

**The following terms and definitions are offered to you by the your site sponsor for your convenience. These terms are ones that are commonly encountered during a real estate transaction.**

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## **A**

**ACRE** - A unit of land measurement. There are 43,560 square feet in an acre. A perfectly square acre has sides of 208.71 feet.

**ADJUSTABLE RATE MORTGAGE (ARM)** - A mortgage without an expressed fixed rate. This kind of mortgage has a rate that adjusts up or down according to some specified economic index. Also called a variable-rate mortgage (VRM).

**ADVERSE POSSESSION** - The act of acquiring title to property by continuous and outright possession against the title of another for a specific period of time.

**AGENCY** - An agency relationship is created when you appoint someone to act on your behalf. In so doing, the agent then becomes bound by certain fiduciary duties, which include obedience, loyalty, disclosure, confidentiality, accountability and reasonable care and diligence. An agency relationship can be created by a desire to be represented and a consent to represent, however it is more often created as a result of a listing agreement or a buyer representation agreement.

**AGREEMENT OF SALE** - A written document or contract in which a purchaser agrees to buy and a seller agrees to sell a specific property.

**AMORTIZATION** - The systematic repayment of a loan over a specific period of time at a specific rate of interest.

**AMORTIZATION SCHEDULE** - A table showing how a loan is systematically repaid during its term.

**ANNUAL PERCENTAGE RATE (APR)** - Sometimes called the "true" rate of interest, it includes interest and certain loan fees and discount points.

**APPRAISAL** - An estimate of the fair market value of a specific property arrived at through application of certain techniques which consider many market condition and economic aspects.

**APPRAISER** - A person who conducts appraisals and writes reports of the appraisal. Usually certified by a state regulatory agency.

**APPRECIATION** - An increase in property value, due to a variety of market and economic conditions.

**APPURTENANCE** - Anything which is a part of, or annexed to real property, either attached or not, such as a building, or an easement, that it will pass as part of the property upon sale.

**ASSESSED VALUE** - A value placed on property by the legal taxing body for the purpose of determining real estate taxes.

**ASSESSMENT** - A specific one - event tax designated for a specific purpose.

**ASSESSOR** - A person, usually an employee of, or an independent contractor for a taxing body who estimates the value of property for tax purposes. Very often this value is not the fair market value.

**ASSIGN** - The act of transferring or assigning one's rights under a contract or agreement to another.

**ASSIGNEE** - The person to whom rights are assigned or transferred.

**ASSUME A LOAN** - A buyer assumes the responsibility to repay an existing loan under all of its existing terms and conditions.

## **B**

**BALLOON MORTGAGE** - A mortgage in which the final payment is larger than any of the preceding payments. A balloon mortgage is usually one in which the loan has been amortized for a specific period of time, but which provides for a balloon payment at some specific time prior to the expiration of that period of time.

**BALLOON PAYMENT** - The final payment on a balloon mortgage.

**BANKRUPTCY** - A legal proceeding wherein one is granted relief from debts due to the inability to pay the debts.

**BEQUEST** - Personal property received under a will.

**BLANKET MORTGAGE** - A mortgage pledging more than one property as collateral for a loan.

**BROKER** - A person licensed by the appropriate state regulatory authority to act on behalf of another in the sale or purchase of real estate. In most states, licensed salespeople must be licensed under a broker.

**BUILDING CODES** - Safety and fire codes adopted by municipal bodies for the purpose of establishing minimum construction criteria for buildings.

**BUILDING LIMIT LINE OR SETBACK** - Distances from the ends and/or sides of the lot beyond which construction may not extend.

**BUY-DOWN** - A payment required by a lender at the time a loan is made to reduce the interest rate.

**BUYER'S BROKER** - A licensed real estate broker, together with his or her affiliated agents, who represent buyers and owe their buyer clients certain fiduciary duties.

**BUYER'S MARKET** - A real estate market in which the supply exceeds the demand.

## **C**

**CAP** - An upper limit on the increase in the interest rate on an Adjustable Rate Mortgage (ARM).

**CAPITAL GAINS** - The sale price less sales costs, basis and capital improvements. Usually subject to income tax at a rate less than ordinary income.

**CAPITAL LOSS** - Same as capital gains except that a loss occurs rather than a gain.

**CASH FLOW** - The amount of money remaining from an investment property when all operating costs and loan costs are subtracted from the gross income.

**CERTIFICATE OF TITLE** - A document prepared by an attorney or a title company certifying that a property has good and marketable title. Not title insurance, the certificate of title only covers title defects normally evident in a title search.

