bilateral Contract

A contract under which each party promises performance.

Bill of Sale

A written instrument given to pass title of personal property.

Binder

1. An agreement to consider an earnest money deposit as evidence of the potential buyer's good faith when he or she makes an offer to buy a piece of real estate.
2. An instrument providing immediate insurance coverage until the regular policy is issued.
3. Any payment or preliminary written statement intended to make an agreement legally binding until a formal contract has been drawn up.

Blanket Mortgage

A single mortgage, which attaches to more than one property.

Blighted Area

An area where the real property has declined in value significantly.

Blind Ad

A property advertisement placed by a real estate licensee that does not mention his or her licensed status.

Block

In a subdivision, a group of lots surrounded by streets or unimproved land.

Blockbusting

Attempting to induce owners to list or sell their homes by predicting that members of another race or ethnic group, or people suffering from some disability, will be moving into the neighborhood; this violates anti-discrimination laws. Also called panic selling.

Blue Sky Laws

Laws that regulate the promotion and sale of securities in order to protect the public from fraud.

Board of Directors

The body responsible for governing a corporation on behalf of the stockholders, which oversees the corporate management.

Board of Realtors®

A local group of real estate licensees who are members of the state and national association of Realtors.

Bona Fide

Good faith; genuine; not fraudulent

Bond

1. A written obligation, usually interest bearing, to pay a certain sum at a specified time.
2. Money put up as a surety, protecting someone against failure to perform, negligent performance, or fraud.

Bond, Completion

A bond posted by a contractor to guarantee that a project will be completed satisfactorily and free of liens. Also called a performance bond.

Bond, Fidelity

A bond to cover losses resulting from the dishonesty of an employee.

Bonus

An extra payment, over and above what is strictly due.

Boot

A term used in connection with tax-free exchanges, when the properties exchanged are not equal in value, to refer to whatever is given (cash, services, etc.) to make up the difference in value; for example, in an exchange of real property, if one party gives the other cash in addition to real property, the cash is boot.

Boundary

The perimeter or border of a parcel of land; the dividing line between one piece of property and another.

Breach

Violation of an obligation, duty, or law; especially an unexcused failure to perform a contractual obligation.

Breach of Contract

A violation of the terms of a legal agreement, default.

Bridge Loan

A short-term loan used until permanent financing can be arranged.

Broker

An individual who acts as an intermediary between two or more parties for the purpose of negotiating a transaction agreeable to all of the parties. In lending, the broker arranges and negotiates loan amounts, interest rates and loan terms between borrowers and lenders. Depending on the type of loan, the state wherein the transaction is occurring and contractual arrangements, the broker may represent the borrower, the lender or not have a fiduciary responsibility to either. (See definition of "fi

Broker, Designated

A corporate officer or general partner who is authorized to act as the broker for a licensed corporation or partnership.

Broker, Fee

A real estate broker who allows another person to use his or her license to operate a brokerage, in violation of the license law.

Broker, Real Estate

One who is licensed to represent members of the public in real estate transactions for compensation.

Brokerage

A real estate broker's business.

Building Codes

Regulations that set minimum standards for construction methods and materials.

Building Permit

Permission granted by a local government or agency to build a specific structure at a specific site.

Building Restrictions

Rules concerning building size, placement, or type; they may be public restrictions (in a zoning ordinance, for example) or private restrictions (CC&Rs, for example).

Bulk Transfer

The sale of all or a substantial part of the merchandise, equipment, or other inventory of a business, not in the ordinary course of business.

Bulk Transfer Law

A law requiring a seller who negotiates a bulk transfer (usually in connection with the sale of the business itself) to furnish the buyer with a list of creditors and a schedule of the property being sold, and to notify creditors of the impending transfer.

Bundle of Rights

The rights inherent in ownership of property, including the right to use, lease, enjoy, encumber, will, sell, or do nothing with the property.

Business Opportunity

A business that is for sale.

Buy Down

A payment of discounts points in exchange for a lower rate of interest. It has the effect of providing the lender with a greater yield today in exchange for a lower yield in the future. (See definition of "discount points" below.).

Buyer Representation Agreement

A contract in which a real estate broker agrees to try to locate suitable property for the other party (the buyer) in exchange for a commission.

Bylaws

The rules and regulations that govern the operations of a corporation, or of a unit owners' association in a condominium.

C**Call**

In a metes and bounds description, a specification that describes a segment of the boundary; for example, "south 15° west 120 feet" is a call.

Cancellation

Termination of a contract without undoing acts that have already been performed under the contract. Compare: Rescission.

Cancellation Clause

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

Capacity

The legal ability or competency to perform some act, such as enter into a contract or execute a deed or will. See also: Competent.

Capital

Money (or other forms of wealth) available for use in the production of more money.

Capital Assets

Assets held by a taxpayer other than: 1) property held for sale to customers in the ordinary course of the taxpayer's business; and 2) depreciable property or real property used in the taxpayer's trade or business. Thus, real property is a capital asset if it is owned for personal use or for profit.

Capital Expenditures

Money spent on improvements and alterations that add to the value of the property and/or prolong its life.

Capital Gain

Profit realized from the sale of a capital asset. If the asset was held for more than one year, it is a long-term capital gain; if the asset was held for one year or less, it is a short-term capital gain.

Capital Improvement

Any improvement that is designed to become a permanent part of the real property or that will have the effect of significantly prolonging the property's life.

Capital Loss

A loss resulting from the sale of a capital asset; it may be long-term or short-term, depending on whether the asset was held for more than one year, or for one year or less.

Capitalization

A method of appraising real property by converting the anticipated net income from the property into the present value. Also called the income approach to value.

Capitalization (Cap) Rate

Rate of return used to derive the capital value of an income stream, divide annual income by net operating income.

Capitalize

1. To provide with cash, or capital.
2. To estimate the present value of an asset using capitalization.

Capture, Rule of

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

Carrying Charges

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

Cash Flow

The net operating income minus the total of all debt service payments. (See definition of "net operating income" below.).

Cash Out

Cash given to the borrower from the proceeds of a loan. While relatively common as part of a refinance, it is uncommon, but not impossible, as a benefit of a small percentage of non-conforming loans used for a purchase.

Caveat Emptor

A Latin phrase meaning "Let the buyer beware"; it expresses the idea that a buyer is expected to examine property carefully before buying, instead of relying on the seller to disclose problems. This was once a firm rule of law, but it has lost most of its force, especially in residential transactions.

CC&Rs

A declaration of covenants, conditions, and restrictions; usually recorded by a developer to place restrictions on all lots within a new subdivision.

Certificate of Eligibility

Issues by the Veterans Administration to those who qualify for a VA loan.

Certificate of Insurance

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

Certificate of Occupancy (C.O.)

A document issued by a local government or agency permitting the structure to be occupied by members of the public.

Certificate of Reasonable Value

A document issued by the Veterans Administration, setting forth the current market value of a property, based on a VA-approved appraisal.

Certificate of Sale

The document given to the purchaser at a mortgage foreclosure sale; becomes a sheriff's deed only after the redemption period expires.

Certified Commercial Investment Member (CCIM)

A designation awarded by the Realtors National Marketing Institute, which is affiliated with the National Association of Realtors.

Certified Residential Broker (CRB)

A designation awarded by the Realtors National Marketing Institute, which is affiliated with the National Association of Realtors.

Certified Residential Specialist (CRS)

A designation awarded by the Realtors National Marketing Institute, which is affiliated with the National Association of Realtors.

Certiorari, Writ of

A writ in which a higher court requests a transcript of proceedings that took place in a lower court, for appellate review.

Cesspool

An underground pit used to catch and temporarily hold sewage while it decomposes and leaches into the surrounding soil.

Chain of Title

A history of conveyances and encumbrances affecting a title from the time that the original patent was granted or as far back as records are available.

Change, Principle of

An appraisal principle which holds that a property's value is constantly changing, in response to economic, social, and governmental forces.

Charter

A written instrument granting a power or a right of franchise.

Chattel

An article of personal property. Chattel

Chattel Real

Personal property that is closely associated with real property; the primary example is a lease.

Civil Law

The body of law concerned with the rights and liabilities of one individual in relation to another; includes contract law, tort law, and property law. Compare: Criminal Law.

Civil Rights

Fundamental rights guaranteed to individuals by the law. The term is primarily used in reference to constitutional and statutory protections against discrimination or government interference.

Civil Suit

A lawsuit in which one private party sues another private party (as opposed to a criminal suit, in which an individual is sued or prosecuted by the government).

Clean Air Act

A federal law regulating the emission of air pollutants.

Clean Water Act

A federal law intended to reduce water pollution.

Clear Title

A marketable title, one free of clouds and disputed interests.

Client

One who employs a broker, lawyer, appraiser, or other professional. A real estate broker's client may be the seller, the buyer, or both.

Closing

The formal meeting where loan documents are signed and funds disbursed. Note, however, that Federal law requires that funds not be disbursed for three business days on certain loans where personal residences serve as the security. (See definition of "rescission" below.).

Closing Costs

The expenses which borrowers incur to complete the loan transaction. These costs may include title searches, title insurance, closing fees, recording fees, processing fees and other charges.

Closing Date

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

Closing Statement

An accounting of funds from a real estate transaction, also known as a HUD-1.

Cloud on Title

An outstanding claim or encumbrance that, if valid, would affect or impair the owner's title.

Co-mortgagor

Someone (usually a family member) who accepts responsibility for the repayment of a mortgage loan along with the primary borrower, to help the borrower qualify for the loan.

Code of Ethics

A body of rules setting forth accepted standards of conduct, reflecting principles of fairness and morality; especially one that the members of an organization are expected to follow.

Codicil

An addition to or revision of a will.

Collateral

Property pledged as security for a debt.

Collusion

An agreement between two or more persons to defraud another.

Combined Loan-to-Value (CLTV)

The total of all loans relative to the value of the property. If a property has a value of \$100,000 and three loans totaling \$125,000, the CLTV is 125% ($\$125,000 / \$100,000$).

Commercial Bank

A type of financial institution that has traditionally emphasized commercial lending (loans to businesses), but which also makes many residential mortgage loans.

Commercial Paper

Negotiable instruments, such as promissory notes, sold to meet the short-term capital needs of a business.

Commercial Property

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

Commingling

Illegally mixing trust funds held on behalf of a client with personal funds.

Commission

A fee charged for brokerage services.

Commitment

The notification that a lender has approved a loan. Virtually all commitments are issued conditionally; that is, subject to some list of conditions that must be satisfied prior to funding actually taking place. Typical conditions include appraisals of a certain value, clean title, verification of representations by the borrower, etc.

Common Areas

1. In a building with leased units or spaces, the areas that are available for use by all of the tenants.
2. The common elements in a condominium.

Common Elements

The land and improvements in a condominium or other common interest development that are owned and used collectively by all of the residents, such as parking lots, hallways, and recreational facilities available for common use. Also called common areas.

Common Elements, Limited

Common elements that are reserved for the use of a certain unit or certain units, to the exclusion of other units; examples include assigned parking spaces and storage lockers.

The form of ownership that is involved in condominiums, townhouses, cooperatives, and time shares.

Common Interest Ownership

Common Law

Early English law.

Community Property

In certain states (not in Minnesota), property owned jointly by a married couple, as distinguished from each spouse's separate property; generally, any property acquired through the labor or skill of either spouse during marriage.

Comparable Sales (Comps)

As part of the appraisal process, those relatively recently sold properties which will be compared to the subject property (the property being appraised) for the purpose of forming an opinion of value for the subject property. The facts and details of the comparable properties will be compared to those of the subject. In an urban setting, to be of credible assistance in this process, comparable sales must have the same use as the subject, have many similarities to the subject in terms of size of

Compensation

Paid to a broker for services in connection with a real estate transaction (usually a percentage of the sales price).

Competent

1. Of sound mind, for the purposes of entering into a contract or executing a legal instrument.
2. Both of sound mind and having reached the age of majority.

Competition, Principle of

An appraisal principle which holds that profits tend to encourage competition, and excess profits tend to result in ruinous competition.

Compliance Inspection

A building inspection to determine, for the benefit of a lender, whether building codes, specifications, or conditions established after a prior inspection have been met before a loan is made.

Compounding

The process of accruing interest on the remaining balance on a monthly basis.

Condemnation

1. Taking private property for public use through the government's power of eminent domain.
2. A declaration that a structure is unfit for occupancy and must be closed or demolished.

Condemnation Appraisal

An estimate of the value of condemned property to determine the just compensation to be paid to the owner.

Condition (Contingency Clause)

1. A provision in a contract that makes the parties' rights and obligations depend on the occurrence (or nonoccurrence) of a particular event.
2. A provision in a deed that makes the title depend on compliance with a particular restriction.

Conditional Use Permit

A permit that allows a special use, such as a school or hospital, to operate in a neighborhood where it would otherwise be prohibited by the zoning. Also called a special use permit or special exception permit.

Conditions, Covenants, and Restrictions (CCR's)

Promises written into deeds and other instruments agreeing to performance or nonperformance of certain acts, or requiring or prohibiting certain uses of the property.

Condominium

Property developed for common interest ownership, where each co-owner has a separate interest in an individual unit, combined with an undivided interest in the common elements of the property.

Condominium Association

The unit owners' association of a condominium. See: Unit Owners' Association.

Confirmation of Sale

Court approval of a sale of property by an executor, administrator, or guardian.

Conforming Loan

A loan, which has underwriting criteria consistent with (i.e., conforming to) those strict guidelines of Fannie Mae, Freddie Mac, FHA or VA. These are typically the lowest interest rate loans with very good terms. (See definitions of "Fannie Mae", "Freddie Mac", "FHA", "VA" and "underwriting" below.).

Conformity, Principle of

An appraisal principle which holds that the maximum value of property is realized when there is a reasonable degree of social and economic homogeneity in the neighborhood.

Conservation

1. Preservation of structures or neighborhoods in a sound condition.
2. Preservation or controlled use of natural resources for long-term benefits.

Conservator

A person appointed by a court to take care of the property of another who is incapable of taking care of it on his or her own.

Consideration

Anything of value given to induce another to enter into a contract, such as money, goods, services, or a promise. Sometimes called valuable consideration.

Conspiracy

An agreement or plan between two or more persons to perform an unlawful act.

Constructive

Held to be so in the eyes of the law, even if not so in fact. See: Annexation, Constructive; Eviction, Constructive; Notice, Constructive; Severance, Constructive.

Consumer Price Index

An index that tracks changes in the cost of goods and services for a typical consumer. Formerly called the cost of living index.

Contiguous

Actually touching, having a common boundary.

Contour

The shape or configuration of a surface. A contour map depicts the topography of a piece of land by means of lines (contour lines) that connect points of equal elevation.

