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**DEVELOPMENT OF A REAL ESTATE  
BROKERAGE TRAINING COURSE**

Yerevan, Armenia

April-May 1996

Prepared for

U.S. Agency for International Development  
Bureau of Private Enterprise, Office of Housing and Urban Programs

by

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Consultant

INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION

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## TABLE OF CONTENTS

ABSTRACT

EXECUTIVE SUMMARY

REPORT

OBSERVATIONS

RECOMMENDATIONS

Attachment A. Course Outline

Attachment B. Seminar Notes

Attachment C. List of Members of the Armenian Real Estate Association

Attachment D. Listing Agreement

## ABSTRACT

During April and May, 1996, ICMA consultant Edie Shannon worked with ICMA - Yerevan, the Armenian Real Estate Association (AREA), and professors from Yerevan State University to refine course materials for a Real Estate Brokerage Certification Course for Yerevan State University. The purpose of the course is to assure minimum competency in the practice of Real Estate as a basis for subsequent certification, and eventually national licensure. Ms. Shannon rewrote and edited the course materials as necessary, presented a two day certification course, monitored the potential trainers while they taught sections of the course, evaluated the input from A.R.E.A. members and the University professors and modified the materials as necessary.

## EXECUTIVE SUMMARY

In an effort to institutionalize the real estate industry the Republic of Armenia passed a Real Property law in January 1996 that specified the rights and obligations of ownership. For nearly a year prior to the adoption of this law, ICMA-Yerevan had been assisting in the development of a professional and private real estate sector by helping to form a national real estate association and draft a basic realtor's course in ethics and law, which is to be institutionalized at Yerevan State University (YSU). Due to the recent passage of the Real Property Law, finalization of the real estate course became essential and ICMA consultant Edie Shannon, a U.S. real estate broker, traveled to Yerevan to revise and finalize course materials as well as conduct the first two-day course.

During her trip Ms. Shannon first met with members of the Armenian Real Estate Association, faculty of Yerevan State University, officials from USAID, U.S. banking industry and real estate investment consultants working in Armenia, representatives of Armenian banking system, Armenians interested in foreign investment, and Armenians acquiring property through privatization or purchase to gain a hands on understanding of the Armenian real estate sector. Ms. Shannon then worked primarily with the ICMA-Yerevan staff, AREA officers, and YSU faculty to:

- revise and refine the course materials
- conduct a "train the trainers" seminar
- monitor pilot training courses, and
- make final revisions to course materials

Included and/ or attached to this report are Ms. Shannon's observations and recommendations regarding the realtor's course and AREA and the course materials.

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### *Revising the Real Estate Course Materials*

Ms. Shannon, with the assistance of ICMA-Armenia's Anahit Karapetian, spent approximately one a month revising the real estate course materials in conjunction with the AREA office and/ or Yerevan State University. After a month of revisions the materials were presented in three sections; Real Estate Law, Real Estate Practice, and Ethics. The emphasis was on Armenian law and practice and U.S. practice was discussed only when it differed radically from Armenian practice.

### *Train the Trainers Seminar*

Ms. Shannon, upon the request of Ashot Hakopian - executive director of AREA, gave an hour and a half presentation to the AREA board of directors regarding the seminar and U.S Real estate practices prior to the first presentation of the real estate course. She also discussed the details of the training session, time, place, attendees etc. Initially AREA officials insisted that the two day seminar be conducted at AREA, but finally agreed to have it at Yerevan State, where the classes would ultimately be institutionalized.

The classes were set for May 9th and 10th, but then delayed one week due to an unannounced National Holiday. Because the professors from YSU who had committed to interview potential trainers and review the course materials for the real estate course had not done so before Ms. Shannon's arrival, the course was open to all brokers who wished to take the course. The participants who then wished to become trainers were evaluated. Overall, most attendees displayed genuine interest and asked thoughtful, pertinent questions. Although the President and the Vice President of AREA failed to attend, most of the students were AREA board members.

### ***Pilot Training Course***

After the "train the trainer" real estate course, revisions were made to the course materials. During the first day, the President of AREA conducted the first presentation of the pilot training at Yerevan State University the next morning. Unfortunately not only did interest wane during his session, but only a few potential trainers presented the materials in the syllabus. Many, including the Vice President of AREA, who had not attended the first seminar used the podium as a private forum and once the session erupted into a group shouting match.

Events proceeded similarly during the second day, with the exception of four potential trainers who actually taught the material. These four, in addition to the four University Professors should make the nucleus of the trainers when the course becomes institutionalized at Yerevan State. The executive director of AREA was excluded from the decision making process regarding the potential trainers. Two criteria for selecting these trainers were established: 1) all trainers must have attended the first train the trainer real estate seminar, and 2) all trainers must display teaching ability or credentials. These simple criteria were established to prevent the course from becoming taught by politically motivated figureheads with little or no knowledge of basic real estate concepts.

### ***Final Revisions to Course Materials***

At the conclusion of the pilot training course, further substantive revisions to the course materials were deemed unnecessary and a few translation errors were corrected.

### ***Seminar on U.S. Real Estate Practices***

During her stay in Armenia, Ms. Shannon also conducted a separate seminar at the American University on U.S. real estate practice. Invitation to the seminar was open to all the area brokers, whether they were AREA members or not. Approximately 50 people attended. The seminar, which was less formal than the real estate course, emphasized personal ethics.

## **OBSERVATIONS**

Through her dealings with the AREA, Ms. Shannon noted that the organization is a very exclusive association with discriminatory policies towards new members and towards the dissemination of information. First, the organization charges an up front fee of \$1000.00 for new members in a country where University Professors make \$8.00 a month. This fee is not retroactive for the current members. Second, a Eurasia foundation official was denied access to information that would assist the foundation to help Armenians document sufficient collateral to obtain loans through Eurasia.

## **RECOMMENDATIONS**

### *Institutionalization of the Real Estate Broker Course*

1. The course should be taught in its entirety over a span of eight weeks (one and a half hour sessions) to allow ample time to both teach the materials and answer questions thoroughly. ICMA/USAID may encounter some resistance from the real estate agents, as they feel they know everything already.
2. Certificates should be awarded for achievement, not attendance, with some kind of testing.

### *Armenian Real Estate Association*

3. Consideration should be given to whether any future USAID funding for AREA is appropriate, given: 1) the unfair and exclusive membership fee schedule of AREA, and 2) the unwillingness of AREA to share data stored on computers purchased with USAID monies.

**ATTACHMENT A**  
**Real Estate Course Outline**

# PRINCIPLES OF REAL ESTATE

## *Introduction*

### *Section 1. Legal Concepts of Real Estate*

- Topic 1. What is Real Estate
- Topic 2. Rights and interests in land
- Topic 3. Forms of ownership
- Topic 4. How to transfer title
- Topic 5. Condominiums
- Topic 6. Contract Law

### *Section 2*

- Topic 1. Real Estate Contracts
- Topic 2. Real Estate Leases
- Topic 3. Closing practices
- Topic 4. Recording title
- Topic 5. Taxes and assessments
- Topic 6. Appraisal
- Topic 7. The Principal-Broker relationship
- Topic 8. Agency

### *Section 3 Ethics*

**ATTACHMENT B**  
**Transcript from Seminar on U.S. Real Estate Practices**

## TRANSCRIPT

MAY 20, ROYAL PHILHARMONIC HALL, YEREVAN ARMENIA

GREETING

I AM HAPPY TO BE WITH YOU IN THE LOVELY CAPITAL OF ARMENIA AND GRATEFUL TO A.R.E.A AND I.C.M.A. FOR INVITING ME AND MY HUSBAND.

BJ AND I ARE HERE AS VOLUNTEERS. WE HAVE BEEN HERE FOR 2 MONTHS. HE IS WITH I.E.S.C. WORKING WITH LINZA OPTICA. I AM ALSO WORKING WITH THE WONDERFUL PEOPLE FROM LINZA, BUT I AM ALSO INVOLVED WITH ICMA ON A PROJECT THAT MANY PEOPLE HAVE WORKED ON FOR OVER A YEAR. TO INSTITUTIONALIZE A REAL ESTATE BROKER CERTIFICATION COURSE FOR THE COUNTRY OF ARMENIA.

THERE HAVE BEEN OTHER CONSULTANTS FROM THE US. THERE HAS BEEN A GREAT DEAL OF WORK DONE BY A LOCAL ATTORNEY. THERE HAS BEEN GUIDANCE FROM THE PROFESSORS AT YEREVAN STATE UNIVERSITY. THERE HAS BEEN INPUT FROM AREA, AND THERE HAS BEEN THE TALENTED AND KNOWLEDGEABLE PROJECT MANAGER:ANNAHIT. VERY GRATEFUL TO ANNAHIT FOR ALL HER EXPERTISE AND ENTHUSIASM

ANNAHIT AND I HAVE SPENT THE PAST SIX WEEKS REFINING THE RAW MATERIALS, AND THIS PAST WEEK WE PRESENTED THE TRAINING SEMINAR AT YEREVAN STATE. IT WAS EXTREMELY GRATIFYING FOR ME TO BE PART OF THIS MARVELOUS PROGRAM AND I CAN ONLY TRUST THAT IT WILL BECOME AN INTEGRAL PART OF THE FURTHER DEVELOPMENT OF THE REAL ESTATE PROFESSION HERE IN ARMENIA.

I WAS ASKED TO TALK TO YOU TODAY, PRIMARILY ABOUT REAL ESTATE PRACTICE IN THE U.S. IN THE U.S. THE PRACTICE OF REAL ESTATE IN THE U.S. IS VERY MUCH A COOPERATIVE EFFORT. IT REQUIRES THE COMBINED EFFORTS OF USUALLY TWO AGENTS, ALMOST ALWAYS A GOOD BANKER, AND OFTEN AN EXPERIENCED BUILDER. AS A RESULT, WE SEE OURSELVES AS A TEAM WORKING TO ACCOMPLISH AN GOAL, THAT IS TO CLOSE THE SALE OF PROPERTY. IT WOULD BE IMPOSSIBLE FOR ME TO OPERATE AS A REAL ESTATE BROKER WITHOUT A CLOSE BUSINESS RELATIONSHIP

WITH MANY FELLOW REAL ESTATE AGENTS AND BROKERS , SEVERAL LOCAL LENDING INSTITUTIONS, AND A GROUP OF RELIABLE AND REPUTABLE BUILDERS. I KNOW I CAN RELY ON THEM, AND THEY KNOW THEY CAN RELY ON ME.

WHEN I BEGAN IN REAL ESTATE TWELVE YEARS AGO, I DIDN'T HAVE THIS NETWORK OF BUSINESS ASSOCIATES, AND I BEGAN THE HARD WAY, BY KNOCKING ON DOORS, LOOKING FOR PEOPLE WHO WANTED TO BUY OR SELL A HOUSE. I HAD THE DOOR SLAMMED IN MY FACE MORE TIMES THEN I WISH TO REMEMBER. THEN AT LAST I GOT A LISTING. I HAD A HOUSE TO SELL. WHEN THE PHONE IN MY OFFICE RANG, IT WAS A PROSPECTIVE BUYER WHO WANTED TO SEE MY LISTING. I TORE OUT OF MY OFFICE, AND DROVE TO PICK UP THE CALLER WHO WAS A LITTLE OLD WHITE HAIRED LADY. WE WENT TO VISIT MY LISTING. IT WASN'T QUITE WHAT THE LADY WANTED. I WAS DISAPPOINTED, BUT LIKE ANY GOOD REAL ESTATE AGENT, I TRIED TO MAKE AN APPOINTMENT WITH HER TO SHOW HER OTHER PROPERTIES. AS I WAS DRIVING ALONG TALKING, ALL OF A SUDDEN SHE SHOUTED "STOP THE CAR" POINTING INDICATING A SHOPPING CENTER. SHE JUMPED OUT OF THE CAR, SAYING "WAIT HERE, I'LL BE RIGHT BACK."

SHE DISAPPEARED INTO THE CENTER AND I WAITED. AND I WAITED, AND I WAITED. THIRTY FIVE MINUTES LATER SHE EMERGED FROM THE CENTER CARRYING TWO LARGE BAGS OF GROCERIES. "NOW YOU CAN TAKE ME HOME", SHE SAID. SHE WOULDN'T MAKE ANOTHER APPOINTMENT TO SEE PROPERTY, SO I DROPPED HER OFF AT HER HOUSE AND HEADED BACK TO MY OFFICE, UNHAPPILY. WHEN I TOLD MY FELLOW REAL ESTATE AGENTS OF MY EXPERIENCE, ONE BEGAN TO LAUGH. "DOES THIS LITTLE OLD LADY LIVE ON A YELLOW HOUSE ON PINE STREET? HE ASKED. "HOW DID YOU KNOW THAT ? I ASKED. " SHE CALLED ME LAST TUESDAY TO SEE ONE OF MY LISTINGS, AND THEN HAD ME TAKE HER TO THE SAME SHOPPING CENTER TO GO TO THE GROCERY STORE. SHE MUST CALL A DIFFERENT R.E. AGENT EACH WEEK TO TAKE HER SHOPPING. IT IS CHEAPER THAN CALLING A TAXI.

MOST SUCCESSFUL R.E. AGENTS IN THE U.S. RELY ON LISTINGS, AND PREFER TO WORK WITH SELLERS. LISTINGS COME FROM MANY SOURCES, FRIENDS, BUSINESS ACQUAINTANCES, MARKETING TECHNIQUES. ONE OF THE MOST UNUSUAL LISTING SOURCES IN MY EXPERIENCE OCCURRED ONE SUNDAY MORNING. I WAS IN A RESTAURANT EATING BREAKFAST AND READING THE REAL ESTATE SECTION OF THE NEWSPAPER. I SUDDENLY BECAME AWARE OF A MAN'S VOICE SAYING. "ALL REAL ESTATE AGENTS ARE CROOKS".

THE VOICE CAME FROM THE NEXT TABLE. " I BEG YOUR PARDON?", I REPLIED. HE REPEATED. "ALL REAL ESTATE AGENTS ARE CROOKS" I LOOKED HIM IN THE EYE AND SAID "THAT'S NOT TRUE! I'M A REAL ESTATE AGENT, AND I AM EXTREMELY HONEST!" HE LOOKED BACK AT ME, HANDED ME HIS BUSINESS CARD. THEN HE SAID " COME TO THIS ADDRESS AT TWO THIS AFTERNOON." WHEN I GOT TO MY OFFICE, , I MADE SOME PHONE CALLS. I FOUND OUT THAT THE MAN IN THE RESTAURANT WAS A PROMINENT ATTORNEY FROM ATLANTA. I DID GO TO HIS HOME. I LISTED IT AND SOLD IT TO MY OWN BUYER. THEN I SOLD THE BUYERS HOUSE TO ANOTHER YOUNG COUPLE I HAD BEEN WORKING WITH. BY THE WAY, I HAD MET THIS YOUNG COUPLE IN ANOTHER RESTAURANT WHILE I WAS EATING OUT. THE WIFE WAS MY WAITRESS,

I HAD TOLD HER, AS I TELL EVERYONE I MEET ,THAT I AM IN REAL ESTATE. I COLLECTED FOUR COMMISSIONS FROM THOSE TRANSACTIONS. I GUESS THE MORAL TO THE STORY IS

TO ALWAYS BE ON THE ALERT FOR R.E. CLIENTS. I BROUGHT A REAL ESTATE SECTION FROM OUR LOCAL NEWSPAPER TO SHOW YOU. IT INCLUDES INFORMATION ON BUILDERS COMMUNITIES IN THE AREA, INFORMATION ON CURRENT LOANS AVAILABLE , INFORMATION ON NEW LISTINGS AVAILABLE FOR PURCHASE, AND A GREAT DEAL OF GENERAL INFORMATION FOR POTENTIAL BUYERS AND SELLERS OF HOMES INCLUDING ADS PURCHASED BY AGENTS AND BROKERAGES. THERE ARE ARTICLES LIKE HOW TO CHOOSE A GOOD AGENT, AND HOW TO AVOID PROBLEMS

WHEN BUYING AND SELLING A HOUSE. MY COMMUNITY IS APPROX. THE SIZE OF YEREVAN AND THIS 15 PAGE SECTION COMES OUT IN OUR LOCAL PAPER ONCE A WEEK. ADVERTISING IS A LARGE PART OF THE REAL ESTATE PRACTICE . I ADVERTISE BOTH MY LISTINGS AND MYSELF. I OFTEN USE THE ADVERTISING FOR MY LISTINGS TO PROMOTE MYSELF. BUT MY BEST ADVERTISING DOES NOT COME FROM NEWSPAPERS. IT COMES FROM SATISFIED CLIENTS. IN REAL ESTATE, ALL YOU REALLY HAVE TO SELL IS YOUR EXPERTISE AND YOUR INTEGRITY.

THE SOURCE OF MOST OF MY INCOME COMES FROM REFERRALS. IT IS VERY SIMPLE TO GET REFERRALS. ALL YOU HAVE TO DO TO GET REFERRALS IS TO KNOW YOUR BUSINESS, AND TREAT PEOPLE FAIRLY. THEN THOSE SATISFIED CUSTOMERS WILL BECOME YOUR

SOURCE FOR REFERRALS. AFTER THE FIRST FEW YEARS IN THE BUSINESS, I NEVER HAD TO SOLICIT BUSINESS. IT CAME TO ME AS A RESULT OF SATISFIED CUSTOMERS.

THE REASON I HAVE SATISFIED CLIENTS INVOLVES MY PERSONAL ETHICS. I TRY TO TREAT PEOPLE THE WAY I LIKE TO BE TREATED, WITH HONESTY AND FAIRNESS. THESE ARE MY PERSONAL VALUES, BUT THEY ALSO ARE VERY GOOD BUSINESS VALUES, AND HAVE PAID OFF IN DOLLARS. AND IN MOST CASES, WHEN I PRACTICE THESE VALUES, THEY ARE RETURNED TO ME.

FOR INSTANCE I HAD BEEN WORKING WITH A YOUNG COUPLE WHO WERE SAVING FOR THEIR FIRST HOUSE. FOR SEVERAL MONTHS, ABOUT ONCE A MONTH I WOULD SHOW THEM HOUSES IN THE AREA THEY WANTED TO LIVE. ONE SUNDAY NIGHT I RECEIVED A PHONE CALL FROM AN AGENT I HAD NEVER MET. THIS YOUNG COUPLE HAD COME TO AN OPEN HOUSE THE AGENT WAS HOLDING AND LIKED THE HOUSE. THEY TOLD HER THAT THEY WOULD LIKE TO BUY THE HOUSE, BUT ONLY IF I COULD BE THE SELLING AGENT. THAT IS ONE TIME AN AGENT COLLECTED A COMMISSION BY SELLING A HOUSE SHE HAD NEVER SEEN.