**CLOSING** - (Sometimes referred to as Settlement.) The process of formally and finally exchanging all monies and documents as a result of terms defined in an agreement of sale.

**CLOSING COSTS** - All the expenses incurred by buyers and sellers in closing a real estate transaction. (Not to be confused with prepaid items.)

**CLOSING STATEMENT** - (Sometimes referred to as Settlement Statement.) A statement usually prepared by an attorney or title company setting out all the financial details concerning the costs of conveying property. The closing statement is normally given at Closing.

**CLOUD ON TITLE** - A defect in the title to property which prevents the title from being good and marketable.

**CO-SIGNER** - A person who signs a loan document along with the principal borrower and thereby becomes legally liable for the debt also.

**COLLATERAL** - The property pledged by a borrower to secure a loan.

**COMMISSION** - The money a client pays their agent for services performed. Usually a percentage of the sale price, however other methods of determining the amount of money are frequently used, especially between a buyer's broker and his/her client.

**COMPARABLES** - Data about properties recently sold, currently on the market, expired listings, and pending sales which are similar to the property whose value is being determined. Used most often in appraisal reports and in competitive market analysis.

**COMPETITIVE MARKET ANALYSIS** - A report, normally in writing, of a study made by a trained real estate professional to determine the fair market value of a property. The report will often include comparable (see COMPARABLES) sales, as well as competing properties on the market, and listings that have expired, as the basis for the conclusion drawn by the person preparing the report.

**CONDEMNATION** - The taking of private property for public purposes. Condemnation can take place when a building is unfit for habitation, or when needed for a public use.

**CONDOMINIUM** - The ownership in one unit of a building or buildings containing many units. Ownership includes the unit itself and a share of the ownership of common elements.

**CONSTRUCTION LOAN** - A temporary loan used to pay construction costs during the construction period. A construction loan is usually followed by a permanent mortgage.

**CONTINGENCY** - A condition in an agreement of sale specifying certain events that must take place prior to closing.

**CONTRACT** - A legally binding agreement made between two or more parties.

**CONVENTIONAL LOAN** - A mortgage loan which is NOT insured by a government agency such as HUD or FHA.

**CONVEY** - The act of transferring title from one person to another.

**(CO-OP)** - An apartment building owned by a group of people in which each person occupies one of the apartments. While the group together owns all the units, each individual has absolute rights to the occupation of a single unit.

**COUNTER-OFFER** - An offer made in response to a person who has made an initial offer.

**CREDIT REPORT** - A report from a company which specializes in keeping credit histories on people. Lenders base the decision on an applicant's credit worthiness based on the information in a credit report. Credits reports cannot be given except with the consent of the person being reported on.

## **D**

**DEED** - The legal document used to convey title to real property. The deed is the strongest evidence of legal title and therefore should be recorded by the proper legal authority.

**DEED OF TRUST** - Very much like a mortgage, a deed of trust pledges specific real estate as collateral for a loan.

**DEED RESTRICTION** - A deed carries with it the right to use property in any legal manner. Deed restrictions are used by the seller to provide restrictions over and above those imposed by law. Deed restrictions are often imposed by developers to protect the value of the yet undeveloped property and to provide protections for other property owners in the development.

**DEFICIENCY JUDGMENT** - The judgement against a person when they default on a mortgage and the sale of the property does not fully satisfy the obligation. The amount of the judgement is usually the unsatisfied portion of the loan.

**DELINQUENT LOAN** - A loan with payments that are past due.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** - (HUD) - A federal agency that helps homebuyers by providing mortgage insurance on mortgage loans that might otherwise be too high risk for the lender. HUD also has a number of other programs designed to provide housing.

**DEPOSIT** - A sum of money placed into an escrow account to bind a buyer to an agreement of sale. The deposit becomes part of the purchase price at closing. In the event the transaction fails to close, the deposit is usually refunded unless the buyer defaults under the terms of the agreement.

**DEPRECIATION** - A decrease in the value of real property due to a number of causes such as deterioration of the neighborhood.

**DOWNPAYMENT** - The amount of money at time of purchase a buyer will invest in the purchase. The down payment is the difference between the purchase price and the mortgage amount.

**DUE ON SALE CLAUSE** - A mortgage clause that specifies that a mortgage loan must be paid in full when title to the mortgaged property is conveyed.

## **E**

**EARNEST MONEY** - See DEPOSIT.

**EASEMENT** - A right granted from a property owner to another for a specific use of a portion of the owners land. Public utilities often use easements for the purpose of installing their utility lines.