Contract

An agreement between competent parties to do or not do certain things for consideration.

Contract For Deed

A real estate installment selling arrangement whereby the buyer may use, occupy, and enjoy land, but no deed is given by the seller until all or a specified part of the sale price has been paid, same as land contract. When all the terms of the contract are satisfied, the Seller conveys the Deed.

Contract of Adhesion

A contract that is onesided and unfair to one of the parties; a take-it-or-leave-it contract, in which the offerer had much greater bargaining power than the offeree.

Contract, Bilateral

A contract in which each party has made a binding promise to perform (as distinguished from a unilateral contract).

Contract, Broker and Salesperson

An employment contract between a broker and an affiliated salesperson, outlining their mutual obligations.

Contract, Executed

A contract in which both parties have completely performed their contractual obligations.

Contract, Executory

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

Contract, Express

A contract that has been put into words, either spoken or written.

Contract, Implied

A contract that has not been put into words, but is implied by the actions of the parties.

Contract, Oral

A spoken agreement that has not been written down. Also called a parol contract.

Contract, Real Estate

1. Any contract pertaining to real estate.
2. A contract for deed.

Contract, Unenforceable

An agreement that a court would refuse to enforce; for example, a contract is unenforceable if its contents can't be proved or the statute of limitations has run out.

Contract, Unilateral

A contract that is accepted by performance; the offeror has promised to perform his or her side of the bargain if the other party performs, but the other party has not promised to do so. Compare: Contract, Bilateral.

Contract, Valid

A binding, legally enforceable contract.

Contract, Void

An agreement that is not an enforceable contract, because it lacks a required element (such as consideration) or is defective in some other respect.

Contract, Voidable

A contract that one of the parties can disaffirm without liability, because of lack of capacity or a negative factor affecting consent, such as fraud or duress.

Contractor

One who contracts to provide specific goods or services.

Contribution, Principle of

An appraisal principle which holds that the value of real property is greatest when the improvements produce the highest return commensurate with their cost (the investment). Also called the principle of increasing and decreasing returns.

Conventional Loan

A conforming loan with no government guarantee; that is, a Fannie Mae or Freddie Mac loan. (See definition of "conforming loan" above.).

Conversion

Changing property to a different use or form of ownership.

Convertible ARM

An Adjustable Rate Mortgage that offers the borrower the option to convert payments to a fixed-rate schedule at a specified period within the term of the loan. Conversion is made for a nominal fee, and the interest rate on the fixed-rate loan is determined by a rule specified in the ARM agreement.

Convey

To deed or transfer title to another.

Conveyance

The transfer of title to real property from one person to another by means of a written document, especially a deed.

Cooperative

A form of common interest ownership. A cooperative building is owned by a corporation, and the residents are shareholders in the corporation; each shareholder receives a proprietary lease on an individual unit and the right to use the common areas.

Corner Influence

The increase in a property's value that results from its location on or near a corner, with access and exposure on two streets.

Corporation

An association organized according to certain laws, in which individuals may purchase ownership shares; treated by the law as an artificial person, separate from the individual stockholders.

Corporation, Domestic

A corporation doing business in the state where it was created (incorporated).

Corporation, Foreign

A corporation doing business in one state or country, but created (incorporated) in another state or another country.

Correction Lines

In the rectangular survey system, adjustment lines used to compensate for the curvature of the earth; they occur at 24 mile intervals (every fourth township line), where the distance between range lines is corrected to six miles.

Cost

The amount paid for anything in money, goods, or services.

Cost Approach to Value

One of the three main methods of appraisal, in which an estimate of the subject property's value is arrived at by estimating the cost of replacing (or reproducing) the improvements, then deducting the estimated accrued depreciation and adding the estimated market value of the land.

Cost, Replacement

In appraisal, the current cost of constructing a building with the same utility as the subject property with modern materials and construction methods.

Cost, Reproduction

In appraisal, the cost of constructing a replica (an exact duplicate) of the subject property, using the same materials and construction methods that were originally used, but at current prices.

Counteroffer

Rejection of an offer with a simultaneous substitute offer.

County

An administrative subdivision of the state, created by the state and deriving all of its powers from the state.

Course

In a metes and bounds description, a direction, stated in terms of a compass bearing.

Covenant

1. A contract.
2. A promise.
3. A guarantee (express or implied) in a document such as a deed or lease.
4. A restrictive covenant.

Covenant Against Encumbrances

In a deed, a promise that the property is not burdened by any encumbrances other than those that are disclosed in the deed.

Covenant of Further Assurance

In a deed, a promise that makes the grantor responsible for any further acts necessary to make sure title is clear.

Covenant of Quiet Enjoyment

A promise that a grantee's or tenant's possession will not be disturbed by the previous owner, the lessor, or anyone else making a lawful claim against the property.

Covenant of Seizin

In a deed, a promise that the grantor actually owns the interest he or she is conveying to the grantee and has the right to convey it.

Covenant of Warranty Forever

In a deed, a promise that the grantor will bear the expense of defending the grantee's title if anyone asserts a rightful claim against it.

Covenant, Restrictive

A promise to do or not do an act relating to real property, especially a promise that runs with the land; usually an owner's promise not to use property in a specified manner.

CPM Certified Property Manager

A property manager who has satisfied the requirements set by the Institute of Real Estate Management of the National Association of Realtors®.

Creative Financing

Any financing arrangement other than a traditional mortgage from a third party lending institution.

Credit

A payment receivable (owed to you), as opposed to a debit, which is a payment due (owed by you).

Credit Line

A loan that allows revolving use of the credit; that is, after funds have been borrowed and repaid they may be borrowed again without applying for a new loan. Typically, a credit limit is established and some or all of the available funds can be optionally disbursed at closing. Undisbursed funds are available for the borrowers use at any time. Payments are required only on the outstanding balance. They are similar in use to a credit card except that they typically use checks to access the funds.

Creditor

One who is owed a debt.

Creditor, Secured

A creditor with a security interest in or a lien against specific property; if the debt is not repaid, the secured creditor can repossess the property or (in the case of real estate) foreclose on the property and collect the debt from the sale proceeds.

Criminal Law

The body of law under which the government can prosecute an individual for crimes, wrongs against society. Compare: Civil Law.

Cubage

The cubic volume of an object; in the case of a building, determined by multiplying the width by the depth by the height (measuring from the basement floor to the outside surfaces of roof and walls).

Cul-de-Sac

A dead-end street, especially one with a semi-circular turnaround at the end.

Customer

1. From the point of view of a seller's real estate agent, a prospective property buyer.
2. A consumer third party.

E**E.P.A.**

Environmental Protection Agency.

Earnest Money

A deposit that a prospective buyer gives the seller as evidence of his or her good faith intention to complete the transaction. Also called a good faith deposit.

Easement

The right, privilege, or interest that one party has in the land of another.

Easement Appurtenant

An easement that benefits a piece of property, the dominant tenement. Compare: Easement in Gross.

Easement by Express Grant

An easement granted to another in a deed or other document.

Easement by Express Reservation

An easement created in a deed when a landowner is dividing the property, transferring the servient tenement but retaining the dominant tenement; an easement that the grantor reserves for his or her own use.

Easement by Implication

An easement created by law when a parcel of land is divided, if there has been long-standing, apparent prior use, and it is reasonably necessary for the enjoyment of the dominant tenement. Sometimes called an easement by necessity.

Easement by Necessity

The right of an owner to cross over another's property for a special necessary purpose.

Easement by Prescription

Continued use of another's property for a special purpose can convert to permanent use if certain conditions are met.

Easement in Gross

An easement that benefits a person instead of a piece of land; there is a dominant tenant, but no dominant tenement. Compare: Easement Appurtenant.

Easement, Access

An easement that enables the easement holder to reach and/or leave his or her property (the dominant tenement) by crossing the servient tenement. Also called an easement for ingress and egress.

Easement, Aviation

An easement by which a property owner allows aircraft to fly through the airspace over his or her property (above a specified height).

Easement, Negative

An easement that prevents the servient tenant from using his or her own land in a certain way (instead of allowing the dominant tenant to use it); essentially the same thing as a restrictive covenant that runs with the land.

Easement, Positive

An easement that allows the dominant tenant to use the servient tenement in a particular way. This is the standard type of easement (see the first definition of Easement, above); the term "positive easement" is generally only used when contrasting a standard easement with a negative easement.

Easement, Prescriptive

An easement acquired by prescription; that is, by using the property openly and without the owner's permission for the period prescribed by statute.

Economic Life

The period during which improved property will yield a return over and above the rent due to the land itself; also called the useful life. Compare: Physical Life.

Economic Survey

A part of the land use planning process, in which the present and anticipated future economic needs of an area are analyzed.

Egress

A means of access or exit.

Ejectment

A legal action to recover possession of real property from someone who is not legally entitled to possession of it; an eviction.

Elements of Comparison

In the market data approach to appraisal, considerations taken into account in selecting comparables and comparing comparables to the subject property; they include time of sale, location, and physical characteristics.

Emblements

Crops that are produced annually through the labor of the cultivator, such as wheat.

Emblements, Doctrine of

The legal rule that gives an agricultural tenant the right to enter the land to harvest crops after the lease ends.

Eminent Domain

The right of the government or a public utility to acquire property for necessary public use by condemnation, but the owner must be fairly compensated.

Employee

Someone who works under the direction and control of another. Compare: Independent Contractor.

Encroachment

A building, part of a building, or obstruction that physically intrudes upon, overlaps, or trespasses upon the property of another.

Encumber

To place a lien or other encumbrance against the title to a property.

Encumbrance

Any right to or interest in land that affects its value, including mortgage loans, unpaid taxes, easements, junior liens, or deed restrictions.

Encumbrance, Financial

A lien.

Endorsement

Assignment of a negotiable instrument (such as a check or a promissory note) by the payee to another party, by signing on the back of the instrument.

Endorsement in Blank

An endorsement that does not specify a particular holder, so that the bearer#whoever has possession of the instrument#is entitled to payment.

Endorsement, Special

An endorsement to a specific transferee (as opposed to an endorsement in blank).

Enjoin

To prohibit an act, or command performance of an act, by court order; to issue an injunction.

Environmental Impact Statement (EIS)

A report that contains detailed information concerning how a proposed project would affect the environment.

Equilibrium

In the life cycle of a property, a period of stability, during which the property undergoes relatively little change.

Equitable Conversion

A legal doctrine in some states in which, under a contract of sale, buyers and sellers are treated as though the closing has taken place in that the seller in possession has an obligation to take care of the property.

Equitable Remedy

In a civil lawsuit, a judgment granted to the plaintiff that is something other than an award of money (damages); an injunction, rescission, and specific performance are examples.

Equitable Title

The interest held by one who has agreed to purchase, but has not yet closed the transaction.

Equity

The value of the unencumbered interest in real estate as determined by subtracting the total of the unpaid mortgage balances plus the sum of any current liens against the property from the property's fair market value.

Erosion

Gradual loss of soil due to the action of water or wind.

Errors and Omissions (E&O) Insurance

Protects brokers against civil claims of malpractice

Escalator Clause

A clause in a contract or mortgage that provides for payment or interest adjustments (usually increases) if specified events occur, such as a change in the property taxes or in the prime interest rate. Also called an escalation clause.

Escape Clause

A provision in a purchase agreement that allows the buyer to terminate the contract if the appraised value of the property turns out to be significantly less than the agreed price. Required for transactions to be financed with FHA or VA loans, if the loan applicant (the buyer) signs the purchase agreement before the appraisal report is issued.

Escheat

The reversion of property to the state in the event that the owner dies without leaving a will and has no legal heirs.

Escrow

An agreement between two or more parties providing that certain instruments or property be placed with a third party for safekeeping, pending the fulfillment or performance of a specified act or condition.

Escrow Account

An account from which funds can be disbursed only for specified reasons; i.e. the money is held in trust for a specific use. In lending, these accounts are most often used to hold and disburse real estate taxes and hazard insurance premiums, which have been paid in advance (usually on a monthly basis) by the borrower.

Estate

1. An interest in real property that is or may become possessor's; either a freehold or a leasehold.
2. The property left by someone who has died.

Estate at Sufferance

A situation in which a tenant who originally took possession of the property lawfully stays on after the lease ends without the landlord's consent; the lowest estate in land. Also called a tenancy at sufferance.

Estate at Will

A leasehold estate for an indefinite period, which continues until either the landlord or tenant gives notice of termination to the other party. Also called a month-to-month tenancy, periodic tenancy, or tenancy at will.

Estate for Life

A freehold estate that lasts only as long as a specified person lives; that person is referred to as the measuring life. Commonly called a life estate.

Estate for Years

An estate for a definite period of time, which terminates automatically at the end of the period. Also called a tenancy for years or a term tenancy.

Estate of Inheritance

An estate that can pass to the holder's heirs, such as a fee simple.

Estate Tax

A tax on the value of property left by the deceased, subject to certain tax rules.

Estoppel

A doctrine of law that stops one from later denying facts which that person once acknowledged were true and others accepted on good faith.

Estoppel Certificate

A document that prevents the person who signs it from later asserting facts different from those stated in the document; for example, a statement signed by a mortgage lender confirming that the remaining mortgage balance is a specified amount. Also called an estoppel letter.

Et al.

Abbreviation for the Latin phrase "et alius" or "et alii," meaning "and another" or "and others."

Ethics

A system of accepted principles or standards of moral conduct. See: Code of Ethics.

Eviction

Legal proceeding by a lessor (landlord) to recover possession of property.

Eviction, Actual

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

Eviction, Constructive

When a landlord's act (or failure to act) interferes with the tenant's quiet enjoyment of the property, or makes the property unfit for its intended use, to such an extent that the tenant is forced to move out.

Eviction, Self-Help

The use of physical force, a lock-out, or a utility shut-off to evict a tenant, instead of the legal process. This is generally illegal.

Exchange

Under Section 1031 of the IRS Tax Code, like-kind property used in a trade or business or held as an investment can be exchanged tax-free, subject to certain conditions.

Exculpatory Clause

Provision in a mortgage allowing the borrower to surrender the property to the lender without personal liability.

Execute

1. To sign an instrument and take any other steps (such as acknowledgment) that may be necessary to its validity.
2. To perform or complete. See: Contract, Executed.

Execution

The legal process in which a court orders an official (such as the sheriff) to seize and sell the property of a judgment debtor to satisfy a lien.

Executor

A person named in a will to carry out its provisions. If it is a woman, she may be referred to as the executrix, but that term is passing out of use.

Exemption

A provision holding that a law or rule does not apply to a particular person or group; for example, a person entitled to a tax exemption is not required to pay the tax.

Expenses, Fixed

Recurring property expenses, such as general real estate taxes and hazard insurance.