OF COURSE, THERE ARE ALWAYS SOME PEOPLE WHO ARE LESS THAN HONEST. I WAS ASKED BY A CORPORATION TO HELP AN EMPLOYEE TO FIND A HOUSE. THIS MAN WAS SUPPOSED TO BE MOVING TO MY CITY FROM ANOTHER STATE. FOR SOME REASON, I WAS SUSPICIOUS OF HIM. THERE WAS NOTHING I COULD PUT MY FINGER ON, JUST A FUNNY FEELING. WHEN WE FOUND THE HOUSE HE LIKED, BECAUSE I WAS THE SELLER'S AGENT, NOT THE BUYERS AGENT, I INSISTED ON A VERY SUBSTANTIAL DOWN PAYMENT FROM THE BUYER. AS IT TURNED OUT, THE SELLER WAS VERY HAPPY I HAD. THE EMPLOYEE QUIT HIS JOB AND DID NOT MOVE TO MY CITY. BUT BECAUSE HE HAD MADE A LARGE DOWN PAYMENT, THE SELLER WAS COMPENSATED FOR HIS LOSS OF MARKETING TIME. I BECAME THE ONLY AGENT I HAVE EVER HEARD OF WHO COLLECTED A FULL COMMISSION WITHOUT SELLING A HOUSE.

SPEAKING OF COMMISSIONS: BEFORE I MOVED TO ATLANTA, AND BECAME LICENSED TO SELL REAL ESTATE, SEVERAL LARGE BROKERAGES WERE ACCUSED AND FOUND GUILTY OF PRICE FIXING. THAT IS, THEY GOT TOGETHER AND AGREED TO CHARGE THE SAME COMMISSIONS. IN THE U.S. THIS IS NOT LEGAL. THEY WERE FINED SEVERELY. FROM THAT TIME ON, ALL REAL ESTATE AGENTS WERE TAUGHT, IF THEY WERE SOMEWHERE FOR INSTANCE IN A RESTAURANT, AND AN AGENT FROM ANOTHER BROKERAGE EVEN MENTIONED THE WORD "COMMISSIONS" THEY WERE TO JUMP UP FROM THEIR CHAIR, TIP OVER THE TABLE AND LOUDLY PROCLAIM, "I WILL NOT TALK ABOUT COMMISSIONS WITH YOU". THIS OF COURSE WAS TO AVOID FUTURE PROBLEMS.

THERE WAS A FUTURE PROBLEM. THE COURT SYSTEM DECIDED THAT ALL PROPERTIES SOLD BY THE OFFENDING BROKERS SHOULD BE NOTED. IF AND WHEN THESE HOUSES AGAIN CAME ON THE MARKET AND WERE SOLD, THE CURRENT OWNERS WERE ENTITLED TO HAVE A REDUCED COMMISSION, EVEN THOUGH THEY HAD MAY NOT HAVE OWNED THE HOUSE AT THE TIME OF THE PROBLEM. . A GROUP OF LOCAL ATTORNEYS MADE IT THEIR BUSINESS TO TRACK ALL THE SALES, AND JUST BEFORE CLOSING, THEY WOULD CONTACT THE SELLERS TO TELL THEM THAT, FOR A PRICE, THE ATTORNEYS WOULD GET THEIR COMMISSIONS REDUCED. THIS REDUCTION, OF COURSE, WAS TO COME OUT OF THE AGENT'S PORTION OF THE COMMISSION. THE AGENT WOULD NOT BE INFORMED UNTIL DAY OF CLOSING. SO WHEN ONE OF MY LISTINGS SOLD, EVEN THOUGH I HAD NOT EVEN BEEN LIVING IN THE STATE WHEN THE ORIGINAL OFFENSE WAS COMMITTED, MY SELLER WAS CONTACTED BY THE ATTORNEYS. WHEN THE ATTORNEY EXPLAINED THAT SHE, THE SELLER COULD SAVE MONEY, SHE WAS VERY

PLEASED. BUT WHEN HE TOLD HER THAT THIS SAVINGS WOULD COME OUT OF MY COMMISSION, SHE BECAME FURIOUS.

" EDIE WORKED VERY HARD FOR US. HOW DARE YOU TRY TO STEAL HER COMMISSION? I'M GOING TO REPORT YOU TO THE BAR ASSOCIATION!" NOW THAT IS SELLER LOYALTY!! BUT LOYALTY MUST BE EARNED. I HAVE HAD THE OPPORTUNITY OF WORKING WITH MANY EXCELLENT AGENTS. WE HAVE A MUTUAL COOPERATION. WHEN A FELLOW AGENT WAS WORKING WITH ONE BUYER, AND ANOTHER ONE CAME IN OUT OF TON UNEXPECTEDLY, I WORKED WITH THE SECOND BUYER. I FOUND THEM A HOUSE, AND NEGOTIATED A CONTRACT FOR THEM. THIS I DID, NOT FOR THE COMMISSION, BUT FOR MY FRIEND. SHE WOULD DO THE SAME FOR ME.

ONE DAY I HAD A CLOSING, AND FOR THE FIRST TIME IN YEARS, I WAS TOO SICK TO GET OUT OF BED. I CALLED A FELLOW AGENT ,AND TOLD HER WHAT WAS HAPPENING. SHE SAID, "DON'T WORRY ABOUT IT, GO TO BED AND GET WELL." SHE CONDUCTED THE WALK THROUGH, AND ATTENDED THE CLOSING FOR ME. I WOULD DO THE SAME FOR HER. THIS IS NOT A BUSINESS IN WHICH YOU CAN OPERATE ALONE.

ALL REAL ESTATE AGENTS HAVE STORIES TO TELL. I HAVE HAD PEOPLE GET SICK IN MY CAR. ONE CUSTOMER I HAD LOST THE FALSE TEETH OUT OF HER MOUTH WHILE LOOKING AT HOUSES WITH ME.

I HAVE SHOWN HOUSE WITH SNARLING DOGS, AND CATS WHO HAVE VOMITED ON THE FLOOR. I HAVE SEEN MICE, AND SCORPIONS. AND ONCE I HAD TO RUSH HOME TO SHOWER AFTER BEING IN A HOUSE INFECTED WITH FLEAS.

I HAVE HAD ONE SELLER WHO WALKED AROUND INSIDE HIS HOUSE WEARING NO CLOTHES , HOPING SOME AGENT WOULD BRING A BUYER TO SEE THE HOUSE, AND COME UPON THE OWNER NAKED.

I HAVE DONE DUMB THINGS, LIKE ARRANGING TO MEET A STRANGER IN A VACANT HOUSE AT NIGHT. REALLY DUMB. DON'T DO THAT!

I HAVE GOTTEN A SPEEDING TICKET ON MY WAY TO DO A LISTING PROPOSAL. I GOT THE LISTING THOUGH.

BUT MY FAVORITE STORY IS ABOUT A LISTING I TOOK WHERE THE LAUNDRY ROOM NEEDED SOME WORK. THE OWNER HAD REMOVED PART OF THE CEILING WHERE IT MET THE WALL IN ORDER TO DO SOME REPAIRS. ( EXPLAIN HOLLOW WALLS IN U.S.) HE GOT MOST OF THE WORK DONE ON THE WEEKEND, AND HAD TO GO OUT OF TOWN ON BUSINESS THE NEXT DAY. FOR SOME REASON THE FAMILY CAT CRAWLED THROUGH THAT EXPOSED AREA, AND WAS UP ABOVE THE CEILING. THE WIFE CALLED AND CALLED THE CAT. THE CAT, BEING WHAT CATS ARE, WOULD NOT COME OUT. THEN THE WIFE HAD A WONDERFUL IDEA. SHE HAD BOUGHT A FRESH FISH FOR THE FAMILY DINNER. SHE TOOK THE FISH, CLIMBED UP ON A CHAIR AND HELD THE FISH UP OVER THE CEILING SO THE CAT COULD SMELL IT. THE CAT, OF COURSE, JUMPED AT THE FISH, KNOCKING IT OUT OF THE WOMAN'S HAND. THE FISH FELL BEHIND THE WALL. THE WOMAN CALLED ME IN TEARS. "WHAT SHOULD I DO?" WE SURELY COULDN'T LEAVE A DEAD FISH IN THE WALL. SO SHE GOT A HAMMER, KNOCKED A HOLE IN THE WALL, AND RETRIEVED THE FISH. WHAT A SURPRISE FOR HER HUSBAND WHEN HE GOT HOME. BUT, WE GOT THE HOLE FIXED, AND SOLD THE HOUSE THE NEXT DAY.

\*\* INSERT AS NECESSARY

MY EXPERIENCES IN AS A REALTOR IN THE US MAY DEFER FROM YOUR EXPERIENCES  
HERE, BUT THERE ARE CERTAIN THINGS THAT ARE UNIVERSAL.

1. ASSOCIATE YOURSELF WITH POSITIVE PEOPLE. AVOID THE PEOPLE WHO SAY "IT CAN'T BE DONE, IT WON'T WORK." IT SURE WON'T WORK IF YOU DON'T TRY.
2. WORK HARD, BUT TAKE TIME FOR YOURSELF AND YOUR FAMILY.
3. TRY NEW THINGS. SOME WON'T WORK, BUT SOME WILL
4. SET GOALS FOR YOURSELF AND WORK AT THEM DAILY
5. BE WILLING TO LEARN. SUPPORT OTHERS IN THEIR EFFORTS TO IMPROVE. YOU ARE IN THE MIDST OF EXTREMELY DIFFICULT AND CHALLENGING TIMES. WHETHER YOU CHOOSE TO LOOK AT YOUR LIFE AS DIFFICULT OR CHALLENGING WILL DETERMINE THE REST OF YOUR LIFE.

THANK FOR LETTING ME BE WITH YOU TODAY.

A. QUESTIONS I HAVE BEEN ASKED IN ARMENIA

1. IN THE US DO PEOPLE PAY THEIR TAXES?
    - a. BY AND LARGE TAXES ARE FAIR
    - b. SEVERE PENALTIES
  2. WHAT DO I THINK ABOUT THOSE WHO TAX US?
    - a. IT IS US
    - b. ASKING TO BE TAXED TO BUY THE MACDOWELL MOUNTAINS
  3. DO I HAVE TO DISCLOSE DEFECTS IF THE SELLER SAYS DON'T.
    - a. PERSONAL ETHICS
    - b. FRAUD IN US AND ARMENIA EXAMPLE : LEAK IN ROOF PAINTED OVER
  4. DO I LIVE IN SANTA BARBARA? (TV SERIES SHOWING IN ARMENIA)
    - a. I NEVER HAVE SEEN THE SERIES
    - b. BUT BY WHAT MY FRIENDS IN YEREVAN TELL ME, I DON'T
    - c. I HAVE LIVED IN MANY US STATE, NORTH, SOUTH, EAST AND WEST  
IMPORTANT TO ME: HUSBAND  
KIDS  
FAMILY  
FRIENDS  
CHURCH  
WORK
- I: CLEAN MY OWN HOUSE  
COOK MY OWN MEALS  
DO MY OWN LAUNDRY

I AM LIKE YOU!!

5. WHAT DO I LIKE ABOUT ARMENIA?

15

- a. THE PEOPLE
- b. THE BEAUTY OF NATURE
- c. THE BAR B QUE
- d. THE COGNAC

- 6. WHAT DON'T I LIKE ABOUT ARMENIA?
  - a. THE SHORT HANDLES ON YOUR BROOMS
  - b. LEAVING

**ATTACHMENT C**  
**Members of the Armenian Real Estate Association**

## Members of the Armenian Real Estate Association

1. Gloria-93 Ltd.
2. Brokerservice DE
3. Aten Ltd.
4. LOTA Ltd.
5. Calora Ltd.
6. Compact Ltd.
7. Rolles-express Ltd.
8. Akhpat Ltd.
9. Hayas Ltd.
10. Businessinvest Ltd.
11. M & M Ltd.
12. Ford Ltd.
13. Narek IIT
14. Ar-2000 3AO
15. Gamma Ltd.
16. Armbrok DE
17. Concern-Gagbusiness Ltd.
18. PAS Ltd.
19. Anoush - 7 Ltd.
20. Yerankyuni Ltd.
21. Armenian Department of Paportization and Inventory of Buildings and Constructions
22. Hayas - 91 IIT
23. Armenian Astrologist Ltd.
24. Bef. Ltd.
25. Tanik Ltd.
26. A.L.A. Ltd.

## Board of Directors of the Armenian Real Estate Association

- |                     |                     |
|---------------------|---------------------|
| 1. G. Poghossian    | Havat BU            |
| 2. A. Pribliski     | Rolles-Express Ltd. |
| 3. V. Khachatryan   | Gamma Ltd.          |
| 4. A. Hakobian      | ----                |
| 5. A. Ghaltaghchian | HAGAB BU            |
| 6. L. Martirosian   | LOTA Ltd.           |
| 7. A Arakelian      | ----                |
| 8. R. Deghoyan      | Businessinvest Ltd. |
| 9. R. Hasratian     | Ervorognakhagits SE |
| 10. R. Hunanian     | Anoushik Ltd.       |
| 11. T. Kocharian    | Compact Ltd.        |
| 12. A Abrahamian    | Calorian Ltd.       |
| 13. N. Vardanian    | Yerankiouni Ltd.    |

**ATTACHMENT D**  
**Listing Agreement**

EXCLUSIVE RIGHT TO SELL

LISTING CONTRACT

PROPERTY ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PRICE \$150,000.00

TERMS CASH

IN CONSIDERATION OF THE SERVICES OF SMITH REALTY COMPANY (HEREIN CALLED THE BROKER TO BE RENDERED TO BOB AND ANNE MARTIN (HEREIN CALLED THE OWNER) AND THE PROMISE OF THE BROKER TO MAKE REASONABLE EFFORTS TO OBTAIN A PURCHASER, THEREFORE THE OWNER GRANTS TO THE BROKER FOR THE PERIOD OF TIME FROM NOON ON MAY 19, 1996 TILL NOON ON SEPT 18, 1996 THE EXCLUSIVE AND IRREVOCABLE RIGHT TO ADVERTISE AND FIND A PURCHASER FOR THE ABOVE DESCRIBED PROPERTY AT THE PRICE OF OR TERMS SHOWN ABOVE, OR FOR SUCH SUM AND TERMS OR EXCHANGE THE OWNER LATER AGREES TO ACCEPT.

THE OWNER AGREES TO PAY THE BROKER A CASH FEE OF 7% OF THE SELLING OR EXCHANGE PRICE IF THE PROPERTY IS SOLD OR EXCHANGED WITHIN THE LISTING PERIOD BY THE BROKER OR ANYONE ELSE, INCLUDING THE OWNER.

THE OWNER AGREES TO PAY THE BROKER THE SAME CASH FEE IF THE BROKER FINDS A PURCHASER WHO IS READY WILLING AND ABLE TO COMPLETE THE PURCHASE.

IF THE PROPERTY IS SOLD OR EXCHANGED WITHIN 60 DAYS OF THE EXPIRATION OF THE LISTING CONTRACT TO AN PARTY SHOWN THE ABOVE PROPERTY DURING THE LISTING PERIOD, THE OWNER AGREES TO PAY THE SAME CASH FEE.

THE OWNER AGREES TO GIVE THE BROKER ACCESS TO THE PROPERTY FOR THE PURPOSES OF EXAMINING, PHOTOGRAPHING, AND SHOWING THE PROPERTY DURING REASONABLE HOURS.

THE OWNER AGREES TO ALLOW THE BROKER TO PLACE A FOR SALE SIGN ON HIS PROPERTY.

THE OWNER AGREES TO ALLOW THE BROKER TO PLACE THIS LISTING IN A MULTIPLE LISTING SERVICE OF WHICH HE IS A MEMBER.

THE OWNER AGREES TO NOT HOLD THE AGENT RESPONSIBLE FOR ANY INJURIES WHICH MIGHT

OCCUR TO PERSONS OR PROPERTY DURING A SHOWING.

THE OWNER AGREES TO REFER TO THE BROKER AN INQUIRIES REGARDING THIS  
PROPERTY  
DURING THE LISTING PERIOD.

DATE :

ACCEPTED FOR SMITH REALTY BY : (AGENT'S SIGNATURE)

OWNER (OWNERS SIGNATURE)

OWNER (OWNERS SIGNATURE)

ACCEPTED FOR

**ATTACHMENT E**  
**Draft Real Estate Brokerage Manual**

# SECTION I

## REAL ESTATE CONCEPTS

### TOPIC 1. WHAT IS REAL ESTATE

#### **Terms:**

**Fixture**-an object that has been attached to land

**Improvements**- any form of land development, such as buildings, roads, fences, pipelines, etc.

**Monument**-an iron pipe, stone, tree, or other fixed point used in making a survey

**Personal property**- a right in something movable, anything not classed as real property

#### The Definition of Real estate

It is important to distinguish real estate from other properties, since the rights of owners towards real estate are different from those towards other properties.

When we talk about real estate, we mean the land and the improvements on the land which appear as one unity. But sometimes land and improvements are treated separately when purchased and sold. So land and improvements can belong to the same person, as well as, to different persons. For example, condominium buildings belong to the residents of the building, but the land, on which the building is built, can belong to the government and be given to condominium for permanent use.

#### Land

Often we think of land as only the surface of the earth. But, it is substantially more than that. Land starts at the center of the earth, passes through the earth's surface, and continues on into space. An understanding of this concept is important because, given a particular parcel of land, it is possible for one person or own the rights or use its surface (surface rights), another to own the rights to drill or dig below its surface (subsurface rights), and still another to own the rights to use the airspace above it (air rights).

#### Improvements

As it is already mentioned, real estate consists of land and improvements. Improvements always appears with land. Improvements are everything that are attached to the land for permanent use. It is impossible to separate improvements from land without harming that property. Buildings, structures, other constructions, perennial seedlings and other properties are improvements. Sometimes, during such situations, it is important to have the mutual agreement of the parties of the deal. The experience of developed countries can be used in solving this problem.

### Fixtures

When an object that was once personal property is attached to land (or building thereon) so as to become real estate, it is called a fixture. As a rule, a fixture is the property of the landowner and when the land is conveyed to a new owner, it is automatically included with the land.

### Allotment

Allotment is a definite plot is separated from surrounding land by boarder signs. Each allotment will be registered in the State Cadaster of the Republic of Armenia and be systematized and circled on the map of the land usage.

### Physical Characteristics of Land

1. Permanent
2. Fixed
3. Immovable
4. Limited supply
5. Irreplaceable

### Economic Characteristics of Land

1. Modification
2. Sites

### Land description in US practice

1. Informal reference i.e. an address; 18 Abovian street Yerevan, Armenia.  
Sufficient description for a lease, not a sale;
2. Metes and bounds, specifying shape and boundaries starting at a monument.
3. Formal survey using latitude and longitude.
4. Recorded plat: a map showing location and boundaries of individual properties.  
Used in subdividing a tract.