**EMINENT DOMAIN** - A governmental right to acquire private property for public use provided the owner is properly compensated. A number of court cases exist which attempt to define acquisition of real property and compensation.

**ENCROACHMENT** - When a part of a building or other improvement from an adjoining property reaches beyond the property line of another.

**ENCUMBRANCE** - A term used to describe any claim to title such as a lien, mortgage, easement, etc.

**EQUITY** - An amount of money which is the fair market value less the amount of any liens against the property.

**ESCROW** - Money being held by an agent or another third party pending closing on the property.

**EXCLUSIVE AGENCY** - The type of agency relationship in which the broker represents either the buyer or the seller, but not both in the same transaction.

**EXCLUSIVE AGENCY LISTING** - A listing agreement between a broker and a seller in which the broker is given the exclusive right to sell a property with the

sole exception that the seller reserves the right to sell the property himself. In this type of listing, the broker earns his fee unless the seller sells the property himself.

**EXCLUSIVE RIGHT TO SELL** - A listing agreement between a broker and a seller in which the broker is given the exclusive right to sell the property. In this type of listing, the broker earns his fee regardless of who sells the property including the owner.

## **F**

**FAIR MARKET VALUE** - The price an informed buyer will pay an informed seller with neither party being under duress.

**FANNY MAE** - Federal National Mortgage Association.

**FARMERS HOME ADMINISTRATION (FmHA)** - The government agency responsible for guaranteeing mortgage loans on farms and rural homes.

**FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC)** - The federal agency which buys mortgage loans from savings and loans and banks.

**FEDERAL HOUSING ADMINISTRATION (FHA)** - The federal agency which insures mortgage loans.

**FEE SIMPLE TITLE** - The normal type of title to property. It means full and unrestricted title.

**FIRST MORTGAGE** - A mortgage recorded in first place on a property and having priority over all other mortgages that follow.

**FIXED RATE MORTGAGE** - A mortgage with a specified rate of interest which cannot be changed throughout the entire term of the mortgage.

**FORECLOSURE** - The legal act of a lender or lienholder seizing title to a property when the obligation is in default

**FORECLOSURE SALE** - A sale held for the purpose of liquidating a property in satisfaction of a debt.

## G

**GENERAL WARRANTY DEED** - A deed in which the grantor grants all his rights, title and interests, but also warrants the title of the property from the beginning of its recorded history.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA)** - The government agency which provides funding for all or parts of certain residential mortgage loans.

**GRACE PERIOD** - That period of time from the due date of a payment until the payment is recorded as late.

**GRANTEE** - The person named in a deed who is the recipient of title.

**GRANTOR** - The person named in a deed who surrenders title.

## H

**HAZARD INSURANCE** - An insurance policy that covers losses due to fires, windstorms, etc. This type of policy is commonly referred to as a homeowner's policy.

**HUD** - The United States Department of Housing and Urban Development.

## I

**INCOME APPROACH** - A technique used in appraising property determines fair market value by capitalizing net income.

**INDEMNIFY** - To reimburse one as a result of any damages or losses they suffer.

**INSOLVENCY** - The result of debts being equal to or greater than assets.

**INSTALLMENT SALES CONTRACT** - A contract providing for a buyer to purchase a property by making installment payments to a seller. Title remains vested in the seller until the contracted purchase price is paid in full.

**INTEREST** - The money a lender earns for use of his money.

**INSURANCE** - A contract providing for financial protection against a loss. For example, a homeowner's insurance policy provides for reimbursement if the owner suffers a loss due to fire or a number of other causes.

## **J**

**JOINT TENANCY** - When two or more people hold equal undivided interest in title to a property.

**JUDGMENT** - Court order which results from one person suing another for money.

## **L**

**LEASE** - A contract which permits a person to occupy and use a property for a specific time period in return for a specified sum of money.

**LEASEBACK** - The process of selling a property and also entering into a lease to continue using that property.

**LESSEE** - The tenant.

**LESSOR** - The landlord.

**LIEN** - A claim against a property assuring the lienholder of their right to payment in the event the property is sold.

**LIFE ESTATE** - A right granted to a person to use a property for the rest of their life. Upon the demise of the holder of the life estate, use of the property reverts to the holder of legal title.

**LIMITED PARTNER** - A partner in an investment property or properties who makes an investment, expects a return, but cannot make management decisions.

**LIMITED PARTNERSHIP** - A partnership comprised of limited partners who put up the cash with which to purchase an investment property and one or more general partners who manage and operate the investment property.