Expenses, Maintenance

Cleaning, supplies, utilities, tenant services, and administrative costs for income producing property.

Expenses, Operating

For income producing property, the fixed expenses, maintenance expenses, and reserves for replacement; does not include debt service.

Expenses, Variable

Expenses incurred in connection with property that do not occur on a set schedule, such as the cost of repairing a roof damaged in a storm.

Express

Stated in words, whether spoken or written. Compare: Implied.

F

Facade

The outside front wall of a building.

Face Value

The dollar amount, shown by words and/or numbers on a document.

Facilitator

Performs services for the seller or buyer and facilitates the transaction, but does not assume the fiduciary duties that an agent owes to a client.

Failure of Purpose

When the intended purpose of an agreement or arrangement can no longer be achieved; in most cases, this releases the parties from their obligations.

Fair Credit Reporting Act

A federal law that allows individuals to examine and correct information used by credit reporting services.

Fannie Mae (FNMA)

Federal National Mortgage Association, a federally chartered corporation that purchases mortgages and packages them to sell as securities.

Feasibility Study

A cost-benefit analysis of a proposed project, often required by lenders before giving a loan commitment.

Fed

The Federal Reserve.

Federal Fair Housing Law

A federal law that forbids discrimination on the basis of race, color, sex, religion, or national origin in the selling or renting of property.

Federal Home Loan Mortgage Corporation (FHLMC)

A Federal Home Loan Mortgage Corporation (FHLMC) government supervised secondary market agency, popularly known as Freddie Mac.

Federal Housing Administration (FHA)

A federal agency within the Department of Housing and Urban Development (HUD) that provides mortgage insurance to encourage lenders to make loans to low- and middle-income home buyers. See also: Loan, FHA.

Federal National Mortgage Association (FNMA)

A government supervised secondary market agency, popularly known as Fannie Mae.

Federal Trade Commission (FTC)

A federal agency responsible for investigating and eliminating unfair and deceptive business practices, which is responsible for enforcement of the Truth in Lending Act.

Fee Agreement

An agreement between a borrower and a broker, which normally specifies the relationship between them and the amount of compensation to the broker.

Fee Simple

Absolute ownership of real property.

Fee Simple Absolute

The highest and most complete form of ownership, which is of potentially infinite duration. Also called a fee or a fee simple.

Fee Simple Defeasible

A fee simple estate that is subject to termination if a certain condition is not met or if a specified event occurs. Also called a conditional fee, determinable fee, qualified fee, or fee simple subject to a condition subsequent.

FHA

Federal Housing Administration.

Fiduciary Relationship

A relationship of trust and confidence, in which one party owes the other (or both parties owe each other) loyalty and a higher standard of good faith than is owed to third parties. For example, an agent is a fiduciary in relation to the principal; husband and wife are fiduciaries in relation to one another.

Fiduciary Responsibility

An obligation to act in the best interest of another party. This type of obligation typically exists when one person places special trust and confidence in another person and that responsibility is accepted.

Finance Charge

Any charge a borrower is assessed, directly or indirectly, in connection with a loan. See also: Total Finance Charge.

Financial Statement

A summary of facts showing the financial condition of an individual or a business, including a detailed list of assets and liabilities. Also called a balance sheet.

Financing Statement

A brief instrument that is recorded to perfect and give constructive notice of a creditor's security interest in an article of personal property. The modern version of a chattel mortgage.

Finder's Fee

A referral fee paid to someone for directing a client or customer to a real estate agent, or for directing a loan applicant to a lender.

First Lien Position

The position held by a mortgage that has higher lien priority than any other mortgage against the property.

First Mortgage

A first mortgage is in superior position to all other mortgages, liens and judgments (except property taxes).

Fiscal Year

Any twelve-month period used as a business year for accounting, tax, and other financial purposes, as opposed to a calendar year.

Fixed Disbursement Plan

A construction financing arrangement that calls for the loan proceeds to be disbursed in a series of predetermined installments when various stages of the construction are completed.

Fixed Payment Mortgage

A loan secured by real property which features a periodic payment of interest and principal which is constant over the term of the loan.

Fixed Rate Mortgage

A mortgage with an interest rate that remains the same through the life of the loan.

Fixed Term

A period of time that has a definite beginning and ending.

Fixture

An item that used to be personal property but has been attached to or closely associated with real property in such a way that it has legally become part of the real property. See: Annexation, Actual; Annexation, Constructive.

Flowage Rights

The right to submerge or flood a piece of land. Also called a flowage easement.

Forbearance

An agreement in which one of the parties agrees to not do something.

Foreclosure

The process by which the mortgagor's (borrower's) rights to a property are terminated. While the general process is similar from state to state, the actual procedures tend to vary greatly.

Foreclosure by Advertisement

Foreclosure by a mortgagee without court supervision, under the power of sale clause in a mortgage. Also called nonjudicial foreclosure.

Foreclosure, Judicial

1. The sale of property pursuant to court order to satisfy a lien.
2. A lawsuit filed by a mortgagee to foreclose on the security property when the mortgagor has defaulted. Also called foreclosure by action.

Foreclosure, Strict

When a court orders title to mortgaged property to be transferred directly from the defaulting mortgagor to the mortgagee, without a public auction.

Foreshore

Land between the mean high and mean low water marks. Also called foreshore land.

Forfeiture

Loss of a right or something else of value as a result of failure to perform an obligation or condition.

Franchise

A right or privilege granted by a government to conduct a certain business, or a right granted by a private business to use its trade name in conducting business.

Fraud

An intentional or negligent misrepresentation or concealment of a material fact, which is relied upon by another, who is induced to enter into a transaction and harmed as a result.

Fraud, Actual

Intentional deceit or misrepresentation to cheat or defraud another.

Fraud, Constructive

A breach of duty that misleads the person the duty was owed to, without an intention to deceive.

FRBO

For Rent By Owner.

Freddie Mac (FHMLC)

Federal Home Loan Mortgage Corporation, a federally chartered corporation that purchases mortgages and packages them to sell as securities.

Free and Clear

Ownership of real property completely free of liens.

Freehold

A possessory interest in real property that has an indeterminable duration; it can be either a fee simple or an estate for life. Someone who has a freehold estate has title to the property (as opposed to someone who has a leasehold estate, who is only a tenant).

Front Foot

A measurement of property for sale or valuation, with each foot of frontage presumed to extend the entire depth of the lot.

Front Money

The cash required to get a project or venture underway; includes initial expenses such as attorney's fees, feasibility studies, loan charges, and a down payment.

Frontage

The distance a property extends along a street or a body of water; the distance between the two side boundaries at the front of the lot.

FSBO
For Sale By Owner.

Funding Fee

A fee charged in connection with a VA-guaranteed loan. The borrower is required to pay the fee to the Veterans Administration; it may be financed along with the loan amount.

G

Gable Roof

One with a triangle, with the ridge forming an angle at the top and each eave forming an angle at the bottom.

Gain

Under the federal income tax code, that portion of the proceeds from the sale of a capital asset, such as real estate, that is recognized as taxable profit.

Gain

An increase in money or property value.

Garden Apartments

A housing complex whereby some or all tenants have access to a lawn area.

Garnishment

A legal process by which a creditor gains access to the funds or personal property of a debtor that are in the hands of a third party. For example, if the debtor's wages are garnished, the employer is required to turn over part of each pay check to the creditor.

General Contractor

One who constructs a building or other improvement for the owner or developer.

General Lien

A lien that includes all of the property owned by the debtor, rather than a specific property.

General Warranty Deed

A deed in which the grantor agrees to protect the grantee against any other claim to title of the property.

Gentrification

The displacement of lower income residents by higher income residents in a neighborhood.

Gift Funds

Money that a relative (or other third party) gives to a buyer who otherwise would not have enough cash to close the transaction.

Ginnie Mae

Popular name for the Government National Mortgage Association, GNMA.

Good Will

An intangible asset of a business resulting from a good reputation with the public, which serves as an indication of future return business.

Government Lot

In the rectangular survey system, a parcel of land that is not a regular section (one mile square), because of the convergence of range lines, or because of a body of water or some other obstacle; assigned a government lot number.

Grant

To transfer or convey an interest in real property by means of a written instrument.

Grantee

The party to whom title to real property is conveyed.

Granting Clause

Words in a deed that indicate the grantor's intent to transfer an interest in property. Also called the words of conveyance.

Grantor

The party who gives the deed.

Green Acres Act

A Minnesota statute designed to equalize the property tax burden on certain agricultural property.

Gross Income Multiplier Method

A method of appraising residential property by reference to its rental value. Also called the gross rent multiplier method.

Gross Monthly Income

Income before deductions for taxes, social security, saving plans, court ordered child support, etc.

Gross Rent Multiplier

A figure which is multiplied by a rental property's gross income to arrive at an estimate of the property's value.

Ground Lease

One that rents the land only.

Guardian

A person appointed by a court to administer the affairs of a minor or an incompetent person, who is referred to as the guardian's ward.

Guide Meridians

In the rectangular survey system, lines running north-south (parallel to the principal meridian) at 24-mile intervals.

H

Habendum Clause

A clause included after the granting clause in many deeds; it begins "to have and to hold" and describes the type of estate the grantee will hold.

Habitability, Implied Warranty of

A warranty implied by law in every residential lease, that the property is fit for habitation.

Hard Money Loan

A loan that is underwritten with the condition and value of the property as the primary criteria for approval. Secondary issues may include the credit of the borrower, the ability of the borrower to repay the loan and/or the ability of the borrower to manage the property or successfully complete a rehab and sell the property. Owner occupancy, debt ratios and other issues are seldom a factor. Appraisals rather than purchase prices are used to determine value. Cash out purchases are often allowed

Hazard Insurance

Insurance to provide compensation if the improvements are damaged or destroyed. It is almost always a requirement of loans.

Heir

Someone entitled to inherit another's property under the laws of intestate succession.

Heirs and Assigns

A phrase used in legal documents to cover all successors to a person's interest in property; assigns are successors who acquire title in some manner other than inheritance, such as by deed.

Hereditament

Property (real or personal) that can be inherited.

Hereditament, Corporeal

Tangible property, real or personal, that can be inherited; property with physical substance, such as a car or a house.

Hereditament, Incorporeal

Intangible property, real or personal, that can be inherited, such as an easement appurtenant or accounts receivable.

Highest and Best Use

The use which, at the time of appraisal, is most likely to produce the greatest net return from the property over a given period of time.

Highest and Best Use

The use that is most likely to produce the greatest net return to the land and/or building over a given period.

Hold-harmless Clause

One party agrees to indemnify and protect the other party from injuries or lawsuits arising out of a particular transaction. In a lease, the lessee agrees to hold harmless the lessor from claims of third parties for damage resulting from the lessee's negligence.

Holder in Due Course

A person who obtains a negotiable instrument for value, in good faith, without notice that it is overdue or notice of any defenses against it.

Holdover Clause

A provision in a listing agreement or buyer representation agreement which states that the agreement will renew itself indefinitely unless cancelled by the principal; illegal in Minnesota.

Holdover Tenant

A tenant who remains in possession of leased property after the expiration of the lease term.

Home Equity Loan

In the most literal sense, this expression applies to virtually all loans (first mortgages and second mortgages, fixed and adjustable interest rates, credit lines and fully amortizing loans, etc.) placed on an owner occupied property when the loan-to-value after the Home Equity Loan closes is no higher than 100%. That is, it is a loan secured by the available equity of an owner occupied residential property.

Homeowner Association (HOA)

An organization of the homeowners in a particular subdivision, planned unit development, or condominium created to enforce deed restrictions and manage common elements of the development.

Homestead

Status provided to a homeowner's principal residence by some state statutes to protect the home against judgments up to specified amounts.

Homestead Exemption

In some jurisdictions a reduction in the assessed value allowed for one's personal residence.

Homestead Law

A state law that provides limited protection against creditors' claims for homestead property.

Housing and Urban Development (HUD)

A federal government agency established to implement certain federal housing and community development programs.

Housing Code

Local government ordinance that sets minimum standards of safety and sanitation for existing residential buildings.

Hypothecate

To make property security for an obligation without giving up possession of it (as opposed to pledging, which involves surrender of possession).

I

Implied

Not expressed in words, but understood from actions or circumstances. Compare: Express.

Impound Account
see Escrow Account.

Improvement
A man-made addition to real property.

Improvements
Additions to raw land such as buildings, streets, sewers, etc. that increase the value of the property.

Improvements, Misplaced
Improvements that do not fit the most profitable use of the site; they can be either over-improvements or under-improvements.

Income Approach to Value
One of the three main methods of appraisal, in which an estimate of the subject property's value is based on the net income it produces; also called the capitalization method or investor's method of appraisal.

Income Property
Property that generates rent or other income for the owner, such as an apartment building. In the federal income tax code, it is referred to as property held for the production of income.

Income Ratio
A standard used in qualifying a buyer for a loan, to determine whether he or she has sufficient income; the buyer's debts and proposed housing expense should not exceed a specified percentage of his or her income.

Income, Disposable
Income remaining after income taxes have been paid.

Income, Effective Gross
A measure of a rental property's capacity to generate income; calculated by subtracting a bad debt/vacancy factor from the economic rent (potential gross income).

Income, Net
The income that is capitalized to estimate the property's value; calculated by subtracting the property's operating expenses (fixed expenses, maintenance expenses, and reserves for replacement) from the effective gross income. (Note that debt service is not subtracted in calculating net income.)

Income, Potential Gross
A property's economic rent; the total income it could earn if it were available for lease in the current market, before making any deductions (for bad debts, vacancies, operating expenses, etc.).

Income, Residual
The amount of income that an applicant for a VA loan has left over after taxes, recurring obligations, and the proposed housing expense have been deducted from his or her gross monthly income.

Income, Spendable
The income that remains after deducting operating expenses, debt service, and income taxes from a property's gross income. Also called net spendable income or cash flow.

Incompetent

Not legally competent; not of sound mind.

Incorporeal Rights

Rights in real property that do not involve physical possession of anything, such as a dominant tenant's right to use the servient tenant's land an easement. An easement appurtenant is an incorporeal hereditament, because it is inheritable, but an easement in gross is merely an incorporeal right, because it is not inheritable.

Increasing and Decreasing Returns, Principle of

An appraisal principle which holds that a point is reached where additional investments (in the form of labor or capital) in a piece of property will not be justified by the resulting increase in net income. Also called the principle of contribution.

Increment

An increase in value; the opposite of decrement.

Indemnify

To protect another person against loss or damage.

Independent Contractor

A person who contracts to do a job for another, but retains control over how he or she will carry out the task, rather than following detailed instructions. Compare: Employee.