## TOPIC 2. RIGHTS AND INTEREST IN LAND

### Terms

**Easement** - The right or privilege one party has to use land belonging to another for a special purpose not inconsistent with the owners use of the land.

**Eminent Domain** - The right of Government to take privately held land for public use, provided fair compensation is paid to the owner.

**Encroachment** - The unauthorized intrusion of a building or other improvement on to another persons land.

**Encumbrance** - Any impediment to a clear title, such as a lien, lease or easement.

**Estate** - The extent of one rights in land.

**Fee Simple** - The largest, most complete bundle of rights one can hold in land; land ownership.

**Lien** - A hold or claim which one person has on the property of another to secure payment of a debt or other obligation.

**Title** - The right to or ownership of something; also the evidence of ownership such as a deed or bill of sale.

The owner of land is free to do what he pleases with that land, subject to Government rights.

#### 1. Police power

- a. In Armenian, privatization
- b. Zoning regulations
- c. Planning laws
- d. Building, health, fire codes

2. Eminent domain, for instance condemning property to expand the metro, after paying the owner a fair price for his property. Other examples: roads and parks.

#### 3. Taxation

- a. Property taxes- ad valorem, that is based on the value of the property.
- b. Special assessments
- c. Transfer tax ( in Armenia called a notary fee)

Neglecting or refusing to pay these taxes will result in a lien on your property, or confiscation by the Government to be sold to recover the unpaid taxes.

The concept of real estate is best understood as a bundle of sticks called rights. The rights of police power, eminent domain and taxation are retained by the Governments. The remaining rights are available for private ownership.

Fee simple is the best estate and the most complete bundle of rights an individual can own. It includes:

1. The right to occupy and use
2. The right to build
3. The right to grant easements
4. The right (in US ) to mortgage
5. The right to mine, drill and farm
6. The right to restrict use
7. The right to exclude others
8. The right to sell or refuse to sell
9. The right to give away or abandon
10. The right to rent or lease
11. The right to devise by will

When a stick is removed from the fee simple bundle of rights, it creates an encumbrance. Common encumbrances are:

25

1. Liens, like taxes
2. Easements: The right someone else has to use your land i.e. telephone lines, electric companies.
  - a. May be created by written grant like a land developer reserving easements for utility lines when selling lots.
  - b. May be created by necessity i.e. if a lot in back of another lot has no access, the owner of the back lot may travel over the front lot to reach his property.
3. Encroachments i.e. a neighbor's tree which hangs over your fence. You may force your neighbor to remove the encroachment.

#### Estates

Freehold: in which there is actual ownership of indefinite duration.

Leasehold: in which there is no ownership and a definite duration. In a leasehold estate, as long as the lessee abides by a valid lease, the owner can not occupy the property.

#### **The Subjects of The Real Estate Ownership Rights in Armenia**

The issue who can be an owner of a real estate in Armenia is very important and has great practical implication.

The law gives a full list of who real estate in Armenia can belong. They are:

- a) Republic of Armenia. Parliament and the Government represent the Republic
- b) Communities that are represented by the local governments

Property that belongs to the Republic of Armenia or the communities is given for full or partial business activities to state enterprises which are not the owners of the property. They can possess, use or dispose the property in the name of the state and communities

- c) the citizens of Republic of Armenia
- d) Non state enterprises and organizations of Republic of Armenia

Foreign states and international organizations (in particular the embassies) can own real estate. But in this case the law and international contracts define all the ownership rights.

Foreign citizens, persons without citizenship, and foreign juridical persons may build on the land. They cannot own land.

### TOPIC 3. THE FORMS OF REAL ESTATE OWNERSHIP

IMPORTANT!! How to take title should be decided by the buyer after receiving legal advise. Real estate agents are not attorneys and must not give legal advise!!

#### Terms

**Community property-** spouses are treated as equal partners with each owning a one half interest

**Sole ownership-** owned by one person

**Joint tenancy-** a form of property co-ownership that features the right of survivorship

**Right of survivor ship-** a feature of joint tenancy whereby the surviving tenants automatically acquire all the rights, title, and interest of the deceased joint tenant

**Tenants in common-** shared ownership a single property among two or more persons; interests need not be equal and no right of survivorship

#### Sole Ownership

Real estate can belong to one person. In this case the owner solely possesses the property and makes decisions concerning all issues related to usage and disposal of the property. This person receives all benefits from the property operations. But at the same time, the sole proprietor incurs all the responsibilities of the property.

A person might acquire a real estate in different ways: by purchase, by inheriting, as a gift, by building, exchange.

Property acquired before marriage is sole ownership but in Armenia, income from this property is not sole ownership.

#### Collective Ownership

The properties of non - state enterprises, public organizations might be considered as collective ownership. Two forms of collective ownership might be determined, that are common partnership and common joint ownership.

#### Common Ownership

"Real estate" can belong not only to one person, but simultaneously to two or more persons: citizens or organizations (enterprises). In that case the right of common ownership exists.

In Armenia there are two forms of common ownership:

1. Common partnership;
2. Common joint ownership.

The forms of common ownership (partnership or joint ownership) are defined by the ownership right documents or by juridical procedure.

1. **Tenants in common:** The percent ownership of the ownership of the tenants need not be the same, for instance 50%, 25% and 25%, but each owner has the right to possess the entire property. The individual interests may be sold or given away, but not a portion of the actual property. There is no right of survivorship, that is the co-owner do not acquire the deceased owners share, unless they are named in his will.

#### Common Partnership (tenants in common)

The important characteristic of the common ownership is that the parts of the partnership in the ownership are determined in advance. The members of the common partnership have a particular part of the common estate. It is expressed by the parts of the total: 1/2, 1/3, 1/4, etc. The operation, directing and usage of the common partnership is made through the agreement of it's all co-owners. In the case of disputes the way of its operation and usage is determined by the court. All the participants of the common partnership have equal voices in the usage and

directing issues of the ownership, independent of the size of their part. For example, let's assume that a land plot belongs to 3 persons as a partnership and 1/2 of the land belongs to one and 1/4 to the two others, if first two owners (that is the partners with 1/2 and 1/4 part's) want to sell whole land, and want to pay 1/4 to the 3-rd owner. This partner can disagree to sell the whole land. All the participants of the common partnership are responsible for the taxes paid from the common partnership, as well as for the expenses connected with its management and maintenance. The participants take part in that payments and expenses corresponding to their size of ownership. The same procedure is used to allocate the revenues and other benefits.

### **The Allocation of Common Partnership**

Each member of the common partnership has a right of separating his / her part from the common wealth. If the division of the estate in the natural form is not possible, than the owner is paid. Each member of the common partnership has a right to dispose of his part with compensation or without it.

The part of the member of the common partnership can be separated by the request of the third party who has a right of confiscation.

If the question of separation of the parts of ownership arises from the all number of the partnership, than the division of the common wealth will take place. The right of common partnership is terminated also on the basis of purchasing, presenting or inheriting by the one of the partners of the others parts.

In the case of sales of the part of common partnership, the other members of the common partnership have the priority in buying the salable part of the common partnership at the same price and conditions as it would be offered to someone else.

There is no right of survivorship, that is in case of the death of one participant of common partnership his part is not transferred to the other owners, but to his heirs.

### **Common Joint Ownership**

The members of the common joint ownership, as the members of common partnership have equal rights in there common estate. The size of their parts in the common ownership, in contrast to common partnership, is not determined beforehand. The size of those parts can be determined in the case of division of the common joint ownership and in other cases regulated by the law.

The main feature of common joint partnership is that in case of the death of one of the partners his part is transferred not to his heirs, but to the remaining participants in the common joint partnership. Disposal, possession and usage of the common joint partnership equally belongs to the all owners. To change owners, the rest of the co- owners must create a new contract of common joint ownership.

2. **Joint tenancy (common joint tenancy):** there is right of survivorship. to create this tenancy there must be four unities:

1. Time: all owners acquire title at the same
2. Time all titles are acquired from the same source i.e. deed or will
3. Interest: the joint tenants own one interest together and has the same rights in that interest.
4. Possession: all tenants may use the whole property, and no one owns a particular portion of it.

### **The Ownership of Couple**

The difference between the sole proprietorship and common ownership of couple should be pointed out. The estate acquired or created during the years of marriage is considered the common joint ownership of the couple. The things that the couples have acquired before the marriage as well as those that they inherit or get during the years of marriage are considered the personal ownership of the individuals.

Couples have equal rights of using, directing and operating the wealth that is the common joint ownership of the couple. In order to make any transaction concerning real estate the agreement of two sides of a couple is required. For example if one of the spouses is selling the house that is considered the joint common ownership of

the couple, without the agreement of the other spouse, than the latter can apply to the court in order to consider the transaction to be illegal.

In the case of divorce the common joint ownership is divided among the spouses equally.

3. **Community property in the US** :each spouse owns one-half interest in all property acquired during marriage. Property owned before marriage, and property acquired after marriage by one spouse is separate property, and may be conveyed without the spouses consent.

## **Partnerships**

### 1. General

All partners organize and operate the partnership. Their liability is not limited to the amount they have invested, but to the amount of their personal wealth in addition to the partnership.

### 2. Limited

In a limited partnership there are one or more general partners who organize and operate the partnership, and agree to accept the full financial liability of the partnership. The limited partners provide most of the investment capital, but have no participation in management. They share in the profits and losses, and are liable only to the extent of their personal investment.

## **The Production Cooperatives**

The production cooperative - is a voluntary consolidation of residents, members, for implementing common production or business activity, based on their working or property participation. The production cooperative has a status of legal entity. The members of the production cooperative are responsible for the cooperative's liabilities, based on the procedure defined by the charter, of the cooperative. The property of the production cooperative is allocated by members share according to the charter.

## **Corporation**

A corporation is an enterprise that has the status of a legal entity. The corporation should have a charter capital (fund) distributed in advance defined quantities called stocks.

The charter capital is paid by stockholders, as an investment. Each stockholder is responsible for corporation liabilities, corresponding to the value of his stocks.

The corporation can be open (public) and closed (private).

The sale (distribution) of open corporation stocks is conducted via free subscription, while the closed corporation stocks are distributed only among the corporation founders. The stocks of open corporation are sold and purchased without limitation, while the stocks of closed corporation are not a not a subject of free sale and purchase.

## **The Conditional Right on the Real Estate**

The conditional right of real estate enables the owner to enjoy all the rights given by the legislation, but this right can be defined by a contract.

The conditional right for the property is passed by an appropriate certificate (for instance, contract or will). For instance the owner of an apartment who wishes to leave for abroad for temporary living can loan or lease his house until his return.

After his return the apartment again returns to the former owner. But if the former owner wishes then the apartment can be loaned or leased to another person.

## **TOPIC 4. THE TRANSFER OF TITLE OF THE REAL ESTATE**

The ownership rights in the real estate can be transferred in different ways.

The most common ways are the sale of the property, inheritance, gift of the property and the exchange of the property. The transfer of the ownership right of the state property can be done also through privatization. In the all above mentioned cases the transfer of the ownership right is done by the mutual agreement of the both parties.

The transferring of the ownership right on the real estate in all cases is done according to certain order and through ratified documents (deeds).

### **THE CONDITIONS OF THE TRANSFERRING OF THE OWNERSHIP RIGHT ON THE REAL ESTATE, WHEN THE LAND AND THE IMPROVEMENTS BELONG TO THE SAME OWNER**

In the Republic of Armenia the land and the improvements may belong to the same owner, as well as to the different owners. If the land and the improvements belong to the same person, then the transfer of the ownership rights in real estate is done according to the following conditions.

If the owner of the real estate sells the land the improvements (buildings, constructions, etc.) are also transferred to the new owner.

The exception to this rule is the case, when the person is not the citizen of the Republic of Armenia. He is obliged in a 6-months period, to alienate the land or renounce to the benefit of the state, but may lease the land back.

If the citizen owner of real estate land and improvements sells only the improvements. He retains ownership of the land and may lease or give the land for permanent use to the buyer of the improvements.

If the ownership right of the improvements is transferred to the new owner through privatization process (for example, a store is privatized), then the ownership right on land is preserved, but the land is given to the permanent use or by lease to the new owner of the improvements by the same conditions as they were before the privatization of the improvements.

### **TRANSFER OF REAL ESTATE OWNERSHIP RIGHTS, WHEN LAND AND IMPROVEMENTS ARE OWNED BY DIFFERENT OWNERS**

When land and improvements are owned by different entities and land is leased to the owner of improvements then the transfer of title is performed in the following manner. If the improvements are sold, the new owner gets the right to lease land under the same conditions and term as before the sale.

When land is sold the owner of improvements, if he prefers, has the right to buy land at the price and conditions offered.

In case land owner sells land to different entity, the owner of improvements maintains his rights ( e.g. the right to lease under the same conditions ) after the sale as well.

If the owner sells the improvements (for example, house), then the necessary land for the construction and service of the sold improvements is given by the same conditions and time terms, as it was before the sale of the house.

## **HOW TO TRANSFER THE OWNERSHIP RIGHT ON THE REAL ESTATE**

### **DEEDS OF CONVEYANCE**

A deed is a written legal document by which ownership of a property is conveyed from one person to another. It must include

1. The names of the grantor and grantee
2. In US practice, consideration, usually money.
3. Words of conveyance
4. Land description
5. Signature of the grantor
6. Delivery and acceptance
7. In Armenia, title is transferred when the deed is registered in the state cadastre.

The most common deeds are the contracts of the sale, gift, exchange, and privatization.

The requirements of deeds are determined by the law "About Real Estate", by Civil Code, and other statutes.

### RATIFICATION

The deed is ratified by both parties. If for some reason any of the parties can not sign the document the deed is ratified by his legal representative, then endorsed by notary.

If the parties of the deed are legal entities, than the deed must be ratified also by the seal of the legal entity.

If one of the parties ( the seller or the buyer of the property ) is a citizen, the deed concerning the transfer of the real estate must be ratified by notary order ( expect the case of state privatization ). The notary checks not only the legality of the deed, the identity of the parties signatures.

### SAMPLE DEED

- (1) This deed is executed in Y city on June 10, 1995.
- (2) The parties of the contract - A.A., living in \_\_\_\_\_, and T.P., living in \_\_\_\_\_.
- (3) A.A. transfers to the T.P. with the absolute ownership right the apartment, which belongs to A.A.
- (4) The apartment is located \_\_\_\_\_.
- (5) The description of the apartment \_\_\_\_\_.
- (6) The apartment belongs to the A.A. with the ownership right and is free from any legal obligations, except the obligations mentioned in this paragraph \_\_\_\_\_.
- (7) T.P. is obliged to pay A.A. as a compensation for the apartment the \_\_\_\_\_ sum.
- (8) Possession must occur before \_\_\_\_\_ 1995.
- (9) T.P. must transfer stipulated sum to A.A. no later than \_\_\_\_\_.
- (10) The parties are responsible for the right fulfillment of the obligations.
- (11) The signatures of the parties.

This example is simplified example of the deed, by which is shown what content the deed should have.

In the paragraph (1) are mentioned the place and the time of the making of the deed.

In the paragraph (2) are mentioned the name and the address of the person ( also other data from passport ), to whom the apartment belongs, and the person, to whom the apartment as an ownership is passed.

In the paragraph (3) is mentioned that the apartment is transferred to the T.P. with the absolute ownership right. This means, that it is transferred without any time limitations, with all the rights of the owner which are not restricted by any condition.

In the paragraphs (4) and (5) are mentioned the address and the description of the apartment, what construction the apartment has, what quality it has, and etc.

In the paragraph (6) is mentioned that the apartment really belongs to A.A. and there is no any legal claim toward that apartment. And the fact of such claim must be mentioned ( for example, the property may be used as a mortgage. In this case, in the contract must be stipulated the problem of the mortgage).

In the paragraph (7) and (9) are mentioned the sum of payment for the apartment and the payment mechanism. May be mentioned also that the part of the sum will be paid in advance, and other part - after the assignment of the contract.

In the paragraph (8) is mentioned the time term of the transfer of the ownership right.

In the paragraph (10) are mentioned the sanctions, which will be used toward parties in the case of not fulfillment their obligations. May be stipulated a sum of money as a penalty in the case of not payment it the time term.

In the paragraph (11) are mentioned the signatures of the parties ( and the seals ).

## **INHERITANCE**

When a person dies leaving a valid will, his property will be distributed according to this document. in Armenia a will must be notarized. In US practice, the will is usually witnessed although not all states require witnesses.

If a person dies without a will, that is, intestate, the state will divide his property according to state laws, usually spouse and children, and then to parents, brothers sisters, etc.

## **THE TRANSFER BECAUSE OF DIVORCE**

In the case of divorce the join property of the spouses is divided between spouses equally. If the allocation of the property is impossible to do in normal way /for example, one - room apartment/, then it could be left for one of the spouses, and give to another an equal compensate on.

## **THE PRIVATIZATION OF THE STATE PROPERTY**

### **THE CONCEPT OF PRIVATIZATION**

The privatization is alienation by law of state - owned property ( real estate ) to the individual citizen of the Republic of Armenia, to the groups of citizens, non-state enterprises and in the cases permitted by the law, to a foreigner.

State enterprises, unfinished constructions, "small enterprises" , land, apartments can be privatized.

### **WAYS TO PRIVATIZE STATE ENTERPRISES**

1. Selling through auction or competition
2. By transferring title to employees or to LTD corporations
3. By selling stocks
4. By allowing the lease to purchase
5. By allowing private stockholders to by state owned stocks

To privatize state enterprises you must make application to the ROA board of privatization and denationalization. The price is determined by the board of calculation and denationalization.

## **PRIVATIZATION OF THE STATE PROPERTY**

### **THE PRIVATIZATION CONTRACT**

The privatization of the state property require privatization contract of the. State apartments do not require privatization contract. Privatization is made between the board of the calculation and denationalization and the buyer. In the contract are the names of the seller and buyer, date, the name of the property, its address, inventory, and the price, the payment mechanism, time terms, the rights and obligations of the parties. The contract is registered in the board of the calculation and denationalization. After the creation of the state unified cadastre the contracts will be registered with it.

**PRIVATIZATION MODEL CONTRACT**

“ ” \_\_\_\_\_ 199\_\_

**I. GENERAL PROVISIONS.**

The board of the calculation and denationalization of the ROA, which in future will be called as a seller, represented by \_\_\_\_\_ ( the first name , middle name, last name of authorized official person )

Who acts \_\_\_\_\_  
( mention the document )  
based on the one side and

\_\_\_\_\_ ( data about buyer )  
Who will be called in future as a buyer, represented by

\_\_\_\_\_ ( data about authorized person )  
\_\_\_\_\_ on the other side, executed this contract about the following.