**LIQUIDATED DAMAGES** - The damages a party suffers as a result of the breach of a contract by the other party.

**LISTING AGREEMENT** - An agreement which authorizes a broker to sell an owner's property for a certain price within a specific time period for which the broker will be compensated a specific fee.

**LOAN ORIGATION FEE** - A flat fee a lender may charge for lending money. A fee which may be in addition to points.

**LOAN TO VALUE RATIO** - The percent of fair market value a lender will lend on the purchase of a property.

## **M**

**MARGIN** - The contractually specified rate difference between an index and the rate of a variable rate mortgage.

**MARKETABLE TITLE** - Typically defined as such title that is insurable by a title company, it is a title free of liens and defects.

**MARKET ANALYSIS (CMA)** - A report, normally in writing, of a study made by a trained real estate professional to determine the fair market value of a property. Th report will often it comparable (see COMPARABLES) sales, as well as competing properties on the market, and listings that have expired, as the basis for the conclusion drawn by the person preparing the report.

**MARKET APPROACH** - A technique used in appraising property which compares recently sold comparable properties in arriving at a conclusion as to fair market value.

**MARKET VALUE** - The price an informed buyer will pay an informed seller with neither party being under duress.

**MECHANIC'S LIEN** - A lien which usually results from a contractor or supplier not being paid for services rendered or materials delivered in the construction, remodeling, expansion, etc. of a building.

**METES AND BOUNDS** - A method used in describing property which starts at an identifiable starting point and then describes the succeeding sides by their bearing (direction) and length (distance).

**MORTGAGE** - A document which legally pledges a property or properties as collateral for a loan.

**MORTGAGE BANKER** - A thrift institution which makes mortgage loans.

**MORTGAGE BROKER** - A person who matches buyers with lenders.

**MORTGAGE COMPANY** - A company which makes mortgage loans.

**MORTGAGE GUARANTY INSURANCE CORPORATION** - (MGIC) A company which insures private mortgages against default.

**MORTGAGE INSURANCE** - Life insurance on the borrower which will pay the mortgage loan off in the event of the borrower's demise.

**MORTGAGEE** - The lender in a mortgage document.

**MORTGAGOR** - The person(s) or company who has borrowed the money in a mortgage document.

**MULTIPLE LISTING SERVICE** - (MLS) A service operated by a (sometimes privately operated) by a board of REALTORS® in which members offer cooperation and compensation to other brokers on their listed properties.

## N

**NATIONAL ASSOCIATION OF REALTORS®** - (NAR) The national trade association of real estate practitioners. REALTORS® distinguish themselves from non-REALTOR® practitioners by subscribing to a strict Code of Ethics.

**NEGATIVE AMORTIZATION** - A condition which occurs when the interest due each period exceeds the amount being paid thereby increasing the mortgage balance.

**NET LISTING** - A listing agreement which provide that the seller receive a specified amount of money regardless how much is paid for the property. In a net listing, it is anticipated the sale price will be higher than the net and the broker will receive the difference. This type of listing is illegal in some states.

**NOTE** - The document which usually accompanies a mortgage and is the promise to re - pay the loan.

## O

**OFFER TO PURCHASE** - An offer made in writing by a buyer to purchase a specific property and establishing all the terms of the sale. When accepted by the seller, it becomes the agreement of sale.

**OPEN LISTING** - A listing agreement which provides that a broker will be paid if he sells the property, but will not get paid if sold by another including other brokers. Owners sometimes enter into multiple open listings.

**OPTION** - A clause in a lease agreement which allows the lessee the right to purchase the leased property at a specified sale price and terms. An option may also be granted absent a lease agreement.

**ORIGINATION FEE** - A fee charged by a lender to cover costs associated with a new mortgage.

## **P**

**PITI** - An acronym used to describe the total sum paid each month for principal, interest, taxes and insurance.

**POINTS** - A term used to describe a fee charged by a lender based on the mortgage amount. One point equals one percent of the mortgage amount. Points are often charged in consideration of a lower interest rate.

**POWER OF ATTORNEY** - The power one person or legal entity grants to another to act on behalf of the person granting authority. The document granting such power normally specifies exactly how much power the attorney-in-fact (recipient of the power of attorney) will have.

**PREPAYMENT PENALTY** - A penalty a lender may charge in the event a loan is paid prior to it being due.

**PRINCIPAL** - The actual amount of a loan or the actual amount paid to reduce the actual amount of a loan.

**PRIVATE MORTGAGE INSURANCE (PMI)** - Insurance guaranteeing the payment of a loan. This type of mortgage insurance is normally charged when the loan exceeds 80% of the property value.