Index

The published cost of money that serves as the minimum basis for determining the interest rate for an adjustable rate mortgage. Among the commonly used indices are the Prime Rate (Prime), the London Interbank Offering Rate (LIBOR), the Cost of Funds (COF) and the 1 year Treasury Bill (1 year T). The particular index is generally, though not always, selected based on how often an interest rate is supposed to adjust. Loans that allow monthly interest rate adjustments commonly use the Prime Rate. L

Index, Tract

An index of recorded documents in which all documents that carry a particular legal description are grouped together.

Indexes, Grantor/Grantee

Indexes of recorded documents maintained by the recorder, with each document listed in alphabetical order according to the last name of the grantor (in the grantor index) and grantee (in the grantee index); the indexes list each document's recording number, so that the document can be located in the public record.

Ingress

A means of entering a property; the opposite of egress. The terms ingress and egress are most commonly used in reference to an access easement.

Initial Note Rate

The rate of interest that takes effect at the closing of a loan and which determines the monthly payment(s) for the early portion of the loan. The period of time during which this rate applies is often short and the rate may be lower than.

Injunction

A court order prohibiting someone from performing an act, or commanding performance of an act.

Innocent Improver

Someone who makes an improvement on land in the mistaken belief that he or she owns the land. Also called a good faith improver.

Installment Sale

1) When a seller accepts a mortgage for all or part of the sale, tax on the gain is paid as the mortgage principal is collected. 2) Under the federal income tax code, a sale in which less than 100% of the sales price is received in the year the sale takes place. 3) see Contract for Deed.

Instrument

A legal document, usually one that transfers title (such as a deed), creates a lien (such as a mortgage), or establishes a right to payment (such as a promissory note or contract).

Insurance, Hazard

Insurance against damage to real property caused by fire, flood, theft, or other mishap. Also called casualty insurance.

Insurance, Homeowner's

Insurance against damage to the real property and the homeowner's personal property.

Insurance, Mortgage

Insurance that protects a lender against losses resulting from the borrower's default. Also called mortgage default insurance.

Insurance, Mutual Mortgage

The mortgage insurance provided by the FHA to lenders who make loans through FHA programs.

Insurance, Private Mortgage (PMI)

Insurance provided by private companies to conventional lenders for loans with loan-to-value ratios over 80%.

Insurance, Title

Insurance that protects against losses resulting from undiscovered title defects. An owner's policy protects the buyer, while a mortgagee's policy protects the lien position of the buyer's lender.

Insurance, Title, Extended Coverage

Title insurance that covers problems that should be discovered by an inspection of the property (such as encroachments and adverse possession), in addition to the problems covered by standard coverage policies.

Insurance, Title, Standard Coverage

Title insurance that protects against latent title defects (such as forged deeds) and undiscovered recorded encumbrances, but does not protect against problems that would only be discovered by an inspection of the property.

Integration

In a property's life cycle, the earliest stage, when the property is being developed. Also called development.

Inter Vivos

During one's life.

Interest

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

Interest Only

Payments are made on the interest only. The principle balance remains the same. When the loan is paid off, the original principle balance is due.

Interest Rate

The percentage of the loan amount charged for borrowing money; i.e., the cost of the money expressed as a percentage.

Interest, Compound

Interest computed on both the principal and the interest that has accrued on the principal. Compare: Interest, Simple.

Interest, Future

An interest in property that will or may become possessor}' at some point in the future, such as a remainder or reversion.

Interest, Prepaid

Interest on a new loan that must be paid at the time of closing; covers the interest due for the first month of the loan term. Also called interim interest.

Interest, Simple

Interest that is computed on the principal amount of the loan only (which is the type of interest charged in connection with real estate loans). Compare: Interest, Compound

Interest, Undivided

A co-owner's interest, giving him or her the right to possession of the whole property, rather than to a particular section of it.

Interim Financing

A loan, including a construction loan, used when the property owner is unable or unwilling to arrange permanent financing.

Interpleader

A court action filed by someone who is holding funds that two or more people are claiming. The holder turns the funds over to the court, which resolves the dispute and delivers the money to the party entitled to it.

Intestate

Without a valid will.

Intestate Succession

Distribution of the property of a person who died intestate to his or her heirs.

Invalid

Not legally binding or legally effective; not valid.

Inventory

A detailed list of the stock-in-trade of a business.

Inverse Condemnation Action

A court action by a private landowner against the government, seeking compensation for damage to property as a result of government action.

Inverted Pyramid

A way of visualizing ownership of real property; in theory, a property owner owns all the earth, water, and air enclosed by a pyramid that has its tip at the center of the earth and extends up through the property boundaries out into the sky.

Investment Property

Unimproved property held as an investment in the expectation that it will appreciate in value.

J

Joint and Several Liability

A creditor can demand full repayment from any and all of those who have borrowed, each borrower is liable for the full debt, not just the prorated share.

Joint Tenancy

Ownership of real property by two or more persons, each of whom has an undivided interest. See also Tenancy in Common.

Joint Venture

An agreement between two or more persons who invest in a single business or property.

Judgment

1. A court's binding determination of the rights and duties of the parties in a lawsuit.
2. A court order requiring one party to pay the other damages.

Judgment Creditor

One who has received a court decree or judgment for money due from a debtor.

Judgment Debtor

A person who owes money as a result of a judgment in a lawsuit.

Judgment Lien

The claim upon the property of a debtor resulting from recording a judgment

Judgment, Default

A court judgment in favor of the plaintiff due to the defendant's failure to answer the complaint or appear at a hearing.

Judgment, Deficiency

A personal judgment entered against a borrower in favor of the lender if the proceeds from a foreclosure sale of the security property are not enough to pay off the debt.

Judicial Foreclosure

Having a defaulted debtor's property sold where the court ratifies the price paid.

Jumbo Loan

A loan larger than the maximum allowed by conforming loans. The threshold amount has traditionally been adjusted more or less on an annual basis and has been in the low \$200,000's. Banks and mortgage brokers can quote the current threshold. They are typically available at interest rates slightly higher than those of conforming loans and typically require the same underwriting standards as conforming loans. (See definition of "conforming loan" above).

Junior Mortgage

A mortgage whose claim against the property will be satisfied only after prior mortgages have been repaid.

Just Compensation

The compensation that the Constitution requires the government to pay a property owner when the property is taken under the power of eminent domain.

K

L

Laches, Doctrine of

A legal principle holding that the law will refuse to protect those who fail to assert their legal rights within the time period prescribed by the statute of limitations, or (if there is no applicable statute of limitations) within a reasonable time.

Land

In the legal sense, it is the solid part of the surface of the earth, everything affixed to it by nature or by man, and anything on it or in it, such as minerals and water; real property.

Land Contract

see Contract for Deed.

Land Lease

see Ground Lease.

Landlocked

Condition of a lot that has no access to public thoroughfare except through an adjacent lot.

Landlocked Property

A parcel of land without access to a road or highway.

Landlord

A landowner who has leased his or her property to another. Also called a lessor.

Landmark

A monument, natural or artificial, set up on the boundary between two adjacent properties, to show where the boundary is.

Latent Defects

Defects that are not visible or apparent (as opposed to patent defects).

Lawful Objective

An objective or purpose of a contract that does not violate the law or a judicial determination of public policy.

Lease

A transfer of a leasehold estate from the fee owner (the landlord or lessor) to a tenant (or lessee); a contract in which one party pays the other rent in exchange for the possession (and profits) of real estate. Sometimes called a rental agreement.

Lease

A contract in which, for a rent payment, the one entitled to the possession of the real property (lessor) transfers those rights to another (lessee) for a specified period of time.

Lease Option

A lease combined with an option agreement that gives the lessee (tenant) the right to purchase the property under specified conditions.

Lease Purchase

A lease combined with a purchase agreement that obligates the lessee (tenant) to purchase the property under specified conditions.

Lease, Escalator

A lease in which the tenant pays a fixed rent based on the landlord's estimate of annual operating expenses, with any excess expenses charged to the tenant at the end of the year.

Lease, Fixed

A lease in which the rent is set at a fixed amount, and the landlord pays most or all of the property's operating expenses. Also called a gross lease, flat lease, or straight lease.

Lease, Graduated

A lease in which it is agreed that the rental payments will increase at certain intervals by a specified amount or according to a specified formula. Also called a step-up lease.

Lease, Index

A type of graduated lease in which the periodic rent increases are tied to increases in the consumer price index, or some other economic indicator.

Lease, Land

A lease of the land only, usually for a long term, to a tenant who intends to construct a building on the property. Also called a ground lease.

Lease, Net

A lease requiring the tenant to pay the property's operating expenses (such as taxes, insurance, maintenance, and repairs), in addition to the rent paid to the landlord.

Lease, Percentage

A lease in which the rent is based on a percentage of the tenant's monthly or annual gross sales.

Lease, Sandwich

A leasehold interest lying between the property owner's interest and the interest of the tenant in possession; for example, when a tenant subleases the property to a subtenant, the original tenant's interest is sandwiched between the interest of the landlord and that of the subtenant.

Leased Fee Estate

The estate held by the lessor.

Leasehold

The interest or estate on which a lessee (tenant) of real estate has a lease.

Leasehold Estate

Created by a lease, the owner gives the tenant an exclusive right of possession.

Legacy

A gift of personal property by will. Also called a bequest.

Legal Description

A precise description of a parcel of real property; the three main types of legal descriptions are metes and bounds, rectangular survey, and recorded plat.

Lender, Institutional

A bank, savings and loan, or similar financial institution that invests other people's funds in loans; as opposed to an individual or private lender, which invests its own funds.

Lessee

One who leases property from another; a tenant.

Lessor

One who leases property to another; a landlord.

Let

To rent a property to a tenant.

Letter of Intent

Written expression of desire to enter into a contract without actually doing so.

Leverage

The effective use of borrowed money to finance an investment such as real estate.

Levy

To impose a tax.

Liability

1. A debt or obligation.
2. Legal responsibility.

Liability, Joint and Several

A form of liability in which two or more persons are responsible for a debt both individually and as a group.

Liability, Limited

A situation in which a business investor is not personally liable for all of the debts of the business, as in the case of a limited partner or a corporate stockholder.

Liable

Legally responsible

License

1. Official permission to do a particular thing that the law does not allow everyone to do.
2. Revocable, nonassignable permission to use another person's land for a particular purpose. Compare: Easement.

Lien

A claim on a property of another as security for money owed. Examples of types of liens would include judgments, mechanic's liens, mortgages and unpaid taxes.

Lien Notice

A written notice from a contractor or subcontractor informing a property owner that a lien could be enforced against the property if bills for construction labor or materials are not paid.

Lien Priority

The order in which liens are paid off out of the proceeds of a foreclosure sale.

Lien Theory

The theory holding that a mortgage does not involve a transfer of title to the lender, but merely creates a lien against the property in the lender's favor. Compare: Title Theory.

Lien, Attachment

A lien intended to prevent transfer of the property pending the outcome of litigation.

Lien, Construction

A lien on property in favor of someone who provided labor or materials to improve it. Also called a mechanic's lien or materialman's lien.

Lien, Equitable

A lien arising as a matter of fairness, rather than by agreement or by operation of law.

Lien, General

A lien against all the property of a debtor, rather than a particular piece of his or her property. Compare: Lien, Specific.

Lien, Involuntary

A lien that arises by operation of law, without the consent of the property owner. Also called a statutory lien.

Lien, Judgment

A general lien against a judgment debtor's property, which enables the judgment creditor to force the sale of the property and collect the judgment from the proceeds if the judgment debtor does not pay.

Lien, Mechanic's

A lien on property in favor of someone who provided labor or materials to improve it. Also called a construction lien or statutory lien.

Lien, Property Tax

A specific lien on property to secure payment of general real estate taxes.

Lien, Specific

A lien that attaches only to a particular piece of property (as opposed to a general lien, which attaches to all of the debtor's property).

Lien, Tax

A lien on property to secure the payment of taxes.

Lien, Voluntary

Alien placed against property with the consent of the owner; a mortgage.

Lienholder, Junior

A secured creditor whose lien is lower in priority than another's lien.

Life Estate

A freehold estate that lasts only as long as a specified person lives. That person is referred to as the measuring life. Also called an estate for life.

Life Tenant

One who is allowed to use property for life or the lifetime of another designated person.

Lifetime Cap

The highest amount over the initial interest rate that an adjustable mortgage can be raised. Lifetime caps are typically in the range of 5.0% - 7.0%. If the initial interest rate is 5.25% and the lifetime cap is 6.0%, the highest interest rate a borrower could pay during the course of the loan would be 11.25% (5.25% + 6.0%).

Like-Kind Property

Property having the same nature.

Limited Broker

A property owner who is licensed to participate as a seller in five or more real estate transactions per year without being represented by another broker, but is not allowed to represent others in real estate transactions.

Limited Liability Company (LLC)

A form of business organization that combines certain characteristics of corporations and partnerships; the managing members are not personally liable for the company's obligations.

Limited Partnership

One in which there is at least one partner who is passive and limits liability to the amount invested and at least one partner whose liability extends beyond monetary investment.

Lineal

Relating to a line; having only length, without depth. A lineal mile is 5,280 feet in distance.

Liquidated Damages

An amount agreed upon in a contract that one party will pay the other in the event of a breach of contract.

Liquidity

Ease of converting assets to cash.

Lis Pendens

Latin for "suit pending", recorded notice of the filing of a lawsuit, the outcome of which may affect title to real property.

Listing

Written agreement between a principal and an agent authorizing the agent to perform services for the principal involving the principal's property.

Listing

A written agency contract between a seller and a real estate broker which provides that the broker will be paid a commission for finding (or attempting to find) a buyer for the seller's property. Also called a listing agreement.

Listing, Exclusive

Either an exclusive agency listing or an exclusive right to sell listing.

Listing, Exclusive Agency

A listing agreement that entitles the broker to a commission if anyone other than the seller finds a buyer for the property during the listing term.

Listing, Exclusive Right to Sell

A listing agreement that entitles the broker to a commission if anyone#including the seller#finds a buyer for the property during the listing term.

Listing, Net

A listing agreement in which the seller sets a net amount he or she is willing to accept for the property; if the actual selling price exceeds that amount, the broker is entitled to keep the excess as his or her commission.

Listing, Open

A nonexclusive listing, given by a seller to as many brokers as he or she chooses. If the property is sold, a broker is only entitled to a commission if he or she was the procuring cause of the sale.

Littoral Land

Land that borders on a stationary body of water (such as a lake, as opposed to a river or stream).

Compare: Riparian Land.

Littoral Rights

The water rights of an owner of littoral land, in regard to use of the water in the lake.

LLC

Limited liability company.

Loan Application (1003)

A loan application that is required for conforming loans. It has become the standard application for most residential loans, even non-conforming loans.

Loan Broker

A licensed real estate agent who negotiates loans between borrowers and lenders.