**II. THE SUBJECT OF THE CONTRACT AND THE PRICE.**

1. In this contract according to the mentioned conditions the seller sells, and the buyer acquires

\_\_\_\_\_  
/the name of the enterprise/  
which is located in \_\_\_\_\_  
address

- 2. The buyer acquires the enterprise with its assets and liabilities according to the attached list of inventory and appraisal act, which represent a complementary part of this contract.
- 3. The healthcare, sport, cultural, educational divisions of the enterprise.

\_\_\_\_\_ ( the name and the address )

4. The calculated price according to the government of ROA  
“ ” \_\_\_\_\_ 199\_\_ decision \_\_\_\_\_  
( the name of decision ) ( by numbers and letters )

\_\_\_\_\_ is \_\_\_\_\_ dram.  
The selling price” “ ” \_\_\_\_\_ 199\_\_ in the auction  
record \_\_\_\_\_, “ ” \_\_\_\_\_ 199\_\_, is \_\_\_\_\_  
( numbers and letters )  
\_\_\_\_\_ dram.

**III. THE CONDITIONS OF PAYMENT**

5. The buyer is obliged to make the payment of the price of the enterprise, according to the sum mentioned in the chapter A, paragraph 4.

6. The payment of the price is made in the following order.

- a. Payment is made \_\_\_\_\_ dram until “ ” \_\_\_\_\_ 199\_\_
- b. Payment \_\_\_\_\_ dram until “ ” \_\_\_\_\_ 199\_\_
- c. Payment \_\_\_\_\_ dram
- d.
- e.

7. The buyer has a right to pay the partial payments at once.

8. Partial payments are made based on government indicators of the prices of the privatized property of the moment of payment and the interest of the average banking deposit.

9. The payments are made based on notification given to the buyer by seller

\_\_\_\_\_  
/the name of the bank/

\_\_\_\_\_ N \_\_\_\_\_ account.

10. The payment is considered as a made after representing the receipt to the seller by buyer.

#### IV. THE OBLIGATIONS OF THE SELLER AND THE BUYER

11. The buyer becomes the owner of the assets of the enterprise which will be known as \_\_\_\_\_

12. The buyer is obliged

a) until "\_\_\_\_" \_\_\_\_\_ 199\_\_ to continue in the same business

b) until "\_\_\_\_" \_\_\_\_\_ 199\_\_ do not change the minimal number of employees of the enterprise ( \_\_\_\_\_ person ).

c) To execute new contracts, in accordance with law with his employees. Until the execution of the new contracts the old contracts are enforceable.

d) \_\_\_\_\_

e) \_\_\_\_\_

f) \_\_\_\_\_

13. The buyer is obliged to preserve \_\_\_\_\_  
( the name of the enterprise )

the orientation of the organization according to the 3rd paragraph of the II chapter.

14. Closing on or before

"\_\_\_\_" \_\_\_\_\_ 199\_\_.

#### V. OWNERSHIP RIGHT

15. Transfer of title occurs at mutual signing..

16. If the buyer sells the enterprise - the new buyer must comply with contract.

**VI. THE RESPONSIBILITIES OF THE BUYER AND THE SELLER**

17. In the case of the violation of the payments time terms. For each unpaid day the buyer pays a fine of 2% of the unpaid sum.

18. In the case of refusing to pay the price of the enterprise this contract is considered as a void according to order determined by law. The return of the previous payments is regulated by legislation of the Republic of Armenia.

Refusing to pay occurs when the buyer, in written form announces he will not pay to the seller, or does not make payment within 30 days after payment day.

19. If the buyer does not perform conditions of the 12 paragraph of the contract the seller may present a suit to the court to void this contract, informing the buyer one day before that. The return of payments is regulated by legislation of the Republic of Armenia.

20. In the case of non-performance by the seller, resulting in void of the contract, the seller bears the responsibility ( also the monetary compensation of damages and lost profits to the buyer ) according to legislation of the Republic of Armenia.

If closing is delayed 05% of the unpaid balance is due the buyer.

**FINAL PROVISIONS**

22. Transfer of title at mutual signing.

23. Disputes between the contractual parties are resolved according to determined order by legislation of the Republic of Armenia.

24. The contract could be recognized as a void according to "Privatization and denationalization of the state enterprises and unified construction" law of the Republic of Armenia, 47 paragraph.

25. The contract is made in 2 copies in Armenian, one of which stays with the seller, another with the buyer.

**Buyer**  
THE BOARD OF CALCULATION AND  
DENATIONALIZATION OF THE STATE  
PROPERTY

**Seller**  
\_\_\_\_\_  
( the name of the enterprise )

\_\_\_\_\_  
( bank account )

\_\_\_\_\_  
\_\_\_\_\_  
( first name, middle name, last name of the  
authorized official person )

\_\_\_\_\_  
\_\_\_\_\_  
( first name, middle name, last name, passport data,  
address of the authorized official person )

\_\_\_\_\_  
( signature )

\_\_\_\_\_  
( signature )

**Seal**  
" \_\_\_\_ " \_\_\_\_\_ 199 \_\_\_\_

**Seal**  
" \_\_\_\_ " \_\_\_\_\_ 199 \_\_\_\_

**THE PRIVATIZATION OF THE APARTMENTS**

According to "Privatization of the state and public housing " law of the Republic of Armenia, privatization is voluntary and free of charge to the appropriate lessors. The privatization application is presented to the governmental local body, which makes decision concerning privatization. Based on this decision by the local

governmental inventory body a privatization certificate is given to the new owner of the apartment. The apartment becomes the joint property of the former lessors. With the privatization certificate, registration certificate and technical passport is also given.

**THE EXAMPLE OF PRIVATIZATION CERTIFICATE**

**REPUBLIC OF ARMENIA**

**PRIVATIZATION CERTIFICATE**

The name of the estate \_\_\_\_\_  
Address \_\_\_\_\_  
The form of the ownership \_\_\_\_\_  
(joint general ownership, general partial)

**REGISTRATION CERTIFICATE**

Mentioned estate \_\_\_\_\_ sq. m., for living \_\_\_\_\_ sq. m., supplementary \_\_\_\_\_ sq. m., other surface, with the right of ownership belongs to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Inventory organization director

Seal

**THE EXAMPLE OF TECHNICAL PASSPORT**

**TECHNICAL PASSPORT**

The layout of the land ( land, apartment )

---

The layout of the land

the layout of the building

**THE DESCRIPTION OF THE BUILDING AND CONSTRUCTIONS**

The name	The exploitation of the construction	The constructive elements			
		Ceiling	Basement	Walls	Covering

Well-condition		Exterior			
Price					
Communal services		surface volume			
sq. m., cubic m.		depreciation			

**THE DESCRIPTION OF THE LAND**

Surface	Including walls			
sq. m.	real	constructed	borders	garden

**THE DESCRIPTION OF THE INTERIOR OF THE BUILDING**

The number of apartments	The number of living rooms	of	Total surface sq. m.	Including		
				living surface	supplementary	other

Heating	Hot water supply	Bathroom	Type of fuel
---------	------------------	----------	--------------

**ADDITIONAL NOTES**

Based on \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Performer \_\_\_\_\_ Checker \_\_\_\_\_ Responsible \_\_\_\_\_

Seal

### **TRANSFER OF TITLE OF STATE LAND**

Transfer of title of state land to private ownership is made based on the decisions of the government of the Republic of Armenia and local governmental bodies according to act of the land appropriation.

In the document is:

The name of the buyer

The legal description

The cadastral price

The permitted future use

If the state land was appropriated for the permanent use, then the person, who has that right can apply to the appropriate governmental body for acquiring that land with the ownership right. In this case the land is alienated according to the cadastral price at that moment.

### **TOPIC 5 CONDOMINIUMS**

**Terms:**

**Bylaws** - rules that govern how an owners' association will be run

**Common elements** - those parts of a condominium which are owned by all the unit owners

**Condominiums** - individual ownership of a space of air plus undivided ownership of the common elements

## **THE CONCEPT OF CONDOMINIUMS**

The condominium is the association of the owners of all apartments of the multiapartment building and not living places, besides that, each owner owns its own apartment and also the part of the property, which is for the general use and represents itself as a general property.

By unifying in association, the owners have the opportunity personal participate in the governing all problems related with the building and protect their right with the support of the association.

By showing initiation and supporting the association to conduct right policy, each owner can contribute to the increase of the well-being of the building.

## **THE SHARE OF THE COMMON AREA**

The share of the condominium common area refers to the share of the owner of each apartment in that property. This common area is indivisible and may not be separated from the ownership right of that apartment. The share of the common area is proportional to the size of the apartment.

The owners of the apartments can sell, mortgage, lease or use in other form their apartments, however common elements are indivisible and can not be sold, mortgaged and leased without the agreement of the other owners.

The expenses for the condominium needs are not equal for all the owners, but are proportional to their ownership share.

## **ALLOTMENT**

The plots, building are generally owned by the state or the municipal bodies ( for example, the most part of the Yerevan city land is given for the permanent use ). According to the law of "About real estate", the land under the building of the local governmental bodies, also the plot used for the services of the building is given for permanent use to the condominium.

Therefore, the condominium has no proprietary rights toward that allotment. The condominium can not transfer that allotment with the proprietary right to another person because that allotment is the state property. Law "About real estate" allows the acquisition of the state land in usage with the permanent use right to be acquired by the person with the right of permanent use for the cadastral price of that land.

The local governmental body will define the boundaries of the land.

## **THE RIGHTS OF THE CONDOMINIUM TOWARD ITS COMMON ELEMENTS**

The general property of the members of the condominium neither can be alienated, nor transferred to the usage of other persons. It concerns to the property, which is located outside of the apartments ( elevator, stairs, etc. ), and the property ( heating, communications, etc. ), which is located inside of the apartments and has a purpose of usage by many owners, also the places for the general usage, alienation of which will made impossible to fulfill the rights of the owners. The other parts can be used by the members of condominium, as well as by the other people too. The passing of that parts to others for usage is allowed according to the decision of the condominium. By giving these parts ( free basements, semibasements, etc. ) for lease, the incomes will be used for the needs of the condominium ( the condominium is non-profit organization ).

## **THE MAINTENANCE EXPENSES OF THE CONDOMINIUM**

It is important for each owner of the condominium to know that he must pay. The owner must do the maintenance and renewal expenses of his apartment by his own.

In addition, each owner must pay his share for maintenance, renewal general expenses according to his share in the general property.

## **THE MANAGEMENT OF THE CONDOMINIUM**

The structure and the management order of the condominium are determined by its Charter.

The condominium has the following structure:

The superior body of the owners ( or legal representatives ) is the general meeting, and the superior official person - the president of the condominium. The general meeting solves the important problems of the condominium, including the endorsement of the budget, determination of the sizes of the general expanses.

The general meeting establishes an executive committee - board, which enforces the policy of the condominium. It also may hire a professional manager, who will directly manage the works for the maintenance and service of the building. The president organizes the operation of the condominium.

The condominium also has an accounting department and audit committee. In addition different committees can be created for the support of the management of the condominium.

## **TOPIC 6 CONTRACT LAW**

A CONTRACT IS A LEGALLY ENFORCEABLE AGREEMENT TO DO OR NOT DO A PARTICULAR THING.

### **THE CONCEPT OF THE CONTRACT**

A contract is a bilateral or multilateral agreement in which the parties receive certain rights and obligations. The contract also must be created in accordance with law.

## THE FORM OF THE CONTRACT

Contracts are made in oral or written form. Examples of the oral contracts are - buying products in the store, food market, payment for the ticket in the bus.

For the most part, contracts are written. The law determines which contracts must be written. For example, the contracts between legal entities - organizations and citizens, the contracts between citizens, the price of which is more than ten times of minimal wage, etc. Written contracts must be signed by the persons, who make the contract. The contracts between organizations are also ratified by their seals. Written contracts make clarifications and certainty in the mutual obligations of the parties. The legitimacy of some contracts depends also on their ratification and registration by notary. For example, sales contract for the real estate must be ratified in the notary and registered in the state unified Cadaster.

If any essential element is missing from a contract, that contract is void

Each contract must include certain things to be recognized as a legal . The law establishes the following conditions for the validity of the contract:

- a) the parties of the contract must be competent and capable
- b) the contract must be in accordance with the law, and must not contradict to the interests of the country and society
- c) the will of the person expressed in the contract and the expression of that will must coincide (for example, contracts made under fraud, duress, treat , contracts made by fake and sham)
- d) the contract must be made in accordance with the order determined by law.

If the parties violate even one of the validity conditions of the contract, the contract is recognized as void.

## LEGAL CAPACITY

The legal capacity of the person concerns his civil rights and obligations. The legal capacity of the person starts from the moment of the birth and finishes with the death.

## CAPACITY

Armenia law describes four kinds of capacity: full, partial, limited, incapable.

1. Full capacity appears when the person becomes adult at age 18. If the person is married before 18 years old, he becomes fully capable at the moment of marriage.
2. Partial capacity defines two groups of citizens a) minors under 15 , b) minors from 15 to 18 years. Minors under the 18 have no rights to buy and sell any goods , and consequently their agreement to make a deal is invalid, and they has no right to enter in the contracts of the real estate. For the minors under 15 years, the parents, guardians and adopters have the right to make contracts on behalf of the minors. The minors can make by themselves small everyday contracts. The 15-18 years-old minors are responsible for the damages caused by themselves. 15-18 can sign contracts if legal guardians agree.
3. The capability of the person can be limited by the law (by administrative or court order). In accordance with law, the rights of individuals who are alcohol abusers or addicts can be restricted. By court decision is establish a trusteeship. It means that the person with limited capacity can sign contracts but only with agreement of the trustee.
4. The court can define the person as incapable as the result of mental insanity or mental disability this person can not understand the consequences of his actions or can not control them. These people can not enter in the contracts.

## VALID, VOID, VOIDABLE

A valid contract is one that meets all the requirements of law. It is binding upon its parties and legally enforceable in a court of law. A void contract has no legal effect and, in fact, is not a contract at all. Even though the parties may have gone through the motions of attempting to make a contract, no legal rights are created and any patty thereto may ignore it at his pleasure. A voidable contract is a contract that is able to be voided by one of its parties.

## **THE INVALIDITY OF THE CONTRACT**

In Armenia contract can be considered as invalid according to the law or by the decision of the court. If the contract is disputed by an interested person, it is considered as a disputable contract. I.e. contracts made by the 15-18 years-old minors, or by a person with the limited capacity, or those made under fraud, duress, with malicious agreement of the representative, as a result of hard conditions.

The disputable contracts are considered legal until ruled otherwise by the court.

## **THE FAKE AND SHAM CONTRACTS**

The fake and sham contracts are made without the intention to create legal consequences.

There is no lawful intent, therefore the contract is invalid.

## **THE CONTRACT MADE UNDER THE MISLEADING**

If at the moment of the making the contract one or both parties were misled or under the influence of the mistake, than contract is recognized invalid by the court order. This means that the party did not know important conditions before making the contract. For instance the seller does not know about the noise due to not living there. This is not fraud, but is invalid.

## **THE CONTRACT MADE UNDER FRAUD, DURESS, THREAT**

Fraud means that the one of the parties intentionally misled the another party.

Duress is physical threat.

## **THE CONTRACT MADE BY THE MALICIOUS AGREEMENT OF THE REPRESENTATIVE**

The parties can make contracts not by themselves but through their representatives. If the representative makes a contract with the malicious agreement with the other party which damages the party which he represents (for example, they can intentionally lower the price of the apartment and the other money can be appropriated by the representative), than the seller may come to the court with request to recognize the deal as invalid.

## **THE CONTRACT MADE IN HARD CONDITIONS FOR THE PARTY AND EXTREMELY UNACCEPTABLE CONDITIONS**

Contracts are considered as invalid, when one party uses the hard conditions of the other party and makes very beneficiary deal in the extremely unacceptable conditions for another. The price of the deal and the real price of the property in this case must have a big discrepancy.

For example, the owner of the apartment owes certain sum of money to the other persons, but has no money to pay his debt. The owner of the apartment is compelled to sell his apartment at a lower price than the market price to pay the debt.

US practice a contract must include

1. Capable parties
2. Mutual agreement
3. Lawful objective
4. Consideration, usually money
5. Must be written

## **THE CONCEPT OF THE REPRESENTATION**

As a rule, the citizens and the organizations make contracts. But in some cases we use representatives. They are used by capable people, who have legal rights, but due to some conditions (for example, illness) can not use them. This is possible for legal entities too. The representative is the person who is empowered by mandate, law or administrative action and to make contracts under the name of representee, creating, changing or terminating for him certain civil rights and obligations. The representee is the person, who empowers the representative to make contracts for him. The representative may make other legally enforceable actions within his scope of a representative.

## **THE MANDATE**

The mandate is a written document, by which one person authorize the second person to perform representation toward third persons. In the mandate are mentioned the jurisdiction and the scope of actions which the representative is competent to do. If by the mandate is made a contract, which requires ratification by the notary, than that mandate must be ratified too. The representation for a legal entity is given by the signature of the manager, validated by the seal of the organizations.

## **THE TYPES OF THE MANDATE**

The mandate can be three types - general, special and for one time.

In "for one time" mandates the representative is authorized to make a one contract (for example, make the sales contract of the representee's apartment).

In "special" the representative is authorized for a certain period (for example, for 1 year) to make a similar legal actions (for example, to find buyers for the real estate firm).

By the general mandate the representative is authorized to make different actions (for example, to be engaged in real estate brokerage and to make contracts from the name of the firm).

This mandate can not be given for more than 3 years.

If in the mandate there is not mentioned the time term, than it is considered as invalid.

The person, to whom the mandate is given, is obliged to fulfill all his obligations. If the mandate permits, he may be represented by a third person.

## **THE TERMINATION OF THE MANDATE**

The person, who gave the mandate can any time recall it (or give the mandate to another person), and the person, to whom the mandate was given, any time can reject the mandate. The action of the mandate is terminated also in the following cases - when the time of the mandate is finished, the person who gave the mandate is dead (the legal entity is liquidated), and etc..

## **THE STAGES OF MAKING THE CONTRACT**

The making of the contract consists of the certain stages and has several component parts.

Usually the first stage of the making of the contract is the offer of the one of the sides concerning the making of the contract. This stage is called "offer". The second stage is when that offer is accepted by the other side. This stage is called "acceptance".

In the case of the offer the willingness of the offeror must be clearly stated. However offeree or acceptant (the person who accepts the offer) can make a counteroffer, which could be on of the any conditions of the contract. For example, the offeror can mention a certain price, and the other party can make a counteroffer with the different price.

He has a right to include in the offer additions or corrections. If the contract is required in the writing form, than the stages of the offer and acceptance is followed by the third stage - the formation of the text of the contract and its confirmation.

An offer is considered by law to be rejected not only if the offeree rejects it outright but also if any change is made in the terms.

It should also be pointed out that an offer can be revoked by the offeror at any time prior to the offeror hearing of its acceptance.