**PROPERTY TAX** - Taxes due each year by various municipal bodies based on an assessed value of the property.

**PUBLIC RECORDS** - Records relating to ownership and liens on real estate. Usually kept and maintained by the county government.

**PURCHASE AGREEMENT** - A contract setting forth the parties, the property being conveyed, the consideration (sale price) and other terms of the sale. In many states, having a written agreement is required by law.

## Q

**QUITCLAIM DEED** - A deed in which the grantor surrenders title (if any) to a parcel of property.

## R

**RATE LOCK** - A guaranteed rate of interest for a specific time frame on a mortgage loan.

**RATE OF RETURN** - The rate at which an investor recaptures his investment in income - producing property.

**REAL ESTATE** - Land and its appurtenances (attachments such as buildings or other structures or improvements)

**REAL ESTATE BROKER** - A person licensed by his/her particular state to charge a fee for bringing a buyer and a seller together to purchase real estate.

**REALTOR®** - A real estate licensee who is a member of the National Association of REALTORS®.

**RECORDING** - The act of placing a document on the public records (usually the county records). Recording is usually done to give public notice of a conveyance or the placement of a lien.

**RELEASE OF LIEN** - A legal and recordable document which serves notice that a lienholder has released his lien.

**RELEASE OF MORTGAGE** - Same as Release of Lien, except that it is granted by a mortgagee to release a mortgage.

**RESTRICTIVE COVENANTS** - Provisions included in a deed which limits the grantee in the use of the conveyed property. Most of these type covenants expire at a date certain, are binding on all subsequent grantees, and are most frequently created by a developer in a development project to protect the quality of the development.

**RIGHT OF WAY** - A right granted by a property owner to another to build, maintain and use a road, utility line or similar improvement over his property.

## **S**

**SALE-LEASEBACK** - The act of selling property and then leasing the property from the buyer. Owners of commercial property often do this to liquidate assets to be invested for other purposes.

**SALES COMPARABLES** - A sale of another property which may be used to indicate the value of a property. Comparable sales are normally similar in condition, style, size, location and utility to the property being evaluated.

**SECOND MORTGAGE** - A mortgage placed on a property after the first mortgage and subordinate to the first mortgage. People often take a second mortgage on a residential property to recapture some of their gain and/or appreciation to be used for other investments or expenses.

**SELLER'S MARKET** - A market in which the demand for housing exceeds the supply.

**SEPTIC TANK** - A tank (usually concrete) on a property into which raw sewage is discharged. The sewage stays in the septic tank long enough for all solids to decay and liquid is drained off to an attached leach bed for the purpose of purifying the liquid.

**SHERIFF'S DEED** - A sale of property ordered by the court and carried out by the sheriff. A sheriff sale is most common with mortgage foreclosures or in sales of property resulting from delinquent taxes.

**SPECIAL WARRANTY DEED** - The most common kind of deed used in conveying title to property. In a special warranty deed, the grantor warrants the title for the period of time in which he held title, but does not warrant it with regard to previous owners.

**STRAIGHT-LINE DEPRECIATION** - An accounting method in which a depreciable asset is depreciated by a like amount each year over a specified period of time.

**SUBDIVISION** - The act of legally dividing a parcel of land into two or more smaller parcels. In most areas, subdividing land requires the approval of a governmental body.

**SURVEY** - An accurate graphic depiction of the boundaries of a property. At the least, a survey will show the metes and bounds of all property lines. It can also show buildings, other improvements, topographic features, utility lines, etc.

## T

**TAX LIEN** - A kind of lien placed on property by a taxing authority when real estate taxes have not been paid.

**TERM** - An agreed upon length of time in which a loan is to be repaid.

**TIME-SHARE** - Title in a property held by several owners, each entitled to the use of the property for specified time periods each year. Common in resort areas.

**TITLE** - Evidence of ownership of real property. A properly executed deed is generally deemed to be adequate evidence of title.

**TITLE DEFECT** - Any title problem which "clouds" the property's title. A title defect can be a lien, a person or entity who may have had interest in the property and never surrendered it, or any number of other situations making title less than perfect.

**TITLE INSURANCE** - An insurance policy issued for the protection of all parties against any unresolved title defects.

**TITLE SEARCH** - A search of all public records to determine if any title defects or liens exist.

## V

**V.A. MORTGAGE** - A mortgage given by a conventional lending institution, but guaranteed by the U.S. Veterans Administration.

## Z

**ZONING** - Regulations adopted by local government restricting the use of real property. Typically, zoning regulations prescribe permissible uses in various areas of a municipality.

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