Loan Correspondent

An intermediary who arranges loans of an investor's money to borrowers, and then services the loans.

Loan Fee

A loan origination fee or assumption fee. See: Origination Fee; Assumption Fee.

Loan Package

The organized group of documents that contains all of the information required to obtain an underwriting decision of loan approval or loan denial. Depending on the type of loan and the particular lender, a package may contain some or all of the following as well as other documents: loan application, statement of use of funds, statement of net worth, P & L statements, tax returns, pay stubs, statements from various types of banking and investment accounts, property appraisal, letters of explanation.

Loan, Amortized

A loan that requires regular installment payments of both principal and interest (as opposed to interest-only payments). It is fully amortized if the installment payments will pay off the full amount of the principal and all of the interest by the end of the repayment period. It is partially amortized if the installment payments will cover only part of the principal, so that a balloon payment of the remaining principal balance is required at the end of the repayment period.

Loan, Conforming

A loan made in accordance with the standardized underwriting criteria of the major secondary market agencies, Fannie Mae and Freddie Mac, and which therefore can be sold to those agencies.

Loan, Construction

A loan to finance the cost of constructing a building, usually providing that the loan funds will be advanced in installments as the work progresses. Also called an interim loan.

Loan, Conventional

An institutional loan that is not insured or guaranteed by a government agency.

Loan, FHA

A loan made by an institutional lender and insured by the Federal Housing Administration, so that the FHA will reimburse the lender for losses that result if the borrower defaults.

Loan, Fixed-Rate

A loan on which the interest rate will remain the same throughout the entire loan term. Compare: Mortgage, Adjustable-Rate.

Loan, Guaranteed

A loan in which a third party has agreed to reimburse the lender for losses that result if the borrower defaults.

Loan, Interest-Only

A loan that requires the borrower to pay only the interest during the loan term, so that the entire amount borrowed (the principal) is due at the end of the term.

Loan, Participation

A loan from which the lender receives some yield in addition to the interest, such as a percentage of the income generated by the property, or a share in the borrower's equity in the property.

Loan, Seasoned

A loan with an established record of timely payment by the borrower.

Loan, Take-Out

Long-term financing used to replace a construction loan (an interim loan) when construction has been completed. Also called a permanent loan.

Loan, VA-Guaranteed

A home loan made by an institutional lender to an eligible veteran, where the Veterans Administration will reimburse the lender for losses if the veteran borrower defaults.

Loan-to-Value (LTV)

The ratio of the size of the loan to the value of the property. If the loan is \$80,000 and the value of the property is \$100,000 the LTV is 80% ($\$80,000 / \$100,000$).

Lock-in Clause

A clause in a promissory note or contract for deed that prohibits prepayment before a specified date, or prohibits it altogether.

Lot

A parcel of land; especially, a parcel in a subdivision.

Lot and Block Description

The type of legal description used for platted property; it states the property's lot number and block number and the name of the subdivision, referring to the plat map recorded in the county where the property is located. Sometimes called a maps and plats or lot, block, and subdivision description.

Lot Line

A line bounding a lot as described in a property survey.

Love and Affection

The consideration often listed on a deed when real estate is conveyed between family members with no money exchanged. The law recognizes love and affection as good consideration (as distinguished from valuable consideration, which is money, goods, or services).

LTV

Loan-to-value ratio.

M

Majority, Age of

The age at which a person becomes legally competent; generally, 18 years old. Compare: Minor.

Maker

The person who signs a promissory note, promising to repay a debt. Compare: Payee.

Management Agreement

A contract between the owner of property and someone who agrees to manage it.

Manufactured Home

A structure that is transportable, is not affixed to real estate, is built on a permanent chassis, and is designed to be used as a dwelling with or without a permanent foundation.

MAR

Minnesota Association of Realtors®.

Margin

A constant (fixed) amount over an index that determines a lender's yield on an adjustable rate loan. The interest rate of an adjustable rate loan is determined by adding a margin to an index. The size of the margin is typically a function of the index used and the credit worthiness of the borrower. Typical margins on a Prime Rate based loan would be 0.0 to 5.0 so that if the Prime Rate were 8.25% and the margin were 2.0 (typical for an "average" borrower), the interest rate would be 10.25% (8.25

Marginal Land

Land that is of little economic value and barely repays the cost of working it.

Market Data Approach

One of the three main methods of appraisal, in which the sales prices of comparable properties are used to estimate the value of the subject property. Also called the sales comparison approach.

Market Price

1. The current price generally being charged for something in the marketplace.
2. The price actually paid for a property. Compare: Value, Market.

Market-Oriented Industry

An industry that requires appropriate transportation facilities for delivery of raw materials and distribution of the finished product.

Marketable Title

A title free from defect.

Master Development Plan

A comprehensive, long-term plan of development for a community, which is implemented by zoning and other laws. Also called a comprehensive plan or a general plan.

Master Lease

A controlling lease.

Master/Servant Relationship

A legal term for a standard employer/employee relationship.

Material Fact

An important fact; one that is likely to influence a decision.

Maturity Date

The date by which a loan is supposed to be paid off in full.

Mechanic's Lien

A lien given by law upon a building or other improvement upon land as security for the payment of labor and materials furnished for improvement.

Megalopolis

An extensive, heavily populated, continuously urban area, including any number of cities.

Merger

1. Uniting two or more separate properties by transferring ownership of all of them to one person.
2. Acquisition by the owner of one parcel of title to one or more adjacent parcels.

Meridian

An imaginary line running north and south, passing through the earth's poles. Also called a longitude line.

Meridian, Principal

In the rectangular survey system, the main north-south line in a particular grid, used as the starting point in numbering the ranges.

Meridians, Guide

In the rectangular survey system, lines running north-south (parallel to the principal meridian) at 24-mile intervals.

Metes

Measurements

Metes and Bounds Description

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

Mill

One-tenth of one cent; a measure used to state property tax rates in some cases. For example, a tax rate of one mill on the dollar is the same as a rate of one-tenth of one percent of the assessed value of the property.

Mineral Rights

Rights to the minerals located beneath the surface of a piece of property.

Minimum Property Requirements (MPRs)

A lender's requirements concerning the physical condition of a building, which must be met before a loan can be approved.

Minor

A person who has not yet reached the age of majority; generally, a person under 18.

MIP

Mortgage insurance premium; especially a premium charged in connection with an FHA-insured loan.

Misrepresentation

A false or misleading statement. See Fraud.

MLS

Multiple Listing Service.

Monument

A visible marker (natural or artificial) used in a survey or a metes and bounds description to establish the boundaries of a piece of property.

Mortgage

The instrument securing a note to a piece of property. A note is simply a promise to pay. A mortgage secures that promise, using real estate as the collateral. When someone mortgages their property, they are conveying an interest in their property as security for payment of a debt. (See also "First Mortgage" and "Second Mortgage".).

Mortgage (Open-End)

A mortgage that allows additional money to be borrowed (up to the original loan amount) without refinancing the loan or paying additional financing charges.

Mortgage Balance

see Principal Balance.

Mortgage Banker

An intermediary who originates and services real estate loans on behalf of investors.

Mortgage Broker

An intermediary who brings real estate lenders and borrowers together and negotiates loan agreements between them.

Mortgage Company

A type of real estate lender that originates and services loans on behalf of large investors (acting as a mortgage banker) or for resale on the secondary mortgage market.

Mortgage Insurance Premium (MIP)

The payment made by a borrower of FHA insured mortgages to provide a reserve that protects lenders against losses from very high loan-to-value loans.

Mortgage Loan

A loan, which is secured by a mortgage lien filed against real property.

Mortgage, Adjustable-Rate (ARM)

A loan in which the interest rate is periodically increased or decreased to reflect changes in the cost of money. Compare: Loan, Fixed-Rate.

Mortgage, Balloon

A partially amortized mortgage loan that requires a large balloon payment at the end of the loan term.

Mortgage, Blanket

A mortgage that covers more than one parcel of property.

Mortgage, Budget

A loan in which the monthly payments include a share of the property taxes and insurance, in addition to principal and interest; the lender places the money for taxes and insurance in an escrow account.

Mortgage, Chattel

An instrument that makes personal property (chattels) security for a loan. In states that have adopted the Uniform Commercial Code, the chattel mortgage has been replaced by the security agreement.

Mortgage, Closed

A loan that cannot be paid off early. See also: Lock-in Clause.

Mortgage, Closed End

A loan that does not allow the borrower to increase the balance owed; the opposite of an open-end mortgage.

Mortgage, Direct Reduction

A loan that requires a fixed amount of principal to be paid in each payment; the total payment becomes steadily smaller, because the interest portion becomes smaller with each payment as the principal balance decreases.

Mortgage, First

The mortgage on a property that has first lien position; the one with higher lien priority than any other mortgage against the property.

Mortgage, Graduated Payment (GPM)

A loan that provides for lower payments in the first years of its term; the payments increase in steps, then level off, typically after three to seven years.

Mortgage, Hard Money

A mortgage given to a lender in exchange for cash, as opposed to one given in exchange for credit.

Mortgage, Junior

A mortgage that has lower lien priority than another mortgage against the same property. Sometimes called a secondary mortgage.

Mortgage, Level Payment

An amortized loan with payments that are the same amount each month, although the portion of the payment that is applied to principal steadily increases and the portion of the payment applied to interest steadily decreases. See: Loan, Amortized.

Mortgage, Open-End

A loan that permits the borrower to reborrow the money he or she has repaid on the principal, usually up to the original loan amount, without executing a new loan agreement.

Mortgage, Package

A mortgage used in home financing that is secured by certain items of personal property (such as appliances or carpeting) in addition to the real property.

Mortgage, Purchase Money

1. When a seller extends credit to a buyer to finance the purchase of the property, accepting a mortgage instead of cash. Sometimes called a carryback loan.
2. In a more general sense, any loan the borrower uses to buy the security property (as opposed to a loan secured by property the borrower already owns).

Mortgage, Satisfaction of

The document a mortgagee gives the mortgagor when the mortgage debt has been paid in full, acknowledging that the debt has been paid and the mortgage is no longer a lien against the property; should always be recorded.

Mortgage, Senior

A mortgage that has higher lien priority than another mortgage against the same property; the opposite of junior mortgage.

Mortgage, Wraparound

A purchase money loan arrangement in which the seller uses part of the buyer's payments to make the payments on an existing loan (called the underlying loan); the buyer takes title subject to the underlying loan, but does not assume it.

Mortgagee

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

Mortgagor

A property owner (usually a borrower) who gives a mortgage to another (usually a lender) as security for payment of an obligation.

Multiple Listing Service (MLS)

An organization of brokers who share their exclusive listings.

Mutual Agreement

When all parties freely agree to the terms of a contract, without fraud, undue influence, duress, menace, or mistake. Mutual consent is achieved through offer and acceptance; it is sometimes referred to as a "meeting of the minds." Also called mutuality.

N

NAR

National Association of Realtors®.

Narrative Report

A thorough appraisal report in which the appraiser summarizes the data and the appraisal methods used, to convince the reader of the soundness of the estimate; a more comprehensive presentation than a form report or an opinion letter.

Natural Person

A human being, an individual (as opposed to an artificial person, such as a corporation).

Natural Servitude, Doctrine of

A legal principle which holds that a property owner is liable for any damage caused by diverting or channeling flood waters from his or her property onto someone else's.

Navigable Waters

A body of water large enough so that watercraft can travel on it in the course of commerce.

Negligence

Failure to exercise reasonable care; conduct that falls below the standard of care that a reasonable person would exercise under the circumstances.

Negotiable Instrument

An instrument containing an unconditional promise to pay a certain sum of money to order or to bearer, on demand or at a particular time. It can be a check, promissory note, bond, draft, or stock. See: Note, Promissory.

NEPA

National Environmental Policy Act.

Net Operating Income (NOI)

From income producing property, the gross income minus the total of all expenses except for debt service. Cash flow is defined as NOI minus the total of all debt service payments.

Net Proceeds

The amount of money a property seller will receive from the sale after all selling costs have been paid.

Net Worth

An individual's personal financial assets, minus his or her personal liabilities.

No Income Verification Loan (NIV)

A type of loan generally limited to the self-employed that is underwritten based on the borrower's written representation of their annual income as stated on the loan application. No tax returns, operating statements or other verification of the income is required. Debt ratios are computed based on the stated income. The primary intent of these programs is to allow owners of small businesses to use their actual cash flows rather than the net incomes normally reported in tax filings. Higher inter

Nominal Interest Rate

The interest rate stated in a promissory note. Also called the note rate or coupon rate. Compare: Annual Percentage Rate.

Non-conforming Loan

A loan not meeting the underwriting requirements of Fannie Mae and Freddie Mac. I.e., the vast majority of loans.

Non-Qualifying

Buyer is not required to qualify through traditional bank financing requirements.

Non-agency

An arrangement in which a real estate licensee acts as a facilitator or go-between for a seller and a buyer, without establishing an agency relationship with either party. Compare: Facilitator.

Nonconforming Use

A property use that does not conform to current zoning requirements, but is allowed because the property was being used in that way before the present zoning ordinance was enacted.

Nonpossessory Interest

An interest in property that does not include the right to possess and occupy the property; an encumbrance, such as a lien or an easement.

Notarize

To have a document certified by a notary public.

Notary Public

Someone who is officially authorized to witness and certify the acknowledgment made by someone signing a legal document.

Note

A written promise to repay a certain sum of money on specified terms.

Note Broker

An individual who acts as an intermediary between a holder of an existing note and a prospective purchaser of the note.

Note, Demand

A promissory note that is due whenever the holder of the note demands payment.

Note, Installment

A promissory note that calls for regular payments of principal and interest until the debt is fully paid.

Note, Joint

A promissory note signed by two or more persons with equal liability for payment.

Note, Promissory

A written promise to repay a debt; it may or may not be a negotiable instrument.

Note, Straight

A promissory note that calls for regular payments of interest only, so that the entire principal amount is due in one lump sum at the end of the loan term.

Notice of Default

A notice sent by a secured creditor to the debtor, informing the debtor that he or she has breached the loan agreement.

Notice of Non-responsibility

A notice that a property owner may record and post on the property to protect his or her title against mechanics' liens, when someone other than the owner (such as a tenant) has ordered work on the property.

Notice of Sale

A notice stating that foreclosure proceedings have been commenced against a property.

Notice to Quit

A notice to a tenant, demanding that he or she vacate the leased property.

Notice, Actual

Actual knowledge of a fact, as opposed to knowledge imputed by law (constructive notice).

Notice, Constructive

Knowledge of a fact imputed to a person by law. A person is held to have constructive notice of something when he or she should have known it (because he or she could have learned it through reasonable diligence or an inspection of the public record), even if he or she did not actually know it.