## **THE PERFORMANCE OF THE OBLIGATIONS OF THE CONTRACT**

The parties should perform their obligations according to the following principles - appropriate performance of the obligations, real performance of the obligations, etc..

The appropriate performance of the obligations means the performance of those according to requests and conditions of the laws, and in the case of absence of such requests and conditions - according to usually applied requirements. There might be cases, when the obligor has an opportunity to perform and is ready to perform his obligation, but he could not perform, for example, because of the other party is absent from the place of his living for a long time. In such cases, the obligor can pay the sum of his obligation to the deposit account of the notaries. In this case the obligation will be considered appropriately performed.

## **THE MEANS OF THE SECURITY FOR PERFORMANCE OF OBLIGATIONS**

Usually, the contractual obligations are performed by the parties voluntarily and appropriately. But in practice there are cases, when one of the parties of the contract acts in a bad faith. Thus, for such kind of party there is a need for additional legal measures for providing the performance of contractual obligations.

The means of the security for performance of obligations are the following - penalty, collateral, guarantee, down-payment.

Other means can also be stated by the contract.

### **THE FINE**

The fine is determined in the contract for an amount of money, which the obligor has to pay in case of non-performance of any of his obligations.

### **COLLATERAL**

The collateral is also considered as a means of security for performance of obligations. In the case of non-performance by the buyer, the seller has the right to take his money first from the value of the collateral.

### **THE GUARANTEE**

Is a written agreement in which a third party agrees to pay if i.g. buyer defaults.

### **THE DOWN-PAYMENT**

Down-payment as a means of the security for performance of the obligations is well-known in practice. A down-payment is the sum of money which is given by the one of the contractual parties to another, as an evidence of that he makes a contract and to secure its performance. The main important characteristic of the down-payment is that if the party (buyer) who made a down-payment does not perform the contract, than the other party (seller) retains the down-payment. And if the seller does not perform the obligation, than he has to pay to the buyer twice as much as the down-payment.

### **THE TERMINATION AND THE CHANGES IN THE CONTRACT**

The changes and termination can occur:

1. By mutual agreement of the parties
2. According to the suit of one of the parties to the court, if the opposite party has substantively violated the conditions of the contract.

The party, who's interests were violated, can apply to the court with the suit to change or to terminate the contract. But before application to the court, is necessary to apply to the opposite party in a written form with the offer to change to terminate the contract. Only in the case of the negative response or in the case of not responding in the determined time ( 30 days ), the court will submit the suit.

3. Performance
4. Condemnation
5. Death

### **THE LIMITATIONS OF ACTIONS**

The limitations of actions is the time, during which a party is allowed to apply to the court to protect the violated interests.

In the case of the violation of contract rights, where the one of the parties is a citizen, the time of the limitations of actions is limited by three years. And if one of the parties is an organization, the time is limited by one year.

For the dispute concerning the sales contract for the house the time term of the limitations of actions is six months period. However if a buyer bought a house, but has found some hidden defects about which he did not know, can apply to the court with the suit to terminate the contract within a one year after the making of the contract.

### **THE CONSEQUENCES OF THE RECOGNITION OF THE CONTRACT AS INVALID**

The recognition of the contract as invalid creates certain legal consequences. Particularly, one of these consequence is the reinstatement to the former state. In the case of the bilateral reinstating of the former state each

party is obliged to return to the other received property, money, etc.. In the case of the unilateral reinstating of the former state , only one party is obliged to return the received property.  
In the case of the recognition of the guilty party must pay the damages of the other party.

US practice any fact which affects the desirability of a property must be disclosed to a potential buyer by the seller and his agent, for instance, leaking roofs, a sewage plant near the property, a highway that is proposed near the property. If there is a hidden defect known to the seller or his agent which is not disclosed, the buyer may rescind the contract and sue the seller and agent for losses. and he will win the suit.

## SECTION II

# REAL ESTATE PRACTICE IN ARMENIA IN THE PHASE OF ECONOMIC REFORMS (WITH AN EYE TO THE FUTURE)

### TOPIC 1. REAL ESTATE CONTRACTS

#### The Peculiarities of the Real estate Sales Contract

To be valid and enforceable, the real estate contract in Armenia must first be notarized, if one of the parties is an urban inhabitant, and then must be registered in the state cadastre. After registration the contract can not be changed without the creation of a new contract. Any disputes about the new contract must be settled in court.  
Sample

#### SALE CONTRACT

N.....

City of Yerevan                      01.02.199...

Poghos Petrosian ( later in the contract will be called "Seller") from one side and Martiros Piloian ( later will be called "Buyer") from another side sign this contract on the following:

#### I THE SUBJECT OF THE CONTRACT

1.1. The Seller takes the obligation to pass the title of the house that by the property rights belongs to him ( and other authorized co-owners as of the period of signing the contract) to the Buyer, and the buyer takes the obligation to accept it and pay by the agreed upon order and quantity.

1.1.1. The property right of the seller is confirmed by the house registration certificate.

1.2. The address of the house is Yerevan, Nork X micromassive, Antarayin St. #3.

1.3. The house being sold has the following technical description:

1.3.1. A stone two story building consisting or 5 rooms, 90 sq.m. living and 40sq.m. auxiliary area, basement, garage, is in a good condition.

1.3.2. Land is also sold which is an indivisible part of the house. The total area is 400sq.m. from which 200sq.m. is garden. The land belongs to the Seller by the property right.

1.3.3. The house is free from any kind of legal burdens.

#### II PRICE OF THE CONTRACT

2.1 The selling price for the house comprises dram equivalent of 10,000 US dollars (ten thousands), that remains constant after the notary ratification of the contract.

2.2. The price of the house includes the price of land and improvements and the price of the commodity sold along with the house as indicated in this contract.

2.3. The fee for ratification of the contract is paid by the Seller.

48

### **III PAYMENT ORDER AND CONDITIONS**

- 3.1. The payment is in cash.
- 3.2. For the house the Buyer prepays dram equivalent of 1,000 ( one thousand) US dollars.
- 3.3. During the notary ratification of the contract the Buyer pays dram equivalent of 1,500 (one thousand five hundred ) US dollars.
- 3.4. The factual difference between the total contract price and the prepaid amount and amount paid during the notary ratification comprises dram equivalent of 7,500 ( seven thousand five hundred ) US dollars that is paid to the Seller in the case of fulfillment of all the obligations stated in the given contract.
- 3.5. The amount is paid by the exchange rate of the US dollar established at the time of the contract ratification.

### **IV DATE OF THE PERFORMANCE OF THE LIABILITIES**

- 4.1. The title house mentioned in the part "I" must be passed to the buyer not later than in two weeks after the contract ratification.
- 4.2. The amount mentioned in the provision "3.4." of the contract (dram equivalent of 7,500 US dollars) must be paid to the Seller not later than in two weeks after the contract ratification if the parties do not have any other agreement.

### **V THE LIABILITIES OF THE PARTIES**

- 5.1. The Seller is obliged:
  - 5.1.1. To present the original documents certifying the ownership rights for the house and the agreement of the co-owners for the sale.
  - 5.1.2. To give possession to the house not later than the ratification of the contract in an appropriate state body.
- 5.2. The buyer is obliged:
  - 5.2.1. To accept the house by the order and time agreed in the contract
  - 5.2.2. To pay the determined price according to the order, conditions, and amount (including prepayment) agreed in the contract.
  - 5.2.3. To inform the seller about the discovered poor technical quality and discrepancy from the contract.

### **VI RESPONSIBILITIES OF THE PARTIES**

- 6.1. In the case of breaching the deadline for passing ( accepting ) the title, the liable party has to compensate the full volume of the caused damage and pays the fine: for every delayed day the .2% of the contract price but not more than for two months.
- 6.2. In the case of passing an house that does not fit to the demands of the contract the Seller has to pay the Buyer the necessary amount to bring the house to the appropriate condition or himself does the needed work, and pays fine equal to 5% of the contract price.
- 6.3. In the case of not paying the price by the agreed order and in time the Buyer pays fine to the Seller: for every delayed day .2% of not paid amount but not more than for two months.
- 6.4. The paying of the fine does not free the parties from fulfilling their liabilities.
- 6.5. If the Buyer refuses to accept the house after the ratification of the contract, the Seller does not return the prepaid amount.
- 6.6. If the Seller refuses to sell the house after the ratification of the contract, he must return to the Buyer amount two times more than the prepaid amount.

**VII THE ORDER OF SETTLING THE DISPUTES**

- 7.1. All disputes and disagreements about the contract are settled by negotiations.
- 7.2. If negotiations fail to settle the disputes then the disputes are to be settled at court.

**VIII CHANGES AND ADDITIONS IN THE CONTRACT**

- 8.1. The contract comes into force after being registered by an appropriate state body. If after that a need for changes and additions arises then the parties have to sign a new contract.
- 8.2. After the contract comes into force it can be invalidated only by court according to the legislation.

**IX OTHER CONDITIONS**

- 9.1. Along with the house the following commodity.....also passes to the Buyer. The value of these commodity is included in the contract price.
- 9.2.....
- ..

**X THE JURIDICAL ADDRESSES OF THE PARTIES**

**SELLER:** Poghos Petrosian  
 Address: Yerevan, Nork V m/m Hyusisayin str 5.  
 Passport data .....

**BUYER:** Martiros Piloian  
 Address: Yerevan, Masis St. 5.  
 Passport data .....

**SELLER**..... **BUYER**.....  
 (signature) (signature)

From a sample sale contract becomes clear that at first the place and time where and when the contract is signed are indicated. Then the contract parties: the Seller and the Buyer are indicated. If a party (parties) is not a natural person but an organization, then at first the name of the organization is indicated, then the name and the title of the person who is authorized to sign the contract by the name of the organization.

**The Subject of the Contract**

In the (I) section of the contract the property (house) the title of which is passed from the Seller to the Buyer is described. The address of the sold property ( house ) is indicated in the contract (article 1.2.). When executing the contract a great attention must be paid to the description of the house as well to the property is also passed to the Buyer. If the quality and the level of construction is not indicated in the contract it means that the level matches with the accepted standards. The legal status of the land passed along with the house is very important i.e. land is owned or leased for forever use. As the house and the land on which the house is built can belong to different owners, this must be indicated in the contract. If the subject of the contract is an apartment then the issue with the land does not occur. It must be determined whether the apartment is apart of a condominium or not; if so the obligations of the owner towards the condominium must be found out and indicated in the contract.

If the subject of the contract is land then the status of improvements and the rights of the owner of the improvements over the land must be determined.

The document which certifies that the land and/or improvements belong to the seller must also be indicated in the contract.

**Legal Burdens**

Article deals with the legal burdens of the real estate (house). It must be stated whether third parties have any rights over the real estate and whether the house is free from legal burdens. The seller can transfer the title of

only that which no third parties have any rights over. Otherwise the Buyer must be informed and agree to buy the house by that condition. For example the house can be a collateral, can be given for rent or be under arrest to be confiscated because of the owners debts. The issues of tax and other payments also must be discussed.

### **Price of Contract**

The price of the contract is determined by the parties based on the market prices of the real estate of that particular region. In article (2.2) it is mentioned for what commodity the money is paid. Usually besides the house the land is also included if the land belongs to the Seller.

Otherwise (if the land is given to the owner of the house for forever use ) the land with the same status along with the house is passed to the Buyer.

Article ( 2.2. ) defines that the state fee for the notary registration of the contract is not included in the contract and is paid by the Buyer. Notary fee is negotiable between buyer and seller.

### **The Payment Order**

In the Part III of the contract states the terms and conditions of the payment of contract. It can be paid either in cash (article 3.1.) or deposited on the Sellers account. It also can be paid through a third party (including the notary account) to be later paid to the Seller.

The buyer usually makes downpayment to the Seller to confirm that he really wants to acquire the real estate.

The second payment that takes place during the notary registration strengthens the contract. The parties can exclude the second and even the prepayment.

The final payment: the remaining money must be paid to the Seller as the Buyer gets the keys of the apartment.

### **Deadlines**

Part IV (articles 4.1. and 4.2.) determines the deadlines for the parties that are determined by the parties themselves.

### **Liabilities of the Parties**

In this part ( Part V ) the responsibilities of the parties are stated. The Seller must present documents certifying the ownership of the real estate. The Seller has to vacate the apartment for the Buyer.

In turn the Buyer agrees to accept the real estate and to pay for it according to the contract.

### **Quality of the Sold Property**

The condition of the real estate must be as indicated in the contract. If the Buyer finds any drawbacks he is obliged to inform the Seller. The Buyer can appeal to the court to invalidate the contract in one year after signing the contract if the Seller does not voluntarily agree to pay for the reconstructing works or does not bring the house to the agreed upon conditions by his own means.

### **Responsibilities of the Parties**

The parties are responsible for transferring real estate on time, and to make the payments in time. Otherwise the parties can be fined as agreed in the contract.

### **Order of Settling the Dispute**

If disputes occur on the contract liabilities (Part VII) the Seller and the Buyer usually meet to settle the conflict through negotiations (article 7.1.). If the parties fail to come to a consensus, then each of the parties can appeal to a court. If the parties are organizations then to arbitration court.

### **Changes and Additions to the Contract**

Real estate transactions are currently registered in the regional inventory departments. In the future they will be registered in the state cadastre.

After the registration the parties can not make any changes even by mutual agreement. If they want to change any article or condition of the article they have to sign a new contract.

### **Other Conditions**

- I. e.
- 1) personal property
  - 2) seller retaining possession

## Signatures

In the case of natural persons their last name, first name, address and the passport data is indicated. Each of the parties sign both examples of the contract that remain with them. If a party of the contract is a juridical person then his name, address, bank account, and the name of the authorized person who has signed the contract is indicated. Besides the signature of the latter the contract is certified by a seal.

*US practice (subject to individual state law) r.e. contracts will contain*

- 1. competent parties*
- 2. legal description*
- 3. price*
- 4. earnest money, amount and treatment*
- 5. method of payment: cash, mortgage, assumption*
- 6. conveyance of title, naming the kind of deed*
- 7. possession and closing dates*
- 8. any time limitations*
- 9. prorations of taxes, utility bills etc.*
- 10. provisions for inspections*
- 11. provisions for a walk through*
- 12. agreement that the property will be delivered in the same condition as it as on the day the contract is signed.*
- 13. any contingencies, financing or inspections i.e.*
- 14. special stipulations*
- 15. signatures of principals and agents*
- 16. acceptance time and date*

## TOPIC 2. REAL ESTATE LEASES

### Terms:

**Lessee** - the tenant

**Lessor** - the landlord

**Sublease** - a lease given by a lessee

### Leased Real Estate

Contrary to the alienation of the real estate when the title of the real estate passes from one person to another, and all the rights over the real estate pass to the new owner, during the leasing the owner is not changed. The owner of the real estate keeping the ownership rights over the real estate can pass to another person the rights of possessing and using of the property. Along with those rights the owner can also pass the right to change and the right of collateral. The other essential difference between selling and leasing is that leasing is temporary and after the leasing period the right of possessing and using the property (and other rights) returns to the owner.

The owner can lease the real estate consisting of land and building on it, or any of them without the other part.

The owner (lessor) can allow the lessee to use the real estate consisting of land and building on it any way if it is not forbidden by law.

The lessor can not pass rights that he does not have himself.

### Lease Contract

Lease relations between the lessee and the lessor about the leased real estate are governed by a lease contract. Lessor is the owner of the real estate, and the lessee is the person to whom lessor passes the rights to possess and use the real estate.

By the lease contract the lessor conveys the real estate, land or building on it for a temporary possession and use for living or for business or other activities.

### The Forms of Lease Contract

A lease contract for a year or more is executed in a written form. If by the contract the lessee gets the right to change or to collateral the real estate, then the contract is executed in the written form. If one of the parties engaged in the lease contract is a citizen then the contract must be also notarized. In the past the lease contract was not generally registered. The law of RA on "Real Estate" requires that the lease contracts have to be registered in the state cadastre.

If one of the parties of the contract is an enterprise which does not have a status of a juridical person the contract must be executed in the written form independent to the period of lease.

#### **Leases must contain**

1. Names
2. Property description
3. Agreement to convey
4. Pay amount and method
5. Start date and duration
6. Signatures

### Lease Period

The period is one of the most important provisions of the real estate lease contract. The lease period is determined by the parties by mutual agreement. The law imposes no limitations on the lease period. The real estate

can be leased for life and for discretionary time. In the latter case if no time is indicated in the contract, it can be terminated at any time if one of the parties demand it.

When the lease time lapses but the lessee continues to use the real estate this does not mean that the lease contract is extended. The lessor can demand the take the real estate back at any time he wants. Meanwhile during the use of the real estate for the period of time more than that determined by the contract, the rights of the lessee are preserved.

### **The Value of the Leased Property and the Rent Determination**

The value of the leased real estate is determined by the parties based on the market prices in that particular region. The value of the real estate that is a public property if the property is leased without the right to be bought is determined by evaluation taking into account depreciation.

The value of the public land is determined by the cadastre value of the land at that time.

The rent for the leased property in the contract is determined by the mutual agreement of the parties.

The rent for the public property is determined by the Government of RA and by local governments.

### **Sub-Lease of the Real Estate**

The lessee of the real estate can sub-lease the property to the third parties only by permission of the lessor, and by the conditions and time determined by the lessor.

In this case the lessee is responsible to the lessor. The lessee pays the rent. In his turn the sub-lessee pays the lessee the rent for sub-lease.

*US practice sub-lease*

*In the US a lease may sublease unless his lease prohibits it.*

### **The Rights and Liabilities of the Parties**

The lessor passes the right to possess and to use the real estate to the lessee. The ways of usage are determined by the contract. The lessor can allow the lessee to use the real estate in any way that is not prohibited by the law. The lessee uses the property as determined in the contract and pays the determined rent to the lessor.

The products and the revenue acquired by the lessee from the use of the real estate are considered to be his property unless the contrary is indicated in the contract.

The lessee can make changes in the real estate only if it is indicated in the contract or by the written permission of the lessor. If the lessee makes any changes of the real estate by himself that are not permitted then the lessor can demand the lessee to restore the real estate to the initial condition in an appropriate time. Otherwise he is permitted to liquidate the contract.

Basic reconstruction of the real estate is done by the lessor if the contrary is not indicated in the contract.

The lessee is obliged not to allow any worsening of the natural conditions of the leased land, reduction in fertility or any other changes of the real estate that can cause the reduction of the real estate value or worsening of the description of the property.

The lessor has the right to alienate the real estate that belongs to him to another person without the agreement of the lessee. But in this case the rights of the lessee must be also preserved.

### **Changes and the Liquidation of the Lease Contract**

Changes of the conditions of the lease contract or its liquidation before the expiration date are allowed by the mutual agreement of the parties. By the claim of one of the parties the contract can be either changed or liquidated by the decision of the court (arbitration court).