Novation

1. The withdrawal of one party to a contract and the substitution of a new party, relieving the withdrawing party of liability.
2. The substitution of a new obligation for an old one.

Nuisance

A use of property that is offensive or annoying to neighboring landowners or to the community.

O

Obligatory Advances

Disbursements of construction loan funds that the lender is obligated to make (by prior agreement with the borrower) when the borrower has completed certain phases of construction.

Obsolescence

Any loss in value (depreciation) due to reduced desirability and usefulness.

Obsolescence, Functional

Loss in value due to inadequate or outmoded equipment, or as a result of a poor or outmoded design.

Off-Site Improvements

Improvements that add to the usefulness of a site but are not located directly on it, such as curbs, street lights, and sidewalks.

Offer

The action of one person (the offerer) in proposing a contract to another (the offeree); if the offeree accepts the offer, a binding contract is formed.

Offer, Illusory

An offer that is not a valid contract offer, because it requires something more than simple acceptance in order to create a contract.

Offeree

One to whom a contract offer is made.

Offerer

One who makes a contract offer.

Officer

In a corporation, an executive authorized by the board of directors to manage the business of the corporation.

Option

A right given for a consideration to purchase or lease a property upon specific terms within a specific time; if the right is not exercised, the option holder is not subject to liability for damages; if exercised, the grantor of the option must perform.

Option

A contract giving one party the right to do something, without obligating him or her to do it.

Option to Purchase

An option giving the optionee the right to buy property owned by the optionor at an agreed price during a specified period.

Optionee

The person to whom an option is given.

Optionor

The person who gives an option.

Ordinance

A law passed by a local legislative body, such as a city council.

Orientation

The placement of a house on its lot, with regard to its exposure to the sun and wind, privacy from the street, and protection from outside noise.

Origination Fee

A fee a lender charges a borrower upon making a new loan, intended to cover the administrative costs of making the loan.

Originator

An individual who works with a borrower to start a loan. Usually an employee of a financial institution, an employee of a broker or an independent contractor affiliated with several brokers, the originator determines the type of loan a borrower probably qualifies for, helps complete an accurate application, gathers documents necessary to get an approval and acts as an intermediary between the borrower and the underwriter.

Outlawed

Barred by the statute of limitations.

Over-improvement

An improvement that is more expensive than justified by the value of the land.

Override (Broker Protection) Clause

A clause in a listing agreement providing that for a specified period after the listing expires, the broker will still be entitled to a commission if the property is sold to someone the broker dealt with during the listing term. Also called a carryover clause, extender clause, or safety clause.

Owner's Policy

Protects the purchaser and the purchaser's heirs for as long as they have an interest in the property.

Ownership

Title to property, dominion over property; the rights of possession and control.

Ownership in Severally

Ownership by one individual or entity; sole ownership.

Ownership, Concurrent

Shared ownership of one piece of property by two or more individuals, each owning an undivided interest in the property (as in a tenancy in common or joint tenancy). Also called multiple ownership, co-ownership, or co-tenancy.

P

Par

1. The accepted standard of comparison; the average or typical rate or amount.
2. Face value; for example, a mortgage sold at the secondary market level for 97% of par has been sold for 3% less than its face value.

Parallels

Imaginary lines running east and west, parallel to the equator. Also called latitude lines.

Parcel

A lot or piece of real estate, especially a specified part of a larger tract.

Partial Performance

When one party to a contract has not completely accomplished all of the terms of the agreement, but the other party agrees to accept the incomplete performance and consider the contract discharged.

Partial Satisfaction

The instrument given to the borrower when part of the security property is released from a blanket mortgage under a partial release clause.

Partition

The division of a property among its co-owners, so that each owns part of it in severally; this may occur by agreement of all the co-owners (voluntary partition), or by court order (judicial partition).

Partner, General

A partner who has the authority to manage and contract for a general or limited partnership, and who is personally liable for the partnership's debts.

Partner, Limited

A partner in a limited partnership who is primarily an investor and does not participate in the management of the business, and who is not personally liable for the partnership's debts.

Partnership

An association of two or more persons to carry on a business for profit. The law generally regards a partnership as a group of individuals, not as an entity separate from its owners. Compare: Corporation.

Partnership Property

All property that partners bring into their business at the outset or later acquire for their business.

Partnership, General

A partnership in which each member has a right to manage the business and share in the profits, as well as responsibility for the partnership's debts. All of the partners are general partners.

Partnership, Limited

A partnership made up of one or more general partners and one or more limited partners.

Party Wall

A wall located on the boundary line between two adjoining parcels of land that is used or intended to be used by the owners of both properties.

Patent

The instrument used to convey government land to a private individual.

Payee

In a promissory note, the party who is entitled to be paid; the creditor or lender. Compare: Maker.

Pending Special Assessment

An assessment that has been approved but not yet levied.

Per Annum

Per year; usually refers to an annual rate of expense.

Per Diem

Per day; usually refers to the daily rate of an expense, or to a daily stipend paid.

Percolation Test

A test to determine the ability of the ground to absorb or drain water; used to determine whether a site is suitable for construction, particularly for installation of a septic tank system.

Personal Property

Any property that is not real property; movable property not affixed to land. Also called chattels or personalty.

Personal Use Property

Property that a taxpayer owns for his or her own use (or family use), as opposed to income property, investment property, dealer property, or property used in a trade or business.

Personalty

see Personal property

Physical Deterioration

Loss in value (depreciation) resulting from wear and tear or deferred maintenance.

Physical Life

An estimate of the time a building will remain structurally sound and capable of being used. Compare: Economic Life.

PITI

The shorthand way of stating the most usual elements of a residential mortgage payment, which may consist not only of the Principal and Interest (PI) but the property taxes (T) and hazard insurance (I) as well. In the case where all four elements are part of the payment, the lender escrows the T and I and pays them on behalf of the borrower when they come due. Some loans are written such that the payment to the lender consists only of the P and I in which case the borrower pays the taxes and ins

Plaintiff

The party who brings or starts a civil lawsuit; the one who sues.

Planned Unit Development (PUD)

A development (usually residential) with small, clustered lots designed to leave more open space than traditional subdivisions have.

Planning Commission

A local government agency responsible for preparing the community's master development plan.

Plat

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

Plat Book

A large book containing subdivision plats, kept at the county recorder's office.

Pledge

The transfer of possession of property by a debtor to the creditor as security for repayment of the debt. Compare: Hypothecate.

Plot Plan

A plan showing lot dimensions and the layout of improvements (such as buildings and landscaping) on a property site.

Plottage

The increment of value that results when two or more lots are combined to produce greater value. Also called the plottage increment.

Point

One percent of the principal amount of a loan. See: Discount points.

Point of Beginning (POB)

The starting point in a metes and bounds description; a monument or a point described by reference to a monument.

Points

Discount charges imposed by the lenders to buy down the interest rate of a new mortgage. One(1) point equals 1% of the loan amount. (Example: \$100,000 loan; 1 point (1%) = \$1,000).

Police Power

The constitutional power of the state government (delegated to local governments) to enact and enforce laws for the protection of the public's health, safety, morals, and general welfare.

Portfolio Loan

A non-conforming loan that is held by the original lender rather than being sold on the secondary market.

Possession

1. The holding and enjoyment of property.
2. Actual physical occupation of real property.

Possessory Interest

An interest in property that includes the right to possess and occupy the property. The term includes all estates (leasehold as well as freehold), but does not include encumbrances.

Potable Water

Water that is safe to drink.

Power of Attorney

An instrument authorizing one person (the attorney in fact) to act as another's agent, to the extent stated in the instrument.

Power of Sale Clause

A clause in a mortgage giving the lender the right to foreclose nonjudicially (sell the security property without a court action) if the borrower defaults.

Prepayment

Paying off part or all of a loan before payment is due.

Prepayment Penalty

A penalty charged to a borrower who prepays.

Prepayment Privilege

A borrower's right to pay off a loan before it is due, in the absence of a prepayment penalty provision.

Prescription

Acquiring an interest in real property (usually an easement) by using it openly and without the owner's permission for the period prescribed by statute.

Prescriptive Easement

Rights to a property acquired by someone claiming continuous use.

Prima Facie

At first sight; on the face of it.

Primary Mortgage Market

The market in which mortgage loans are originated, where lenders make loans to borrowers. Also called the local market. Compare: Secondary Mortgage Market.

Prime Rate

The interest rate a bank charges its largest and most desirable customers.

Principal

1. One who grants another person (an agent) authority to represent him or her in dealings with third parties.
2. One of the parties to a transaction (such as a buyer or seller), as opposed to those who are involved as agents or employees (such as a broker or escrow agent).
3. In regard to a loan, the amount originally borrowed, as opposed to the interest.

Principal Balance

Outstanding dollar amount owed on a loan exclusive of accrued interest.

Principal Residence Property

Real property that is the owner's home, his or her main dwelling. Under the federal income tax laws, a person can only have one principal residence at a time.

Principal, Interest, Taxes, Insurance (PITI)

Monthly payments required by an amortizing loan that includes escrow deposits for taxes and insurance in addition to the principal and interest

Private Mortgage Insurance (PMI)

Insurance premium paid by a borrower to protect lenders against losses from loans with loan-to-value ratios higher than 80%, default insurance for lenders.

Private Restrictions

Restrictions on the use of land that are contained in deeds or contracts; as opposed to public restrictions, which are imposed by zoning laws and other government regulations.

Privity

A legal relationship between people who have simultaneous or successive interests in a property. For example, the dominant and servient tenants in an easement agreement are in privity to one another; so are the seller and the buyer of a property.

Probate

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

Probate Court

A court that oversees the distribution of property under a will or intestate succession.

Procuring Cause

The real estate agent who is primarily responsible for bringing about a sale; for example, by negotiating the agreement between the buyer and seller. The agent who produces a buyer ready, willing, and able to buy the property on the seller's terms.

Profit

A nonpossessory interest; the right to enter another person's land and take something (such as timber or minerals) away from it.

Progression, Principle of

An appraisal principle which holds that a property of lesser value tends to be worth more when it is located in an area with properties of greater value than it would be if located elsewhere. The opposite is the principle of regression.

Promisee

Someone who has been promised something; someone who is supposed to receive the benefit of a contractual promise.

Promisor

Someone who has made a contractual promise to another.

Promissory Note

Promise to pay a specified sum to a specified person under specified terms.

Property

1. The rights of ownership in a thing, such as the right to use, possess, transfer, or encumber it.
2. Something that is owned.

Property Management Agreement

An employment contract between an income producing property owner and a real estate broker, appointing the broker as the owner's general agent for the purpose of leasing and managing the property.

Property Manager

A person hired by a property owner to administer, market, and maintain property, especially rental property.

Property Used in a Trade or Business

Property such as business sites and factories that are used in a taxpayer's trade or business.

Proprietary Lease

In a cooperative, the right of a shareholder/resident to occupy a particular unit.

Proprietorship, Individual or Sole

A business owned and operated by one person.

Proration

The process of dividing or allocating something (especially a sum of money or an expense) proportionately, according to time, interest, or benefit.

Public Record

The official collection of legal documents that individuals have filed with the county recorder in order to make the information contained in them public.

Puffing

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

Purchase Agreement

A contract in which a seller promises to convey title to real property to a buyer in exchange for the purchase price. Also called a purchase and sale agreement, deposit receipt, earnest money agreement, sales contract, or contract of sale.

Purchase Money Mortgage

A mortgage received by an owner of real property from a new buyer. Similar to a Contract For Deed, except that the Deed is transferred and the owner is selling the property, and taking back a mortgage rather than having the buyer go down to the bank and get a new mortgage to pay off the seller.

Purchase Subject to Mortgage

A purchase in which a buyer agrees to make the monthly mortgage payments on an existing mortgage and the original borrower remains liable if the purchaser fails to make the payments as agreed.

Purchaser's Assignment of Contract and Deed

The instrument used to assign the vendee's equitable interest in a contract to another. Compare: Assignment of Contract and Deed.

Q

Qualifying Standards

The standards a lender requires a loan applicant to meet before a loan will be approved. Also called underwriting standards.

Quantity Survey Method

In appraisal, a method of estimating the replacement cost of a structure; it involves a detailed estimate of the quantities and cost of materials and labor, and overhead expenses such as insurance and contractor's profit.

Quiet Enjoyment

Right of an owner or any other person legally entitled to possession to the use of the property without interference.

Quiet Title Action

A lawsuit to determine who has title to a piece of property, or to remove a cloud from the title.

Quitclaim Deed

A deed that conveys simply the grantor's rights or interest, if any, in real property; without stating the nature of the rights or interest and with no warranties of ownership. This is generally considered inadequate except when interests are being passed from one spouse to the other.

R

Range

In the rectangular survey system, a strip of land six miles wide, running north and south.

Range Lines

In the rectangular survey system, the north-south lines (meridians) located six miles apart.

Ratify

To confirm or approve after the fact an act that was not authorized when it was performed.

Real Estate

Land and everything attached to or appurtenant to it, including the improvements on the land and the rights that go with ownership of the land. Also called realty or real property. Compare: Personal Property.

Real Estate Contract

1. A purchase agreement.
2. A contract for deed.
3. Any contract having to do with real property.

Real Estate Education, Research and Recovery Fund

A fund made up of fees paid by real estate licensees and administered by the Commissioner of Commerce, which is used for education of the public and licensees, research concerning the real estate industry, and other related purposes. The recovery portion of the fund is used to satisfy unpaid claims against licensees.

Real Estate Investment Trust (REIT)

An unincorporated real estate investment business with at least 100 investors, organized as a trust, which is allowed to pass profits through to investors without paying corporate income taxes; the investors have limited liability.

Real Estate Law

A Minnesota statute (and related regulations) that governs the licensing and business practices of real estate agents. Often called the license law.

Real Estate Owned (REO)

Property acquired through a lender through foreclosure and held in inventory.

Real Property

Land and everything attached to or appurtenant to it, including the improvements on the land and the rights that go with ownership of the land. Also called realty or real estate. Compare: Personal Property.

Real Property

Land and generally whatever is erected upon or affixed thereto.

Realtor®

A real estate agent who is an active member of a state and local real estate board that is affiliated with the National Association of Realtors®.

Realtor®

Designation given to licensed real estate agents who are members of the National Association of Realtors.

Reasonable Use Doctrine

A limitation of water rights, holding that there is no right to waste water.

Recapture

Recovery by the investor of money invested in real estate.

Recapture Clause

1. A provision in a percentage lease that allows the landlord to terminate the lease and regain the premises if a certain minimum volume of business is not maintained.
2. A provision in a ground lease that allows the tenant to purchase the property after a specified period of time.

Receiver

A person appointed by a court to manage and look after property or funds involved in litigation.

Rescission Period

A federally mandated period of three business days (beginning on the day after a loan closes) during which the borrower may cancel the new loan, waiting period only applies to loans which are to be secured by a mortgage on a personal residence for which the borrower is in title at the time of loan origination, right to cancel does not apply to loans used for the purchase of property.

Reconciliation

The final step in an appraisal, when the appraiser assembles and interprets the data in order to arrive at a final value estimate. Also called correlation.

Reconveyance

In states where deeds of trust are used, releasing the security property from the lien created by a deed of trust by recording a deed of reconveyance (the equivalent of a satisfaction of mortgage).

Recording

Filing a document at the county recorder's office, so that it will be placed in the public record and give constructive notice.

Recording Numbers

The numbers stamped on documents when they are recorded, used to identify and locate the documents in the public record.

Recourse

Ability of lender to make claims against borrower personally in addition to the collateral.

Rectangular Survey System

A system of grids made up of range and township lines that divide the land into townships, which are further subdivided into sections; a particular property is identified by its location within a particular section, township, and range. Also called the government survey system or the section, township, and range system.

Redemption

1. Payment of all delinquent amounts, plus costs, by a defaulting mortgagor, thereby reinstating the loan and preventing foreclosure.
2. Payment of whatever the foreclosure sale purchaser paid for the property, plus interest and expenses, which allows a mortgagor to keep the property after the foreclosure sale.

Redemption Period

Period during which a former owner can reclaim foreclosed property.

Redemption, Equitable Right of

The right of a mortgagor to cure the default and reinstate the loan prior to the foreclosure sale.

Redemption, Statutory Right of

The right of a mortgagor to keep his or her property after a foreclosure sale by paying the amount that the highest bidder at the sale paid, plus interest and expenses. Also called post-sale redemption.

Redlining

Refusal by a lender to make loans secured by property in a certain neighborhood because of the racial or ethnic composition of the neighborhood, in violation of fair lending laws.

Refinance

Process of a borrower paying off one loan with the proceeds from another.

Reformation

A legal action to correct a mistake, such as a typographical error, in a deed or other document. The court will order the execution of a correction deed.

Regression, Principle of

An appraisal principle which holds that a property of noticeably lower quality than those around it will tend to decrease the value of those neighboring properties; the opposite of the principle of progression.

Regulation Z

Federal regulation requiring creditors to provide full disclosure of the terms of a loan.

Rehab

The process of restoring /fixing up a house. Bring the property back to a like new condition.

Reinstate

To prevent foreclosure by curing the default.

Release

1. To give up a legal right.
2. A document in which a legal right is given up.

Release Clause

1. A clause in a blanket mortgage that allows the borrower to get part of the security property released from the lien when a certain portion of the debt has been paid or other conditions are fulfilled. Often called a partial release clause.
2. A clause in a contract for deed providing for a deed to a portion of the land to be delivered when a certain portion of the contract price has been paid. Also known as a deed release provision.

Reliction

The gradual receding of a body of water, exposing land that was previously under water. Also called dereliction.

Remainder

A future interest that becomes possessory when a life estate terminates, and that is held by someone other than the grantor of the life estate; as opposed to a reversion, which is a future interest held by the grantor (or his or her successors in interest). Often called an estate in remainder.

Remainderman

The person who has an estate in remainder.

Remise

To give up; a term used in quitclaim deeds.

Rent

Compensation paid by a tenant to the landlord in exchange for the possession and use of the property.

Rent, Contract

The rent that is actually being paid on property that is currently leased.

Rent, Economic

The rent that a property would be earning if it were available for lease in the current market.

Rent, Ground

The earnings of improved property that are attributed to the land itself, after allowance is made for the earnings attributable to the improvements.

Replevin

Legal proceedings undertaken by a tenant to recover possession of personal belongings that have been unlawfully confiscated by a landlord (usually for nonpayment of rent).

Rescission

Termination of a contract when each party gives anything acquired under the contract back to the other party. (The verb form is rescind.) Compare: Cancellation.

Reservation

A right retained by a grantor when conveying property; for example, mineral rights, an easement, or a life estate can be reserved in the deed.

Reserves for Replacement

For income producing property, regular allowances set aside to pay for the replacement of structures and equipment that are expected to wear out.

Resident Manager

A salaried manager of a single apartment building or complex who resides on the property; unlike a property manager, a resident manager is not required to have a real estate license.

Residential Service Contract

Home warranty or insurance contract, generally for one year, covering plumbing, electrical, and mechanical systems of the home.

Residual

1. A property's remaining value after the economic life of the improvements has been exhausted.
2. Commissions in the form of delayed payments (when a part of the commission is paid with each installment on a contract for deed, for example) are referred to as residuals.

RESPA

Real Estate Settlement Procedures Act.

Respondeat Superior, Doctrine of

A legal rule holding that an employer is liable for the torts (civil wrongs) committed by an employee within the scope of his or her employment.

Restriction

A limitation on the use of real property.

Restriction, Deed

A restrictive covenant in a deed.

Restriction, Private

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

Restriction, Public

A law or government regulation limiting or regulating the use of real property.

Restructure

Change the terms of a mortgage. Usually adding back payments, late fees and accrued interest to the principle balance. Can also change the interest and / or monthly payments.

Reversion

A future interest that becomes possessory when a temporary estate (such as a life estate) terminates, and that is held by the grantor (or his or her successors in interest). Often called an estate in reversion. Compare: Remainder.

Reverter

The person who holds an estate in reversion.

Right of First Refusal

Opportunity of a party to match the terms of a proposed contract before the contract is executed.

Right of Way

An easement that gives the holder the right to cross another person's land.

Riparian Land

Land that is adjacent to or crossed by a body of water, especially flowing water such as a stream or a river. Compare: Littoral Land.

Riparian Rights

The water rights of a landowner whose property is adjacent to or crossed by a body of water. Compare: Appropriation, Prior.

Running with the Land

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

S

Sale Leaseback

Sale of property by seller and simultaneous leasing of the same property by seller.

Sandwich Lease

Lease held by a lessee (tenant) who becomes a lessor (landlord) by subletting to another lessee (subtenant), typically the sandwich leaseholder is neither the owner nor the user of the property.

Savings and Loan Association

A type of financial institution that has traditionally specialized in home mortgage loans.

Savings Bank

A type of financial institution that has traditionally emphasized consumer loans and accounts for small depositors.

Scarcity

A limited or inadequate supply of something; this is one of the four elements of value (along with utility, demand, and transferability).

Seasoning

Loan which has been in force for a period of time thus establishing the borrower's payment history, loans are typically deemed to be seasoned after either six months or one year.

Second Mortgage

A mortgage secured by property after the first mortgage. If the first mortgage is paid off and released, the second mortgage becomes the first mortgage.

Secondary Financing

Money borrowed to pay part of the required downpayment or closing costs for a first loan, when the second loan is secured by the same property that secures the first loan.

Secondary Mortgage Market

The market in which investors (including Fannie Mae, Freddie Mac, and Ginnie Mae) purchase real estate loans from lenders; also called the national market.

Secret Profit

A financial benefit that an agent takes from a transaction without informing the principal, in violation of his or her fiduciary duties.

Section

In the rectangular survey system, a section is one mile square and contains 640 acres. There are 36 sections in a township.

Section 1031

Section of the Internal Revenue Code dealing with tax-free exchanges of like-kind property.

Section 8

Privately owned rental dwelling units participating in the low-income rental assistance program created by 1974 amendments to Section 8 of the 1937 Housing Act.

Security Agreement

Under the Uniform Commercial Code, a document that creates a lien on personal property being used to secure a loan. Typically used in conjunction with a financing statement.

Security Deposit

Money a tenant gives a landlord at the beginning of the tenancy to protect the landlord in case the tenant fails to comply with the terms of the lease; the landlord may retain all or part of the deposit to cover unpaid rent or repair costs at the end of the tenancy. According to the Minnesota Landlord-Tenant Act, a security deposit is any deposit of money the function of which is to secure the performance of a residential rental agreement (not including an advance payment of rent).

Security Instrument

A document that creates a voluntary lien to secure repayment of a loan; for debts secured by real property, it is either a mortgage or (in other states, but not in Minnesota) a deed of trust.

Security Interest

The interest a creditor may acquire in the debtor's property to ensure that the debt will be paid; the interest created by a security agreement or a mortgage.

Security Property

The property that a borrower gives a lender a voluntary lien against, so that the lender can foreclose if the borrower defaults on the loan.

Seizin

Actual possession of a freehold estate; ownership. Sometimes spelled seisin or seizen.

Seller Financing

Also known as Owner Financing.

Separate Property

In a community property state (but not in Minnesota), property owned by a married person that is not community property; includes property acquired before marriage or by gift or inheritance after marriage.

Setback Requirements

Provisions in a zoning ordinance that do not allow structures to be built within a certain distance of the property line.

Settlement

1. Closing.
2. An agreement between the parties to a civil lawsuit in which the plaintiff agrees to drop the suit in exchange for money or the defendant's promise to do or refrain from doing something.

Settlement Statement

Also known as Closing Statement or HUD-1.

Settlement Statement

A document that presents a final, detailed accounting for a real estate transaction, listing each party's debits and credits and the amount each will receive or be required to pay at closing. Also called a closing statement.

Severance

1. Termination of a joint tenancy.
2. The permanent removal of a natural attachment, fixture, or appurtenance from real property, which transforms the item into personal property.

Severance, Constructive

When a landowner enters into a contract to sell an appurtenance or natural attachment, the contract constructively severs the item from the land#making it the personal property of the buyer#even before the buyer has actually removed it from the land. For example, when a landowner sells a stand of timber, the trees are constructively severed from the land even before the buyer comes to chop them down.

Sheriff's Sale

A foreclosure sale. Sometimes called an execution sale.

Special Assessment

A tax levied only against the properties that have benefited from a public improvement (such as a sewer or a street light), to cover the cost of the improvement; creates a special assessment lien.

Special Warranty Deed

Deed in which the grantor limits the title warranty given to the grantee, does not warrant against title defects arising from conditions that existed before grantor owned the property.

Specific Performance

A legal remedy in which a court orders someone who has breached a contract to actually perform the contract as agreed, rather than simply paying money damages to the other party.

Spot Zoning

A rezone of one property or a small area within a neighborhood.

Square Foot Method

In appraisal, a method of estimating the replacement cost of a structure; it involves multiplying the cost per square foot of a recently built comparable structure by the number of square feet in the subject structure.

Stable Monthly Income

A loan applicant's gross monthly income that meets the lender's tests of quality and durability.

Statute

A law enacted by a state legislature or the U.S. Congress.

Statute of Frauds

A state law that requires certain types of contracts to be in writing and signed in order to be enforceable.

Statute of Limitations

A law requiring a particular type of lawsuit to be filed within a specified time after the event giving rise to the suit occurred.

Statutory New Home Warranty Law

A state law which establishes that certain warranties are implied in every sale of a newly completed dwelling, and in every contract for the sale of a dwelling to be completed.

Steering

Channeling prospective buyers or tenants to or away from particular neighborhoods based on their race, religion, national origin, or ancestry, in violation of anti-discrimination laws.

Stockholder

An individual who holds an ownership share in a corporation (and has limited liability). Also called a shareholder.

Subagent

A person to whom an agent has delegated authority, so that the subagent can assist in carrying out the principal's orders; the agent of an agent.

Subcontractor

A contractor who, at the request of the general contractor, provides a specific service, such as plumbing or drywalling, in connection with the overall construction project.

Subdivided Lands Act

A state law applying to subdivisions of two or more parcels located outside a municipality, which requires that subdivisions be registered with the Commissioner of Commerce and that all prospective purchasers be given a public offering statement.

Subdivision

1. A piece of land divided into two or more parcels.
2. A residential development.

Subdivision Regulations

State and local laws that must be complied with before land can be subdivided.

Subject to

When a purchaser takes property subject to a mortgage, he or she is not personally liable for paying off the loan; in case of default, however, the property can still be foreclosed on.

Sublease

An arrangement in which a tenant grants someone else the right to possession of the leased property for part of the remainder of the lease term; as opposed to an assignment, in which the tenant gives up possession for the entire remainder of the lease term.

Subordination

A clause or document that permits a mortgage recorded at a later date to take priority over an existing lien.

Subordination Clause

A provision in a mortgage that permits a later mortgage to have higher lien priority than the one containing the clause.

Subrogation

The substitution of one person in the place of another with reference to a lawful claim or right. For instance, a title company that pays a claim on behalf of its insured, the property owner, is subrogated to any claim the owner successfully undertakes against the former owner.

Substitution of Liability

A buyer wishing to assume an existing loan may apply for the lender's approval; once approved, the buyer assumes liability for repayment of the loan, and the original borrower (the seller) is released from liability.

Substitution, Principle of

A principle of appraisal holding that the maximum value of a property is set by how much it would cost to obtain another property that is equally desirable, assuming that there would not be a long delay or significant incidental expenses involved in obtaining the substitute.

Succession

Acquiring property by will or inheritance.

Sufferance

Acquiescence, implied permission, or passive consent through a failure to act, as opposed to express permission.

Supply and Demand, Principle of

A principle holding that value varies directly with demand and inversely with supply; that is, the greater the demand the greater the value, and the greater the supply the lower the value.

Support Rights

The right to have one's land supported by the land adjacent to it and beneath it.

Support, Lateral

The support that a piece of land receives from the land adjacent to it.

Support, Subjacent

The support that the surface of a piece of land receives from the land beneath it.

Surplus Productivity, Principle of

A principle of appraisal which holds that the net income that remains after paying the proper costs of labor, organization, and capital is credited to the land and tends to set its value.

Surrender

Giving up an estate (such as a life estate or leasehold) before it has expired.

Survey

The process of precisely measuring the boundaries and determining the area of a parcel of land.

Survivorship, Right of

A characteristic of joint tenancy; surviving joint tenants automatically acquire a deceased joint tenant's interest in the property.

Syndicate

An association formed to operate an investment business. A syndicate is not a recognized legal entity; it can be organized as a corporation, partnership, limited liability company, or trust.

T

Tacking

Adding together successive periods of use or possession by more than one person to make up the statutory period required for adverse possession or prescription.

Taking

When the government acquires private property for public use by condemnation, it's called "a taking." The term is also used in inverse condemnation lawsuits, when a government action has made private property virtually useless.

Tax and Insurance Escrow

Account required by a mortgage lender to fund annual property tax assessments and hazard insurance premiums, funded through monthly contributions by the mortgagor.

Tax Credit

A credit that is subtracted directly from the amount of tax owed. Compare: Deduction.

Tax Lien

A debt attached to the property for failing to pay taxes.

Tax Sale

Sale of property after foreclosure of a tax lien.

Tax, Ad Valorem

A tax assessed on the value of property.