The passing of the title of the leased real estate cant be viewed as grounds for changes or liquidation of the contract.

The lease contract usually is terminated at the expiration date.

55

The lessor can terminate the contract if the lessee violates the conditions of the contract. In particular, when the lessee does not bring the real estate to the condition that existed before the changes done by him, or worsens the description of the property, or does not pay the rent in time.

For unilateral liquidation or change in the contract, the lessor appeals to the court (or arbitration court if both parties are organizations). After the termination of the rent contract, the lessor can demand a compensation from the lessee.

If the lessee makes any improvements of the real estate without the agreement of the lessor then the lessor is not obliged to pay for the improvement costs.

If the severance of the tenants improvements of the property is possible without damaging the real estate then the lessee, can it take for himself if the lessor does not agree to compensate its cost.

If after the liquidation of the contract, the condition of the property is worse than it was determined by the contract, then the lessee is obliged to pay the damages.

The lessee also can demand the premature termination of the contract if the conditions of the contract are violated by the lessor. For example if the lessor does not fulfill its obligation of the basic reconstruction of the property, then the lessee can demand the premature termination of the contract.

Sample

**LEASE CONTRACT N.....**

..... <<.....>>.....199.....  
(place)

.....  
( the name of the institution. enterprise, organization

.....  
initials of the natural person)

**later "the Lessor"**.....

(title, initials)

**that acts**.....

(name of the document)

**based on, from one side, and** .....

( the name of the institution. enterprise, organization

.....  
initials of the natural person)

**later "the Lessee"**

(title, initials)

**that acts** .....

(name of the document)

**based on, signed the given contract on the following:**

**I. THE SUBJECT OF THE CONTRACT**

1.1. The Lessor is obliged to pass the Lessee the right of temporary possession and usage (or the right of usage) the following property .....

(the name of the property, description, purpose of the usage)

**II. THE CONTRACT PRICE**

For using the property the Lessee pays the Lessor ..... yearly (or monthly)

**III. CONDITIONS OF THE PAYMENT**

3.1. The payment determined by the contract is done

.....  
(in lump-sum, in parts, by prepayment and so on)

3.2. The payment order .....

(in cash, payment claim, check and so on)

51

**IV. THE DEADLINES FOR FULFILLING THE LIABILITIES**

- 4.1. The property indicated in the article (1) of the contract must be passed to the Lessee due to passing-acceptance act in ..... days after signing the contract.
- 4.2. The Lessee pays the rent in the following time periods.....
- 4.3. The contract operation time:  
beginning .....  
end.....

**V. THE OBLIGATIONS OF THE PARTIES**

- 5.1. The Lessor is obliged:
  - 5.1.1. To pass the property to the Lessee in time in the condition determined in the contract.
  - 5.1.2. To make the basic reconstruction of the property.
  - 5.1.3. To provide consulting and other aid to use the leased property in the most productive way.
- 5.2. The Lessee is obliged:
  - 5.2.1. To use the property according to the demands of the contract and for the determined purpose.
  - 5.2.2 To keep the property in proper conditions, to make current reconstruction on his own expense.
  - 5.2.3 To pay cost of maintenance.
  - 5.2.4 To respect the deadlines for the rent payments.
  - 5.2.5 To return the property to the lessor after the liquidation of the contract by the passing-acceptance act, in the condition that the property had before the lease taking into account the natural depreciation.

**VI. THE RESPONSIBILITIES OF THE PARTIES**

- 6.1. The parties bear the property responsibility for non-performance or non-performance of the conditions of the contract.
- 6.2. If the lessee does not pay the rent in time he has to pay an additional fine that comprises ..... percents of the not paid amount for every delayed day but not more than ten days, and ..... percents daily for more than ten days delay but not more than for a month.
- 6.3. If the rent payment is delayed for more than a month then the lessor can demand the liquidation of the contract by the accepted procedure and demand to compensate the damage caused by delay in the rent payment.
- 6.4. For breaching the other liabilities determined by the present contract the guilty party has to pay a fine that comprises ..... percent of the yearly rent.
- 6.5. The payment of the fine does not free the parties from fulfilling their liabilities or abolition of the breaches.

**VII. THE ORDER TO SETTLE THE DISPUTES**

- 7.1. All the disputes that arise between the parties around the present contract are settled through negotiations.
- 7.2. If it is impossible to settle the conflict through negotiations it is settled at the court (arbitration court) according to the law.

**VIII. THE ORDER OF MAKING ADDITIONS AND CHANGES IN THE CONTRACT**

- 8.1. The present contract comes into the force at registration.
- 8.2. Any additions or changes in the present contract have legal power only if they are executed in the written form, are signed by the both parties and is ratified and registered by the accepted procedures.
- 8.3. The premature liquidation of the contract is possible either by the mutual agreement of the parties or by the acting legislation of RA ( with lessee responsible for damages).

**IX. OTHER CONDITIONS**

- 9.1. ....
- 9.2. The following is attached to the contract:
  - 1. The passing-acceptance act of the real estate.
  - 2. The technical description of the real estate.
  - 3. ....

**X. THE JURIDICAL ADDRESSES OF THE PARTIES**

**THE LESSOR**

**THE LESSEE**

.....  
.....  
(zip code, address, checking or other account)

.....  
.....  
(zip code, address, checking or other account)

.....  
(title, signature)

.....  
(title, signature)

**P.S.**

(the initials of the natural person and the passport data)

**P.S.**

(the initials of the natural person and the passport data)

.....  
(signature)

.....  
(signature)

### TOPIC 3. CLOSING PRACTICE

#### THE ESSENCE OF THE TERMINATION STAGE

The process of the transfer of the proprietary right does not finish with the creation of the contract. Before the transfer of the property to the buyer and the receipt of the money by the seller, each participant must fulfill his obligations. Simultaneously, the rights of the participants must be protected before the registration of the contract. After the registration of the contract the deal is considered closed.

#### THE RATIFICATION OF THE CONTRACT BY NOTARY

Any deals contracts concerning the alienation of the ownership right of the real estate, before the registration in the state cadastre ( before the establishment of the state cadastre - in the body of the technical inventory or in other bodies ) must be ratified by the notary. The parties must visit the notary office with the necessary documents. While ratifying the sales contract of the real estate ( including buildings, constructions, apartments, land ) the notary at first checks the belongings of that property to the seller. The notary also checks the identities of the seller and the buyer, their legal capacity , capability and the identity of their signatures.

The ratification of the contract by the notary do not conclude only by itself the transfer of the proprietary right of the real estate. Before the registration by the notary the ratified contract between the parties creates only certain obligations. If the one of the parties rejects the contract before its registration, than the future relations between the parties could be created by new agreement or according to the decision of the court. If the contract is not registered and the parties agreed to invalidate the contract, than it is enough that the parties apply to the notary office. In this case the notary makes the appropriate notaries attestations on the both copies of the contract and notes that in the register.

Until the registration of the contract the seller is the real estate owner and continues to be responsible for that property to the tax bodies and other. By not preserving the condition of the contract registration by notary order, makes that contract invalid . But in practice there can be a situation, for example , the sale of the house can be made without any notary ratification. For example, K. applies to the court for the recognition of his proprietary right on the apartment in the Avan based on the fact , that the part of the apartment was bought from the mother of the respondent for 3,000 rubbles in the 1950, who promised to ratify the deal legally, but did not do it so. The fact of the sale of the disputable part of the apartment was confirmed by written note, with the real signature of the dead owner of the apartment, in which were mentioned the all necessary conditions of the contract and obligations to ratify in the required order. After the moment of the buying the apartment, K. has lived in that apartment and made all necessary maintenance expenses , including the payment of the all taxes. Taking into account the circumstances of the case, the court recognized the sales contract made in the 1950 as legal.

Therefore, the court has a right to recognize the written sales contract of the real estate, which is not ratified by the notary order, if the contract does not contain anything illegal and the parties has performed fully their obligations.

## **THE VERIFICATION OF THE BELONGINGS OF THE REAL ESTATE**

The notary verifies the ownership of the seller of the real estate by the reference of the appropriate document confirming the proprietary right . That document is obligatory to mention in the contract. The seller during the notary ratification must present one of the following documents, which confirm his proprietary right on the real estate:

- a) the ratified contract by notary order on the construction of the building on the appropriated allotment with the personal proprietary right ( or the contract of appropriation of the allotment for the construction of the house ).
- b) ratified by notary order ( or other equivalent orders ) sales , gift, exchange contracts
- c) the copy of the act for the buying the apartment in the public auction
- d) the decision of the privatization of the apartment ( house, other real estate )
- e) the certificate of the proprietary right on the share of the joint property of the spouses
- f) the copy of the legally effective decision of the court about the confirmation of the proprietary right on the construction
- g) the contract about the division of the construction
- h) the certificate of the registration of the property

In all of the above documents ( except of the registration certificate ) must be also the note of technical inventory body ( state cadastre ) about the registration of that document.

The seller must confirm also that the selling property has no obligations toward any financial or tax bodies, confirmed by a note by that body.

## **NOTARY VERIFIES THAT ALL DOCUMENTS ARE IN ORDER**

In the contract must be mentioned the sizes of the house, technical and constructions and buildings ( garage, warehouse, wells ), which are transferred to the new owner with the house. If the seller has added illegal constructions on the house, than he has no right to transfer them. The notary before the ratification of the contract must check, that there are such kinds of illegal constructions. In the contract must be no notes about that kind of constructions.

If there is transfer of one of the several houses on the same plot, the contract may be registered after the plot on which it is located is defined.

## **THE ALIENATION OF THE JOINT REAL ESTATE OF THE SPOUSES**

While ratifying the alienation contract the joint property of the spouses the notary also requires the agreement of the spouses. The spouse, who does not sign the contract, must submit a written agreement for the alienation of the house. The agreement of that spouse must be appropriately confirmed by notary or the body, which has the similar rights ( housing-exploitation office, administration of the workplace, etc. ). This kind of agreement is not necessary, when that spouse personally visits the notary office and presents a application about his agreement on the house alienation. In this case the notary checks the identity of the spouse and his signature, and notes this on the application.

The problem of getting the agreement of the other co-owners is solved in the same manner. The seller is obliged to present the written proofs, that he has informed other shareowners about his intentions to sell his share.

## **THE PECULIARITIES OF THE ALIENATION OF THE PRIVATIZED APARTMENTS**

After the privatization of the apartments the owner(s) can execute ( including to sell ) this property. However if it is under the joint ownership- all owners must agree. While ratifying the contract, the notary must require from the seller the following documents :

- a) the decision of the local governmental body about the privatization of the apartment
- b) the certificate of the privatization of the apartment
- c) the note of the technical inventory body about the price of the apartment

The last document is required from the owner, because the state tax for the title transfer of the apartment's alienation contract is taken from the price determined by technical inventory body.

### **WHAT PROBLEMS CAN OCCUR WHILE THE ALIENATION OF THE APARTMENTS**

There are many problems that occur in the practice related with the withdrawal from the registration of the previous owner ( or other persons ) of the apartment. There are certain cases, when the seller after the receipt of the money disappears and the buyer deprives of the his right to execute the proprietary right. Then the buyer is forced to look for the seller or to apply to the court to expel the seller from the apartment. That is why , when the buyer doubts in the seller, it is reasonable to take a mandate about the withdrawal from the apartment, as well as by notary order ratified application concerning withdrawal addressed to the police section of the seller's registered place, after which the buyer can solve on his own the problem of the seller's withdrawal. In all cases, the buyer must require from the seller a note from the housebook or the copy of the personal financial account, because it is possible that in the same apartment besides of the seller can be registered other persons, who are not the owners and have the right of the tenant , but may not know about the apartment's sale. These persons preserve the rights of the tenant and in fact their withdrawal is naturally impossible.

### **THE ANNOUNCEMENT ABOUT THE RIGHTS OF THE THIRD PARTIES**

The seller must warn the buyer about the rights of the third parties concerning to the selling apartment ( or other real estate ) before the registration of the contract.

### **THE RESPONSIBILITIES OF THE BROKER**

Usually, in real estate contracts there is broker involved , whose role at the final stage is essential as well. The responsibility of the broker is to explain to the parties what should they do in the final stage of the deal, help the ratification of the contract and registration process, provide their participation in those problems. He makes sure that the buyer and seller perform their contractual obligations exactly, present the necessary documents. With the agreement of the contractual parties the broker can take the responsibility to keep the contractual money, that the buyer gives to seller, so that after the registration of the contract. He gives them to the seller.

## **THE TRANSFER OF THE CONTRACTUAL MONEY**

One of the most important aspects is the transfer of the contractual money from the buyer to the seller. In practice, this transfer is made from the buyer to the seller according to the mutual agreement by the contract. If the contract is made through the broker, than , as a rule , the obligations of the transfer of the money from the seller to the buyer are his responsibilities. In this case, they make a contract among the seller, the buyer and the broker ( brokerage organization ).

*US practice: the holding agency, broker, attorney, title company, escrow company must have a separate escrow, which may or may not be interest bearing in which all earnest Moines and/or down payments are kept until dispersal. Any violation of this practice puts the holder of the money subject to arrest and imprisonment.*

## **THE REGISTRATION OF THE CONTRACT**

The registration of the sales contract is the final stage of the execution of the contract. The registration is made in the local governmental bodies ( in the section of the technical inventory.

After the creation of the state cadastre all the contracts will be registered in this body.

During the registration of the contract the presence of the all participants is necessary. If the parties of the contract are citizens ( natural persons ), they must have with them a passport, the actual copy of the contract ratified by the notary and the copies, a note from the housing maintenance section about absence of the debts for the communal services.

If the parties of the contract are legal entities, than they must present the charter of the legal entity or the copy of that, the certificate of the registration of the legal entity, mandate for the representation of the legal entity and the passport of the authorized person.

## **THE ACTUAL POSSESSION OF THE REAL ESTATE**

The possession of the real estate from the seller to the buyer is tied to the transfer of the title proprietary right. The actual possession of the real estate can precede or follow ( immediately or after some time ) of the registration of the contract, according to the mutual arrangement of the parties. The parties after the registration of the contract according to the mutual agreement can change the time term of the transfer of the real estate, but can not change the legal importance of the registration of the contract. It means that after the registration of the contract, independently of the actual possession of the property, the owner of that property is already changed.

It is impossible to separate the transfer of the title from the registration. The registration follows the execution of the contract. Until the contract is registered, it will have no legal effect.

## **TOPIC 4**

### **HOW TO RECORD TITLE**

#### **The System of Ownership Right Registration**

During the years of Soviet power, ownership rights registration system were closely connected with proprietary relations of the time. Because at that time the land was not a subject of private property, the state had exclusive right over it and registration of the land was implemented via separate state cadastre. This system was well developed and included all data, without exceptions, related with land quality and quantity data, data about the users of land, etc.

There were no unified registration system about other type of properties (buildings, premises, structures). The registration of these properties mostly implemented at the bodies of state administration under which jurisdiction they were. The transactions that related with real estate ownership right's of residents ( mostly the living house contract that related with its sale & purchase) were implemented at the technical inventory departments of the local administration bodies, where the necessary information might be obtained. Although the law "About the Real Estate" admitted at 27 of December 1995 stipulated the creation of unified State cadastre, the former system is operated and the registration and acquisition of real estate is implemented via former system.

#### **The Necessity of Registration the Real Estate Ownership Right**

All real estate owners need guaranteed protection of their properties from proprietary claims of others. Closely related with that are real estate management issues and other legal effects. The registration of the ownership right's of the real estate allows us to find out the necessary information concerning the property at any time, that is the ownership of the property, size, description, the nature of transactions around it, the system of ownership right's transfer and other information. By applying to the property registration bodies interested persons might receive the necessary information concerning the real estate. At the same time everybody should know the procedure of registration of his ownership right's.

### **The Acting System of Land Registration**

According to the legislation, the registration of lands is done through the state land cadastre. The land cadastre is a legal document that includes all data about land, including the quantity, economic importance, location, size, the type of utilization, the allocation category (that is the land is designated for the temporary or permanent use, or with lease or ownership right) and others. Besides the registration of the land owners, the state conducted recording of the lands includes all lands of the Republic. The processing of the cadastre of the agricultural lands including the registration of land owners is implemented by the Ministry of agriculture and by its local bodies.

The registering of the new land users (if a land is allocated to someone) is performed upon the decision of corresponding bodies, after which land users receive land allocation document. The registration of land in the city is done at the city state land cadastre book by the breakdown of types of utilization and allocation categories (the land is designated for the temporary or permanent use, as a lease or ownership).

For each land plot, the number of the land plot is marked in the regional map of the land users and the name of the land user (owner), the time period of allocation, the aim of the allocation (agriculture, construction, etc.), total area, location, the name of the document on the basis of which the plot is given. The preliminary data is registered fully. In the future new records are added if the data is changed (for example, the change of owner) based on the corresponding documents (for example, based on the land sale & purchase contract).

In cities and city type settlement the land cadastre processes (including the registration) implemented by corresponding technical inventory departments of the local administration bodies (in Yerevan city by "Committee of Buildings' and Structures' Passportization and Accounting" (BSPA)), under the control of municipal bodies.

### **The Registration of Privatized Objects**

The base for registration, of the buildings, structures as well as enterprises that is a subject of privatization is decision of the Government concerning the privatization of the corresponding objects (real estate). Based on that decision a privatization contract is signed between the new owner and the State Properties Accounting and Denationalization Board of RA. The contract is registered and the Board and owner receives authorized copies of registration. All future transactions concerning these objects registered by technical inventory bodies.

### **The Registration of the Objects that belongs to Residents as Ownership Right**

The transaction of real estate (including apartments, living houses) ownership right and issues related with that is implemented by corresponding technical inventory departments of the local administration bodies (in Yerevan city by "Committee of Buildings' and Structures' Passportization and Accounting").

The registration of privatized apartments conducted base on the decision of the local administration body concerning the apartment's privatization. The registration of privatized living houses conducted base on the decision of the land allocation or construction allowance. The owner receives ownership certificate.

The transaction of real estate (including apartments, living houses, dachas act) that belongs to residents as an ownership right and issues related with that (sale & purchase, gift etc.) should be in advance attested by notary. Then the attested transactions (contracts) registered in the technical inventory body. The authorize copy of the registered contract should be sent to the owner of the property.

### **The Registration of the Illegal Structures**

There is a special order of registering the buildings which are built (without permission from competent state body) up to the May 15, 1995 (the day of adopting the Decision by the Government). The unproved built construction is a subject for registration by the right of ownership if it corresponds to the requirements and conditions of the

approved construction, sanitary and technical norms and also if it corresponds to the general plan of that place or the requirements of the planning projects.

For registering these structures, the resident applies to the executive committee of the corresponding local administration body, which does all the work connected with the inventory.

The right of the ownership is recognized by a decision of the executive committee. On the basis of the decision of the executive committee the appraisal of the given construction is made and the right of ownership is registered (after paying the appraised value) by the technical inventory body.

### **The Registration of the Real Estate according to the new Legislation**

According to the "About Real Estate" law of RA, the creation of State unified cadastre is stipulated for registration the transactions of real estate ownership rights and issues related with it. The proceedings of the State unified cadastre will be implemented by body authorized by the Government of the RA and by the procedure defined by the Government.

The followings must be registered in the State unified cadastre:

- a) lands and improvements that RA residents receive as an allocation and as an ownership right, that is the land plot attach to houses, dachas, areas for living house construction and operation
- b) lands that are privatized by collective farms.
- c) the contracts concerning the real estate acquisition, lease, sub-lease, utilization, collateral, exchange as well as court's order related with that.
- d) the documents that pass the land for permanent use.
- e) the contracts concerning the land plot borders changing, unification and allocation.
- f) the resolutions concerning the limitation of real estate use.
- g) the resolutions, decisions, judgments concerning the termination of the real estate ownership.
- h) The resolutions, decisions concerning termination of the land permanent use and lease rights. i) resolutions concerning the waiver of real estate (or its part) ownership rights.
- j) the acts concerning the acquisition of real estate defined by the legislation of RA.

*US law says all deeds and mortgages must be recorded to be effective.*

*Real estate agent does not record title. this is done by the attorney or title agent, or escrow company.*

### **The Insurance of the Real Estate**

The insurance of the buildings (living houses, dachas, and other real estate) that are under person's ownership is allowed in case of voluntary insurance. For property insurance a contract should be signed between the owner and the insurance body (agency), after which the owner receives insurance certificate. The purpose of insurance is to insure the owner of real estate from latter occasional losses as a result of natural disasters, and other force majeure (fire, explosion and etc.). In case of property damage or destroy the insurance payment should be done in the amount that is defined by the contract.

*Property insurance is held on almost all real estate. most properties, both personal and investment have mortgages. Mortgage companies demand proof of insurance before granting a mortgage. even if there is no mortgage on a property, common sense dictates obtaining protection against loss or destruction, if this protection is available.*

## **TOPIC 5**

### **TAXES AND TAX ASSESSMENTS**

REAL ESTATE AGENTS ARE NOT TAX ATTORNEYS, AND MY NOT AND SHOULD NOT GIVE TAX ADVICE.

### **The taxes and fees on the real estate**

The tax is the obligatory and non refundable payment from the physical and legal persons and other payers that is paid by the determined order of the legislation, in constant sizes and during the predetermined time periods.

65

Fee is a payment made by the physical and legal persons and other payers in cash, as a fee or from the account of the payer, for the certain services and transactions made by the state bodies by the predetermined way of legislation. The amounts that come from real estate taxes and fees are the main source of finance for state and local bodies budget's.

The taxes and fees that are directly related with real estate in the Republic of Armenia are the following: tax on property, tax on land, value added tax and state fee that is charged as a notary service for real estate transactions.

### **Payers of the property tax**

Property tax is an obligatory payment to the state budget from the property which is owned or where parties have operating right as determined by the legislation.

Payers of the property tax in the Republic of Armenia are all the organizational - legal enterprises, no matter of the type of ownership, (no matter whether its legal person or not) and other enterprises (corporations) who have a right to own property or to have operating right on real estate, as well as physical persons (including foreigners that have real estate in the Republic of Armenia).

### **The subjects of the property tax**

The objects of the property tax are:

- a) the property inventoried in the balance sheets of the all organizational - legal enterprises, organizations, living houses, apartments, dachas, garages and other structures that are owned by the citizens of the RA, foreign residents and non - residents.

### **The size of the property tax**

The amount of property tax is determined on the base of the value of the property.

For the enterprise's property tax is determined to be - the 0.2 %- 0.8 % of the value of the property annually. The exact percent of property tax for enterprises are determined by the Government of RA.

For the citizens the property tax is determined to be - 0.2 % of the amount that is exceeding non taxed part of the real estate's (building's) easement value. The non taxed amount of the building is determined as an amount that is not exceeding the minimum wage (determined by the RA legislation) by 850 times, but not less than the amount which exceeds the determined minimum wage of the each member of the family by 300 times. For example, if the building (apartment) assessment value is 2,000,000 drams and the family of the apartment's owner consists of 4 members. The size of the property tax will be the following:

The minimum wages in the Republic currently equal to 720 drams. The minimum wage by 850 times will be  $850 \times 720 = 612,000$  drams, but counting all family members this amount should not be less than  $300 \times 4 = 1,200$  times, that is  $1,200 \times 720$  drams = 854,000 drams.

So, from 2,000,000 drams 854,000 are non taxed amount and the taxed amount will be  $2,000,000 - 854,000 = 1,146,000$  drams.

The property tax of the building (apartment) will be 0.2% of the 1,146,000 drams, that is 2,292 drams annually.

### **Property tax assessment and payment's procedure**

The enterprises are calculating their property tax themselves and representing its to tax bodies.

Citizens are also calculating property tax themselves based on the properties that are counted (registered) as of July 1 of the given year in the corresponding state bodies.

Taxed amount should be paid in equal portions.

### **Property tax exemptions**

Property tax exemptions are defined for both, enterprises and residences. The following are exempt from property tax: the property that belongs to budget enterprises and organizations; all properties that are used for agricultural products production, reprocess and storing; the properties of newly established enterprises during the 1st year after registration in State Register. Property tax exemption is granted in special cases. First and second category invalids, persons that became invalid while defending RA and former USSR, the members of killed soldier family, as well as

bilateral orphan children are exempted from real estate property tax on the amount that is equal to the determined in the Republic minimal wage by up to 1, 000 times.

### Tax on land

The tax on the land is paid by the owners of the land, the temporary and permanent users of the state owned lands. For the land of non agricultural importance the object of the taxation is the land cadastre value.

The amount of the tax on the land does not depend on the results of the operation and is determined as a payment for a unit land plot area in the way approved by the Government. It is paid annually.

### The size of the tax on land

For the lands of agricultural importance, the amount of tax on the land is determined as a 15 % of the net income determined by the land cadastre evaluation.

For the lands of non-agricultural importance, the tax on the land has the following rates:

- within the cities and towns - 1.0%
- out of the cities and towns - 0.5 %

The land cadastre value for 1 hectare as well as net income of land cadastre for 1 hectare is determined by the resolution of the Government of RA No - 462 from 28 of September 1994, by the regions of the Republic. That is in city Yerevan which is divided into 5 zones, the land cadastre value for 1 hectare in first zone is 10,380,000 drams and net income of land cadastre is 207,600 drams. It means that in Yerevan for the lands of non-agricultural importance the tax on land for 1 hectare in the first zone will be  $((1,000,000 \times 1.0) / 100) = 103,800$  drams and for the lands of agricultural importance the tax on land for 1 hectare in the first zone will be  $((207,600 \times 15) / 100) = 31,140$  drams.

### Calculation of tax on land

For the owners of the land and temporary and permanent land users, right confirmation documents are the base for tax on land assessment. The owners or users of the land calculate tax on land themselves and pay it to the local budget where the land is located (region, city) in equal portions.

### Tax on land exemptions

The legislation defines the tax on land exemptions. The following parties are exempt from the tax on land: budget enterprises and organizations, public properties (streets, parks etc.), and other users of land. Agricultural and scientific organizations might be exempted from tax on land on 50%.

### Income Tax

Income tax is levied on the income of physical persons gained from different business activity (the list of which defined by the legislation).

The following parties considered to be physical persons: citizens of the Republic of Armenia, foreign residents and non-residents who permanently live in RA (live in RA more than 183 days).

If a physical person is not involved in entrepreneurial activities, for real estate transaction he/she pays income tax only from the amount acquired from leasing. The rate of income tax depends on the amount of the income earned. If the size of annual income does not exceed the amount of minimal wage by 120 times (and physical person has permanent employment) the income tax rate is 12% of taxed amount. Then depending on the size of the income, income tax rate is increased adequately (according to the scale defined by legislation).

If a physical person is not involved in entrepreneurial activities then the income that was acquired from selling / purchasing the real estate is not a subject of income tax. For example, when a resident buys an apartment and later sells it at higher price he/she will not pay income tax from difference in prices.

*US does not use v.a.t, but taxes capital gains on a property which has appreciated during the time you own it. All homeowners can take a once in a life time exemption after age 55 on capital gains on the sale of their primary residence.*

### Income tax levied from physical persons involved in entrepreneurial activities

Physical persons considered to be involved in entrepreneurial activities if they are :

- a) individual entrepreneurs
- b) individual (family) enterprise owners
- c) member of economic associations

If such a physical persons involved in real estate transaction they pay income tax from acquired amounts at the defined by legislation rate. If the size of annual income is not exceed the amount of minimal wage by 120 times, the income tax rate is 12% of taxed amount. Then with increase of the income the income tax rate increased adequately by the scale. For example, if an individual entrepreneur bought an apartment for 5,000,000 drams and further sold it for 6,000,000 drams this person should pay income tax on the amount of difference, that is on 1,000,000.

### Value added tax (VAT)

Value added tax (VAT) is the obligatory payment to the state budget from the added value which is created in the different stages of production or services. Related to real estate transaction, the value added is the difference between the cost at which the property was sold and purchased. The brokerages pay value added tax on their income.

Value added tax rate is set as 16.67 % of the difference between the price at which the property was purchased and sold.

### Real estate assessment for taxation

Tax levying related with real estate depends on the assessment of the property. There are different ways of real estate assessment, based on the nature and type of ownership of the real estate. The following types of real estate assessment are based on the type of ownership of the real estate: houses, apartments, dachas, assessment of the properties that belongs to the residents as a right of ownership, the assessment of properties of the enterprises.

### **Assessment of the buildings**

The assessment of the mentioned properties (as well as properties of enterprises) executed according to the resolution N- 306 of the Government of RA "The procedure of the property assessment that is a subject of the taxation in the Republic of Armenia" from June 2 , 1995.

The assessment of the building executed based on the norms of construction materials of 1984 as well as on inventory, registration or original documentation's data. In the case of absence of above - mentioned data, buildings obligatory defined insurance norms considered as a base, taking into account the following factors:

- technical condition of the building
- changes in the value of the building
- the level of the depreciation of the building
- the provision of the building with municipal and communication systems
- degree of stories ( applied for 4 and more floor buildings)
- location of building (position)

### **The assessment of the single family dwellings**

The assessment of the houses is executed in the following

The price of the houses in the original documentation is divided by the volume of the living house (cubic meter) and the obtained result is the balance price of the house for 1 cubic meter (or buildings obligatory defined insurance norms are used). Then the above mentioned coefficients should be used (coefficients that defined by the resolution N- 306 of the Government of RA from June 2 , 1995) . For that assessment norms indexation coefficient ( change in value) of 1984 are used, which is as of today equal to 87,400.

### **The assessment of the apartments**

The price of the apartments, located in a multi - story buildings, in the original documentation (balance value) divided by the area of the living house and the obtained result is the balance price of the apartment for 1 square meter, then the above mentioned coefficients should be used.

### **The factors that influencing on building assessment coefficients**

The coefficient of technical condition of the building characterizes the value of the building based on the level of its deterioration. Five levels of damage are defined: 0 level - coefficient 1, I level - coefficient 0.95, II - 0.85, III - 0.50, IV - 0.

The coefficient of changes in value of building expresses the similar new building construction new prices, via price index. This coefficient is defined by the state department of the Architect and Civil construction of the RA.

The level of depreciation of the building depends on the duration of its operation (exploitation) and 8 level are defined: 1) 1 to 5 years - coefficient 0.98, 2) 6 to 10 years - coefficient 0.95, 3) 11 to 15 - 0.91, 4) 16 to 20 - 0.87, 5) 21 to 25 - 0.82, 6) 26 to 30 - 0.75, 7) 31 to 40 - 0.68, 8) 41 year and more - 0.60.

The coefficient of provision of the building with municipal and communication systems applied only for houses, apartments and dachas. The coefficient of lift existence applied for apartments located in for 5 and more story buildings. For down stories the coefficient is considered to be 0. This coefficient calculated by adding to the 0.5 the corresponding value of the coefficients that characterized the given building ( they are: electricity supply - 0.09, natural gas supply - 0.07, water supply - 0.09, sewage - 0.07, heating - 0.05, phone line - 0.05, broadcasting - 0.05, lift - 0.03).

The coefficient of degree of stories applied only for apartments located in the 5-th and more stored buildings. In other cases the coefficient 1 applied and in case of ground and semi- ground floors consequently coefficients 0.45 and 0.65 used.

The coefficient of location (position) of the building characterizes the influence of civil factors on the value of buildings, the opportunities for means of transportation, territorial administration etc.

The coefficient of location based on the territorial - assessment zoning , which was defined by the resolution N- 50 of the Government of RA from October 10, 1995 ( "The buildings zoning"). Six zones are stipulated ( I zone - coefficient 1, II - 0.71, III - 0.57, IV - 0.43, V - 0.28, VI - 0.14).

### The example of building assessment

The assessment of living house: ( 2 stories building, Built from Artik tuff, metal- concrete coverings, slates roofing , size 12 m. x 12 m. x 6 m. = 864 cubic meter )

- the house has no damage (the coefficient equal to 1)
- let us assume that the assessment took place in 1995 (the coefficient of price comparison with 1989 is 87,400)
- the house was built in 1970 ( the coefficient of depreciation is equal to 0.82)
- the permanent coefficient of municipal and communication system is 0.5, to which the coefficients of building characterization should be added. The house is provided with water supply (coefficient 0.09), electricity supply ( 0.09), natural gas supply ( 0.07), phone line (0.05) and broadcasting (0.05). The total coefficient at this case equal to:

$$0.5 + 0.09 + 0.09 + 0.07 + 0.05 + 0.05 = 0.85$$

- the coefficient of the building storeys is equal to 1
- the building is located in Zeytun district - 3 -rd zone, the coefficient is equal to 0.57. Let's take as a base 1982 state obligatory insurance that was defined as 0.1127 dram per 1 cubic meter. So, the total value of the house will be:  
 $0.1127 \times 864 \times 1 \times 87,400 \times 0.82 \times 0.85 \times 1 \times 0.57 = 3,381,090$  drams

The value of the uncompleted construction is determined in the same way, by using additional coefficient of completeness degree ( First category of buildings completeness corresponds when conducted volume of construction is 50% of projected budget or main parts of building are built that is walls, coverings and etc. - the coefficient is 0. Second category of building completeness when conducted volume of construction equal to 50 - 80% of projected budget - the coefficient is equal to 0.3. Third category - 80 % of projected budget - the coefficient is equal to 1).

### Fees

For real estate title transfer, the notary fee is levied at the rate of 10% of the real estate assessment value. The assessments of residents real estate is conducted in the technical inventory department of the local administration bodies according to the defined assessment's procedure.

Payment of the fee is negotiable between buyer and seller.

*Transfer tax in US. differs by state. in the area I practice it is .001 of the purchase price i.e. \$178.00 on a house sold for \$178,000.00.*

*Property taxes are ad valorem, based on an appraisal by the government. Exemptions are made for government buildings and offices, public roads and parks, schools, as well as property owned by charities and religious organizations.*

## TOPIC 6

### REAL ESTATE APPRAISAL THE APPROACHES TO APPRAISAL

*Appraisal means to estimate value on a specific date.*

#### *Kinds of appraisals*

*1. Market approach: most commonly used for houses. it determines the most probable price in cash for which the appraised property will sell in a competitive market with the buyer and the seller acting prudently. Value is determined by comparing the subject property with similar properties which have sold recently. Adjustments must be made for different features in subject property and those which have sold.*

*2. The cost approach: used for historic properties or one-of-kind properties. It determines how much it would cost to rebuild the property as a reproduction, including defects, and as a replacement, without defects. Then depreciation is factored into the cost to rebuild. To this is added the value of the land to determine appraised value.*

3. *The income approach is used on rental property. It is a system of considering the monetary returns a property can be expected to produce, and converting that into a value the property should sell for today.*

*It is important to remember that appraisals are estimates, and the marketplace will determine what a buyer will be willing to pay for a property.*

*US practice : appraisers are highly trained, licensed experts in their field.*

**TOPIC 7  
MEDIATORS ACTIVITY**

Example

**Contract N- 01**

**About order**

City Yerevan

" 05 " October, 1995

Company "Vernatun" Ltd. (hereinafter the "Agent"), on behalf of the director of the enterprise A. Piloyan from the one side and resident B. Pogosian (hereinafter the "Client"), from the other side are making this contract about the following:

**I. The Object of the Contract**

1.1 By the order of the client the agent is taking an obligation to find an apartment corresponding to the conditions mentioned in the Appendix # 1 of this contract, that might be purchased by at most 10,000 \$US equivalent in drams.

**II. The Obligations of two Sides**

2.1 Agent is obligated to:

2.1.1 To find an apartment corresponding to the requirements of the Appendix #1 during the time period of the contract at the price not exceeding the stipulated amount and receive the agreement of the apartment's owner concerning the selling the apartment to client .

2.1.2 When the order is fulfilled the client should be informed that is equal to the termination of the contract.

2.2 Client is obligated to:

2.2.1 Pay the agent for order fulfillment 3% of the contract's value, that is 300 \$US equivalent in drams, which should be paid in cash at the day of contract, no matter whether the further transaction closes.

2.2.2. In the case of refusing the service immediately inform the agent about it, which is equal to the termination of the contract if the information acquires by the agent is not used in the future.

2.2.3. Inform the agent in advance about the meeting and negotiations with apartment owner.

2.3 Sides obligated to:

2.3.1 Keep the terms of the given contract's as well as the terms of acting legislation.

2.3.2. In case of the breach of the contract requirements to solve all conflicts via negotiation or by the defined way, via court.

**III. The Responsibilities of the Two Sides**

3.1 For non-performance each agrees to compensate the losses of the other side of the contract.

3.2 If the "Client" is making a transaction by the option offered by the agent without informing the agent, then the "Client" has to pay a penalty by the double amount mentioned in the "2.2.1." article of the contract.

**IV. Time Duration of the Contract**

4.1 The duration of the contract defined to be one calendar month

start: October 10, 1995

end: November 09, 1995

**V. Additional Conditions**

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**The Participants**

"Agent"

"Vernatun" Ltd.