Tax, Excise

A tax on the production, sale, or consumption of certain commodities. The state deed tax is an example of an excise tax.

Tax, General Real Estate

An annual ad valorem tax levied on real property. Often called property taxes.

Tax, Mortgage Registry

A state tax charged on all new mortgages of real property in Minnesota.

Tax, Property

1. The general real estate tax.
2. Any ad valorem tax levied on real or personal property.

Tax, State Deed

A state tax charged on the difference between the purchase price and any assumed mortgage balance when real estate is sold. If no mortgage is assumed, the tax is based on the total purchase price.

Tax-Free Exchange

A transaction in which one piece of property is traded for a piece of like-kind property. If the property involved is held for investment or the production of income, or used in a trade or business, tax on the gain may be deferred.

Teaser Rate

Contract interest rate charged on an adjustable rate mortgage for the initial adjustment interval that is significantly lower than the fully indexed rate at the time.

Tenancy

Lawful possession of real property; an estate.

Tenancy by the Entirety

A special form of joint ownership of property by husband and wife used in some states, but not in Minnesota.

Tenancy in Common

A form of concurrent ownership in which two or more persons each have an undivided interest in the entire property, but no right of survivorship. Compare: Tenancy, Joint.

Tenancy in Common

An ownership of real property by two or more persons, each of whom has an undivided interest, without the right of survivorship. See also Joint Tenancy.

Tenancy, Joint

A form of concurrent ownership in which the co-owners have equal undivided interests and the right of survivorship.

Tenant

Someone in lawful possession of real property; especially, someone who has leased property from the owner.

Tenant, Dominant

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

Tenant, Holdover

A lessee who remains in possession of the property after the lease term has expired.

Tenant, Life

Someone who owns a life estate; not necessarily used as the measuring life for the life estate.

Tenant, Servient

The owner of a servient tenement; that is, someone whose property is burdened by an easement.

Tender

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

Tenement, Dominant

Property that receives the benefit of an easement appurtenant.

Tenement, Servient

Property burdened by an easement. In other words, the owner of the servient tenement (the servient tenant) must allow someone who has an easement (the dominant tenant) to use the property.

Tenements

Everything of a permanent nature associated with a piece of land that is ordinarily transferred with the land. Tenements are both tangible (buildings, for example) and intangible (air rights, for example).

Tenure

The period of time during which a person holds certain rights with respect to a piece of real property.

Term

A prescribed period of time; especially, the length of time a borrower has to pay off a loan, or the duration of a lease.

Terms

Conditions and arrangements specified within a contract.

Testate

Refers to someone who has died and left a will. Compare: Intestate.

Testator

A person who makes a will. (If it is a woman, she may be referred to as a testatrix.)

Third Party

1. A person seeking to deal with a principal through an agent.
2. In a transaction, someone who is not one of the principals.

Third Party Administrator (TPA)

A third party set up to administer your investments.

Tight Money Market

A situation in which loan funds are scarce, resulting in high interest rates and discount points.

TILA

Truth in Lending Act.

Time is of the Essence

A clause in a contract that means performance on the exact dates specified is an essential element of the contract; failure to perform on time is a material breach.

Timely Renewal

An application for renewal and renewal fee mailed by June 15 of the real estate licensee's renewal year.

Timeshare

An ownership arrangement in which co-owners each have an exclusive right to use a condominium unit (or other property) for a specified time period each year.

Title

Evidence of ownership, evidence of lawful possession.

Title Company

A title insurance company.

Title Defect

An unresolved claim against the ownership of property, prevents seller from providing buyer clear title to the property.

Title Insurance

An insurance policy that protects the holder from loss sustained by defects in the title.

Title Plant

A duplicate (usually microfilmed) of a county's public record, maintained by a title company at its offices for use in title searches.

Title Report

A report issued by a title company, disclosing the condition of the title to a specific piece of property, before the actual title insurance policy is issued. Often called a preliminary title report.

Title Search

An examination of the public records to determine the ownership and encumbrances affecting real property.

Title Search

An investigation of the public record to determine all rights and encumbrances affecting title to a piece of property.

Title Theory

The theory holding that a mortgage gives the lender legal title to the security property while the debt is being repaid. Most states follow lien theory instead. Compare: Lien Theory.

Title, Abstract of

A short account of what appears in the public record affecting the title of a particular parcel of real property; ordinarily includes a chronological summary of all grants, conveyances, wills, transfers, and judicial proceedings that have in any way affected title, together with all liens and other encumbrances of record, showing whether or not they have been released.

Title, After-Acquired

Title acquired by a grantor after he or she attempted to convey property he or she didn't own.

Title, Chain of

The chain of deeds (and other documents) transferring title to a piece of property from one owner to the next, as disclosed in the public record; more complete than an abstract.

Title, Clear

A good title to property, free from encumbrances or defects; marketable title.

Title, Color of

Title that appears to be good title, but which in fact is not; commonly based on a defective instrument, such as an invalid deed.

Title, Equitable

The vendee's interest in property under a real estate contract. Also called an equitable interest. Compare: Title, Legal.

Title, Imperfect

Defective or incomplete title. An adverse possessor has imperfect title until he or she obtains a quitclaim deed from the owner of the land adversely possessed, or prevails in a quiet title action confirming that the requirements for acquiring title by continuous use have been met.

Title, Legal

The vendor's interest in property under a real estate contract. Compare: Title, Equitable.

Title, Marketable

Title free and clear of objectionable liens, encumbrances, or defects, so that a reasonably prudent person with full knowledge of the facts would not hesitate to purchase the property.

Topography

The contours of the surface of the land (level, hilly, steep, etc.).

Torrens System

A system of land registration used in Minnesota and some other states, which allows title to be verified without a standard title search; title to registered land is free of all encumbrances or claims not registered with the title registrar.

Tort

A breach of a duty imposed by law (as opposed to a duty voluntarily taken on in a contract) that causes harm to another person, giving the injured person the right to sue the one who breached the duty. Also called a civil wrong (in contrast to a criminal wrong, a crime).

Total Finance Charge

Under the Truth in Lending Act, the total finance charge on a loan includes interest, any discount points paid by the borrower, the loan origination fee, and mortgage insurance costs.

Township

In the rectangular survey system, a parcel of land six miles square, containing 36 sections; the intersection of a range and a township tier.

Township Lines

Lines running east-west, spaced six miles apart, in the rectangular survey system.

Township Tier

In the rectangular survey system, a strip of land running east-west, six miles wide and bounded on the north and south by township lines.

Tract

1. Apiece of land of undefined size.
2. In the rectangular survey system, an area made up of 16 townships; 24 miles on each side.

Trade Fixtures

Articles of personal property annexed to real property by a tenant for use in his or her trade or business, which the tenant is allowed to remove at the end of the lease.

Transferability

If an item is transferable, then ownership and possession of that item can be conveyed from one person to another. In appraisal, transferability is one of the four elements of value, along with utility, scarcity, and demand.

Trespass

An unlawful physical invasion of property owned by another.

Triple Net Lease

Lease in which the tenant is to pay all operating expenses of the property so that the landlord receives net rent, frequently used to mean tenant pays taxes, insurance, and maintenance in addition to normal operating expenses.

Trust

An arrangement whereby property is transferred to a trusted third party trustee by a grantor/trustor, trustee holds the property for the benefit of the beneficiary.

Trust Account

A bank account, separate from a real estate broker's personal and business accounts, used to segregate trust funds from the broker's own funds.

Trust Deed

Conveyance of real estate to a third party to be held for the benefit of another, commonly used in some states in place of mortgages that conditionally convey title to the lender, same as Deed of Trust.

Trust Funds

Money or things of value received by an agent, not belonging to the agent but being held for the benefit of others.

Trustee

1. A person appointed to manage a trust on behalf of the beneficiaries.
2. In other states, a neutral third party appointed in a deed of trust to handle the nonjudicial foreclosure process in case of default.

Trustee in Bankruptcy

An individual appointed by the court to handle the assets of a person in bankruptcy.

Trustee's Sale

In other states, a nonjudicial foreclosure sale under a deed of trust.

Trustor

The borrower on a deed of trust. Also called the grantor.

U

Under-improvement

An improvement which, because of deficiency in cost or size, is not the most profitable use of the land; not the highest and best use.

Underwriting

The act of applying formal guidelines that provides qualitative and quantitative standards for determining whether or not a loan should be approved.

Undivided Interest

An ownership right to use and possession of a property that is shared among co-owners, with no one co-owner having exclusive rights to any portion of the property.

Undue Influence

Exerting excessive pressure on someone so as to overpower the person's free will and prevent him or her from making a rational or prudent decision; often involves abusing a relationship of trust.

Unearned Increment

An increase in the value of a property that comes about through no effort on the part of the owner, such as one resulting from a population shift or favorable zoning changes.

Unencumbered Property

Real estate that is owned free and clear.

Uniform Commercial Code

A body of law adopted in slightly varying versions in most states, which attempts to standardize commercial law dealing with such matters as negotiable instruments and sales of personal property. Its main applications to real estate law concern security interests in fixtures and bulk transfers.

Uniform Settlement Statement

A settlement statement required for any transaction involving a loan that is subject to the Real Estate Settlement Procedures Act (RESPA).

Unilateral Contract

An obligation given by one party contingent on the performance of another party, but without obligating the second party to perform.

Unimproved Property

Land that has received no development, construction, or site preparation (raw land).

Unit Owners' Association

In a condominium, an organization that all unit owners automatically belong to, which governs the common elements of the condominium. Often called a condominium association.

Unit-in-Place Method

In appraisal, a method of estimating replacement cost by estimating the cost of each component (foundation, roof, etc.), then adding the costs of all components together.

United States Department of Agriculture Rural Housing

Provides or assists in providing credit to farmers and others in rural areas where reasonable financing from private sources is unavailable.

Unjust Enrichment

An undeserved benefit; a court generally will not allow a remedy (such as forfeiture of a contract for deed) if it would result in the unjust enrichment of one of the parties.

Unlawful Detainee

A summary legal action to regain possession of real property; especially, a suit filed by a landlord to evict a defaulting tenant.

Unrealized Gain

Excess of current market value over cost for an asset that is not sold.

Unrecorded Deed

Instrument that transfers title from one party (grantor) to another party (grantee) without providing public notice of the change in ownership.

Urban Renewal

Process of redeveloping deteriorated sections of the city, often through demolition and new construction, may be privately funded, but most often associated with government renewal programs.

Usury

Charging a rate of interest greater than that permitted by state law.

Utility

The ability of an item to satisfy some need and/or arouse a desire for possession. In appraisal, one of the four elements of value, with scarcity, demand, and transferability.

Utility Easement

Use of another's property for the purpose of laying gas, water, electric and sewer lines.

V

V.A. Loan

Home loan guaranteed by the U.S. Veterans Administration under the Servicemen's Readjustment Act of 1944 and later to compensate lender in the event of default.

VA

Veterans Administration.

Valid

The legal classification of a contract that is binding and enforceable in a court of law.

Value

Generally, how much something is worth; the present worth of future benefits. In real estate, the term is most often used to refer to market value.

Value, Assessed

The value placed on property by the taxing authority (the county assessor, for example) for the purposes of taxation.

Value, Face

The value of an instrument, such as a bond, that is indicated on the face of the instrument itself.

Value, Market

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (This is the definition from the Uniform Standards of Appraisal Practice.) Sometimes called value in exchange or objective value. Compare: Market Price.

Value, Utility

The value of a property to its owner or to a user. Also called value in use.

Variable Interest Rate

A loan interest rate that can be adjusted periodically during the loan term, as in the case of an adjustable-rate mortgage.

Variable Rate Mortgage

Long-term mortgage loan applied to residences, under which the interest rate may be adjusted on a six-month basis over the term of the loan, according to certain restrictions.

Variance

Permission (obtained from the local zoning authority) to build a structure in a way that violates the strict terms of the zoning ordinance.

Vendee

A buyer or purchaser; particularly, someone buying property under a contract for deed.

Vendee's Lien

A lien against property under a contract of sale to secure the deposit paid by the purchaser.

Vendor

A seller; particularly, someone selling property by means of a contract for deed.

Veneer

Wood or brick exterior that covers a less attractive and less expensive surface

Vested Right

An immediate fixed right, interest, or title in real property, even though the right to possession of the property may not occur until sometime in the future.

Void

Having no legal force or effect.

W

Waiver

The voluntary relinquishment or surrender of a right.

Waiver

The voluntary renunciation, abandonment, or surrender of some claim, right or privilege.

Warranty Deed

Deed that contains a covenant that the grantor will protect the grantee against any and all claims; usually contains covenants ensuring good title, freedom from encumbrances, and quiet enjoyment.

Warranty, Implied

In a sale or lease of property, a guarantee created by operation of law, whether or not the seller or landlord intended to offer it.

Waste

Destruction, damage, or material alteration of property by someone in possession who holds less than a fee estate (such as a life tenant or a lessee), or by a co-owner.

Water Rights

The right to use water from a body of water. See: Appropriation, Prior; Littoral Rights; Riparian Rights.

Water Table

The level at which water may be found, either at the surface or underground.

Will

A person's stipulation regarding how his or her estate should be disposed of after he or she dies. Also called a testament.

Will, Formal

A will that meets the statutory requirements for validity; as a general rule, it must be in writing and signed in the presence of at least two competent witnesses.

Will, Holographic

A will written entirely in the testator's handwriting, which may be valid in some states even if it was not witnessed. This type of will is not recognized in Minnesota.

Will, Nuncupative

An oral will made on the testator's deathbed; valid in some states (although not in Minnesota) as to bequests of personal property worth under \$1,000.

Without Recourse

Words used in endorsing a note to denote the note holder is not to look to the debtor personally in the event of nonpayment.

Words of Conveyance

The portion of a deed stating an intention to convey the property to the grantee. Also called a granting clause.

Wraparound Mortgage

Loan arrangement in which an existing loan is retained and an additional loan is made that equals or exceeds the existing loan.

Writ of Execution

A court order directing a public officer (such as the sheriff) to seize and sell property to satisfy a debt.

Writ of Possession

A court order issued after an unlawful detainer action, informing the tenant that he or she must vacate the landlord's property within a specified period or be forcibly removed by the sheriff.

X

Y

Yield

Measurement of the rate of earnings of an investment.

Z

Zero Lot Line

A form of cluster housing development in which individual dwelling units are placed on separately platted lots, but are attached to each other.

Zone

An area of land set off for a particular use or uses, subject to certain restrictions.

Zoning

Legal mechanism for local governments to regulate the use of privately owned real estate to prevent conflicting land uses and promote orderly development.

Zoning Amendment

An amendment to a zoning ordinance, usually changing the uses allowed in a particular zone. Also called a rezone.