"Client"

Res. B. Pogosian

12

Address \_\_\_\_\_

RA \_\_\_\_\_

Signature \_\_\_\_\_

Seal

Address \_\_\_\_\_

RA \_\_\_\_\_

Signature \_\_\_\_\_

Seal

**05. 10. 95 Appendix # 1  
to the Contact N-01**

- |  |  |
|--|--|
| 1. The location of the apartment                     | Yerevan city center                      |
| 2. The type of the building                          | stone building                           |
| 3. The number of floors / the floor                  | 2-nd or 3-rd floor                       |
| 4. The number of the rooms                           | 3  |
| 5. The total/ living area, living area not less than | 45 sq. m.                                |
| 6. Balcony   | Yes                                      |
| 7. Basement  | Yes                                      |
| 8. Utilities   | Yes                                      |
| 9. Telephone   | Yes                                      |
| 10. The apartment conditions                         | Good                                     |
| 11. Additional information                           | _____                                    |
| 12. The maximum price and the form of the payment-   | 10,000 \$US equivalent in drams, in cash |

A. Piloyan

Signature \_\_\_\_\_

" 05 " October 1995

In the order - contract, the assistance of mediator organization in the process of sale & purchase contract's execution and registration might be stipulated. In practice, more often the transaction of real estate is conducted not only via order- contract, but also via mediator service contract, tripartite contract seller - buyer - broker. The agents who participate in a real estate transaction as mediator , usually are not satisfied by the order - contract ( finding the buyer or seller). They prefer to participate in sale & purchase contract execution up to last stage the registration of the contract at the corresponding state bodies. A mediator (broker) represents either buyer or seller, or works with both sides. Particularly he assists in the sale & purchase contract execution, attestation and registration, stands surety for keeping and passing the amounts stipulated by contract, monitors the obligation's fulfillment by the participants of the contract. Tripartite contracts of the mediator service usually do not substitute for sale & purchase contracts. Are not attested by notary services, and are not registered at state cadastre. Based on the contracts, and according to them the real estate sale & purchase contracts are sealed.

**Example**

**Contract N- 01  
About Mediator Service  
City Yerevan**

" 05 " October, 1995

The resident Company A. Piloyan. (hereinafter the "Seller") from the one side, the resident B. Petrosian (hereinafter the "Buyer") on the other side and company "Vernatun" LTD (hereinafter the "Mediator") on behalf of the director of the enterprise G. Aloyan sealed the given contract about the following:

**I. The Object of the Contract**

1.1 The seller is obligated according to the terms of the given contract to transfer the rights of ownership of the apartment # 8, Avan building # 5 (which belongs to him as a right of ownership) to the buyer and the latter is obligated to pay the seller the contractual amount.

1.2 The mediator is due a commission as per Contract N-02, from September 08, 1995.

1.3 Expenses related with sale & purchase contracts notary attestation fee as well as payment for mediator charged to buyer

1.4 The apartment characteristics and other data:

The address of the apartment is Avan building #5, apartment # 8, 3-rd floor, consists from 3 rooms, total area is 75 sq. m., living area is 46 sq. m.

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## **II. The Value of the Contract**

- 2.1. The value of the contract, that in the exchange of the apartment should be paid by the buyer to the seller is 10,000 \$US equivalent in drams.
- 2.2. Expenses related with sale & purchase contracts, notary attestation fee, as well as payment for mediator, is not covered by the value of the contract and charged to buyer.

## **III. The Procedure of the Payments**

- 3.1. All payments should be done in cash.
- 3.2. The payments based on the contract should be done by the following stages:
  - a) Before notary attestation of the sale & purchase contract the seller receive down-payment of 500 \$US equivalent in drams (first payment)
  - b) At the time of notary attestation of the sale & purchase contract the seller receive 1,000 \$US equivalent in drams (second payment)
  - c) The deference between the total contractual amount (10,000 \$US equivalent in drams) and first and second payments, that is 8,500 \$US equivalent in drams, should be paid to the seller after the latter fulfill all his contractual obligation.
- 3.3. The transfer of the amounts from the buyer to the seller conducted via mediator.
- 3.4. The amount and the procedure that buyer should pay to mediator for service, defined by the Order - contract that both signed.

## **IV. The Rights and Obligations of the Sides**

- 4.1. The seller obligated:
  - 4.1.1 to present the original documents that confirm the ownership rights of the seller and in case of co - ownership the properly state agreements of co - owners concerning the subject of sale.
  - 4.1.2. After receiving the payments stipulated by the given contract ( after notary attestation of the sale & purchase contract) before the registration of sale contract the persons who are registered at the apartment should be exempted.
  - 4.1.3. The apartment after registration of the sale contract should be passed to the buyer in the stipulated conditions.
- 4.2. The buyer is obligated:
  - 4.2.1. The total amount that was stipulated by the given contracts should be passed to the mediator in the stipulated time period.
  - 4.2.2. To pay to the mediator for the services according to the Order - contract.
  - 4.2.3. To pay transfer fee.
- 4.3. The mediator is obligated:
  - 4.3.1. Monitor the fulfillment of the obligations by the seller and buyer, as well as protect their rights. If the latters will breach the contractual obligations the punishments that were stipulated by the given contract should be applied.
  - 4.3.2. To facilitate the apartment's sale contract execution and registration.
  - 4.3.3. In the defined time period receive from the buyer, hold and pass to the seller the contractual amount.

**V. Breach of contract**

- 5.1. In the case when buyer refuses to buy the apartment the down-payment that he pays to the seller will remain to the seller.
- 5.2. In the case when seller refuses to sell the apartment the down-payment should be returned to the buyer by the double amount.
- 5.3. In the case of the breach to vacate the apartment and breach of transfer terms and conditions of the contract, the seller should pay penalty to the buyer 5% of the contractual amount.
- 5.4. In the case when contractual amounts are not paid on time and at full amount , the buyer should pay penalty to the seller, for each day of delay 0.5% of contractual amount, but not more than for 10 days, after 10 days the article 5.1. become a legal.
- 5.5. If the buyer passes the contractual money amounts immediately to the seller (or opposite) the mediator is not responsible for execution of the given Contract.

**VI. The Procedure of the resolutions of the disputes.**

- 6.1. The disputes that arise concerning the contract between sides should be solves via negotiation. If the disputes are not solved they are subject of court procedure.

**VII. Other Conditions**

- 7.1. This contract has a legal effect after the buyer pays the down- payment ( or total contractual amount).
- 7.2. Additions and changes of the contract have legal effect if it's in a written form and signed by all parties of the contract.
- 7.3. The given contract prepared in 3 copies, that has equal legal effect.

**Parties:**

- a). Seller - A. Piloyan  
Address -----  
Passport's data -----  
Signature -----
  
- b). Buyer - B. Petrosian  
Address -----  
Passport's data -----  
Signature -----
  
- a). Mediator  
"Vernatun" Ltd.  
Address -----  
RA -----  
Signature -----

/ Seal /

## TOPIC 7

### PRINCIPLE - BROKER RELATIONSHIP

#### Terms

**Broker** - A natural or legal person licensed to act independently in conducting a real estate brokerage business.

**Exclusive right to sell** - A listing that gives the broker the right to collect a commission no matter who sells the property during the listing period.

**Ready, willing and able buyer** - A buyer who is ready to buy now without further coaxing. And who has the financial capability to do so.

**Listing** - In the us, most r.e. transactions are accomplished with the services of a listing broker, most often through a r.e. agent affiliated with him who is a legal extension of his broker..

Every US state requires the licensing of r.e. agents. After licensure the agent becomes affiliated in a r.e. brokerage, in which there is one broker. this person, after additional education, must pass the r.e. brokerage exam to be separately licensed as a broker. The agent is not employed by the broker, but is an independent contractor not under salary.

A r.e. listing is an employment contract between a property owner and a r.e. broker. A listing must include all essential elements of a valid contract, and in most states must be in writing to be enforceable.

Most listing agreements are "an exclusive right to sell", an agreement that gives the broker the right to collect a commission if the property is sold by anyone, including the owner, during the period covered by the listing agreement. The contract is considered fulfilled when an agent brings a seller a ready, willing and able buyer. At this time, the brokerage is due a commission.

The commission is negotiable between the seller and the broker prior to the signing of the listing agreement. Brokerage commission are not set by the state. Any effort by brokers to set commission rates among themselves is a violation of law and subject to severe punishment.

(My brokerage charges 5% on new construction, 6% on corporate listings, 7% on resales, 10% on land).

Most r.e. brokerages belong to multiple listing services. MLS exist in all large cities in the us and in most small towns. The purpose is to inform other brokers and their clients of listings held by members of the service. This broadens the market exposure for all properties. New listings must be entered in the computer system with 48 hours of taking the listing. When the listing is placed under contract, the MLS must be notified in the same time period. violations of these rules are grounds for expulsion from the MLS.

Listings may be terminated by performance, expiration of the listing period, or mutual agreement.

## TOPIC 8

### AGENCY.

#### Terms:

**Agency** - A relationship created when one person (the principal) delegates to another person (the agent) the right to act on his behalf.

**Dual agency**- Representation of two or more parties in a transaction by the same agent.

**Principal**- A person who authorizes another to act for him; also refers to the property owner.

Agency is created when one person, called the principal, consents for another person, called an agent, to act on his behalf. It requires the delegation by the principal, and the consent by the agent. It does not require a written contract or compensation.

A real estate agent acts on behalf of others in the buying, selling, or leasing of property. (In the US all r.e. agents must be licensed.)

A real estate agent has certain fiduciary duties, in addition to the specific duties or obligations set forth in the contract with his principal.

These duties are:

1. **Loyalty**: an agent must act at all times in the best interest of his principal to the exclusion of all other interests, including the agent's own self interest.
2. **Obedience**: an agent must obey all lawful instructions of his principal.
3. **Disclosure**: an agent must disclose to his principal all relevant and material information pertaining to the scope of his agency.
4. **Confidentiality**: an agent must safeguard the confidence of his principal. This does not include hiding material facts concerning the condition of the property from a potential buyer.
5. **Reasonable care and diligence**: a real estate agent is deemed to have skill and expertise in r.e. matters superior to the average person. He must use this skill and knowledge to pursue his principals goals.
6. **Accounting**: an agent is obligated to account for all money or property belonging to his principal which is entrusted to him.

US practice: should an agent breach his fiduciary duties, there are three remedies

1. Rescission of the transaction. This requires court action.
2. Forfeiture of commission
3. Damages

US practice: in the past real estate agents have traditionally represented the seller. This practice is being modified as agents sign agreements with buyers to represent their interests. This agency must be disclosed in writing to the seller.

In Armenia, agents are primarily buyers agents.

Dual agency occurs when an agent attempts to act for both a buyer and a seller. In practice this is impossible, i.e. an agent can not obtain the highest price for a seller, and the lowest price for a buyer within the same transaction. If an agent does attempt to act as a dual agent, he must disclose this to both buyer and seller. To hide this fact is fraud.

An agent must;

1. Decide whom he represents
2. Disclose whom he represents
3. Act at all times consistently with the agency he has assumed.

## SECTION III

### CODE OF ETHICS AND STANDARDS OF PRACTICE

Real estate agent organizations all over the world, like the national association of Realtors and state and local Realtor associations, are constantly working to elevate the status of real estate agents and brokers, from that of a salesman willing to do and say anything to make a sale, to that of a competent professional in the public mind. To achieve professional status, the real estate professional must not only act in accordance with existing laws, but must act in accordance with certain sets of behavior which all reasonable men recognize as being based on principles, and aimed at the greatest good for the citizens and residents of their country.

#### Duties to Clients and Customers

##### Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, Realtors pledge themselves to protect and promote the interests of their client. This obligation of absolute fidelity to the client's interests is primary, but it does not relieve Realtors of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non agency capacity, Realtors remain obligated to treat all parties honestly.

##### Standard of Practice 1-1

Realtors when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics.

##### Standard of Practice 1-2

Realtors, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

##### Standard of Practice 1-3

Realtors, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenant as to savings or other benefits that might be realized through use of the Realtor's services.

##### Standard of Practice 1-4

Realtors may represent the seller/ landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties.

##### Standard of Practice 1-5

Realtors shall submit offers and counter-offers objectively and as quickly as possible.

**Standard of Practice 1-6**

Realtors acting as agents of buyers/tenants shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. Realtors acting as agents of buyers/tenants shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated.

**Standard of Practice 1-7**

Realtors who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses.

**Article 2**

Realtors shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. Realtors shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency duties owed to their clients.

**Standard of Practice 2-1**

Realtors shall be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in only those areas required by their real estate licensing authority. Article 2 does not impose upon the Realtor the obligation of expertise in other professional or technical disciplines.

**Standard of Practice 2-2**

When entering into listing contracts, Realtors must advise sellers/landlords of:

1. the Realtor's general company policies regarding cooperation with subagents, buyer/tenant agents or both;
2. the fact that buyer/tenant agents, even if compensated by the listing broker, or by the seller/landlord will represent the interests of buyers/tenants; and
3. any potential for the listing broker to act as a disclosed dual agent, e.g. buyer/tenant agent.

**Standard of Practice 2-3**

Realtors shall not be parties to the naming of a false consideration in any document.

**Article 3**

Realtors shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.

**Standard of Practice 3-1**

Realtors, acting as exclusive agents of sellers/landlords, establish the terms and conditions of offers to cooperate, Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer to compensation. Terms of compensation if any, shall be negotiated before accepting the offer of cooperation.

**Standard of Practice 3-2**

Realtors, acting as listing brokers; have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements. The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer tenant representative, the buyer/tenant representative must disclose such information to their client.

**Standard of Practice 3-3**

Realtors shall disclose the existence of an accepted offer to any broker seeking cooperation.

**Standard of Practice 3-4**

81

When seeking information from another Realtor concerning property under a management or listing agreement, Realtors shall disclose their Realtor status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their representational status.

#### **Article 4**

Realtor shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent. In selling property they own, or in which they have any interest, Realtors shall reveal their ownership interest in writing to the purchaser or the purchaser's representative.

#### **Article 5**

Realtors shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

#### **Article 6**

When acting as agents, Realtors shall not accept any commission rebate, or profit on expenditures made for their principal, without the principal's knowledge and consent.

#### **Standard of Practice 6-1**

Realtors shall not recommend or suggest to a client or a customer the seek services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion.

#### **Standard of Practice 6-2**

When acting as agents or subagents, Realtors shall disclose to a client or customer if there is any financial benefit or fee the Realtor or the Realtor's firm may receive as a direct result of having recommended real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.) other than the real estate referral fees.

#### **Article 7**

In a transaction, Realtors shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties, and the informed consent of the Realtor's client or clients.

#### **Article 8**

Realtors shall keep in a special account in an appropriate financial institution, separated from their own funds, moneys coming into their possession in trust for other persons, such as escrow, trust funds, clients' moneys, and other like items.

#### **Article 9**

Realtors, for the protection of all parties, shall assure whenever possible that agreements shall be in writing, and shall be in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party upon their signing or initialing.

#### **Standard of Practice 9-1**

For the protection of all parties, Realtors shall use reasonable care to ensure that documents pertaining to the purchase, sale, lease of real estate are kept current through the use of written extensions or amendments.

### **DUTIES TO THE PUBLIC**

#### **Article 10**

Realtors shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. Realtors shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin.

#### **Article 11**

The services which Realtors provide to their clients and customers shall conform to the standards of practice and competence which are reasonable expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

Realtors shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

#### **Article 12**

Realtors shall be careful at all time to present a true picture in their advertising and representations to the public. Realtors shall also ensure that their professional status (e.g., broker, appraiser, property manager, etc.) or status as Realtor is clearly identifiable in any such advertising.

##### **Standard of Practice 12-1**

Realtors shall not offer a service described as "free of charge" when the rendering of a service is contingent on the obtaining of a benefit such as a listing or commission.

##### **Standard of Practice 12-2**

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the Realtor making the offer. However, Realtors must exercise care and candor in any such advertising or other public or private representations so that any part interested in receiving or otherwise benefiting from the Realtor's offer will have clear, thorough, advance understanding of all the terms and conditions of the offer.

##### **Standard of Practice 12-3**

Realtors shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, Realtors shall not quote a price different from that agreed upon with the seller/landlord.

##### **Standard of Practice 12-4**

Realtors shall not advertise nor permit any person employed by or affiliated with them to advertise listed property without disclosing the name of the firm.

##### **Standard of Practice 12-5**

Realtors, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as Realtors or real estate licensees.

#### **Article 13**

Realtors shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

#### **Article 14**

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any disciplinary proceeding or investigation, Realtors shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such process.

**Standard of Practice 14-1**

Realtors shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review.

**Standard of Practice 14-2**

Realtors shall not obstruct the Board's investigative or disciplinary proceeding by instituting or threatening to institute actions for libel, slander or defamation against any party to a professional standards proceeding or their witnesses.

**Standard of Practice 14-3**

Realtors shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction.

**DUTIES OF REALTORS**

**Article 15**

Realtors shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

**Article 16**

Realtors shall not engage in any practice or take any action inconsistent with the agency of other Realtors.

**Standard of Practice 16-1**

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other Realtors involving commission, fees, compensation or other forms of payment or expenses.

**Standard of Practice 16-2**

Article 16 does not preclude Realtors from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements with another Realtor. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club or organization, or other classification or group is deemed "general" for purposes of this standard.

**Standard of Practice 16-3**

Realtors shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the Realtor, refuses to disclose the expiration date and nature of such listing, the Realtor may contact the owner to secure such information and may discuss the terms upon which the Realtor might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing listing.

84

**Standard of Practice 16-4**

The fact that a client had retained a Realtor as an agent in one or more past transactions does not preclude other Realtors from seeking such former client's business.

**Standard of Practice 16-5**

The fact that an agency agreement has been entered into with a Realtor shall not preclude or inhibit any other Realtor from entering into a similar agreement after the expiration of the prior agreement.

**Standard of Practice 16-6**

Realtors, prior to entering into an agency agreement, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service.

**Standard of Practice 16-7**

Realtors are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not represented by an exclusive agent but shall not knowingly obligate them to pay more than one commission except with their informed consent.

**Standard of Practice 16-8**

In cooperative transactions Realtors shall compensate cooperating Realtors (principle brokers) and shall not compensate more offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with any other Realtors without the prior express knowledge and consent of the cooperating broker.

**Standard of Practice 16-9**

Realtors, acting as subagents or buyer/tenants agents, shall not use the terms of an offer to purchase/lease, to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents, nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

**Standard of Practice 16-10**

Realtors acting as subagents or as buyer/tenant agents, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.

**Standard of Practice 16-11**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/ landlord.

**Article 17**

In the event of a contractual dispute between Realtors associated with different firms, arising out of their relationship as Realtors, the Realtors shall submit the dispute to arbitration in accordance with the regulations of their Board or Boards rather than litigate the matter.

In the event clients of Realtors wish to arbitrate contractual disputes arising out of real estate transactions, Realtors shall arbitrate those disputes in accordance with the regulations of their Board, provided the clients agree to be bound by the decision.

**Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by Realtors in an arbitrable matter constitutes a refusal to arbitrate.

**Standard of Practice 17-2**

Article 17 does not require Realtors to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board.

**Explanatory notes**

85

In filing a charge of an alleged violation of the Code of Ethics by a Realtor, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.