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I L L U S T R A T E D
E N C Y C L O P E D I C
D I C T I O N A R Y O F

REAL
ESTATE

COMPILED BY
Jerome S. Gross

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REAL ESTATE

THIRD EDITION

With the ongoing changes in real estate laws, practices, and terminology, this updated edition of the WEBSTER'S NEW WORLD ILLUSTRATED ENCYCLOPEDIACTIONARY OF REAL ESTATE is your definitive guide to accuracy and writing expertise in this fast-paced field. Quick and easy-to-use, you'll find all the terms, phrases, illustrations, forms and commonly used jargon arranged in a practical, ready-reference format.

It's a thorough desk side tool that includes:

- The most up-to-date real estate terms
- Changes in Federal Regulations and the Real Estate Settlement Procedure Act
- Extensive information to give you effective preparation for State License Examinations
- The latest construction terms—to enhance your ability to talk with builders and prospects
- Expanded legal phraseology for general real estate practice and real estate law (with some aspects of recent laws defined and discussed)
- Over 80 clear and concise real estate office and court-tested legal forms.

For anyone involved in real estate and related areas, it's an invaluable source for instant information to insure your accuracy and save you time!

Webster's New World
Illustrated Encyclopedic
Dictionary of
Real Estate

THIRD EDITION

Jerome S. Gross

Prentice Hall Press
New York

原书缺页

Introduction

“Under all is the land.” These few opening words of the Preamble to the Code of Ethics of the National Association of Realtors make a simple statement of fact. Yet, they introduce a very special mystique associated with ownership of real property.

The mystique surrounding land ownership has arisen because of the uniqueness and value of land. Land has certain characteristics typical of nothing else one might own. Every plot of land is unique; it is different from every other plot of land. Each plot has its own soil composition and underlying bedrock, its own water supply and its own drainage, its own vegetation and its own view. Each plot has its own unique location and its unique adjoining lots. Even in a uniform subdivision where it might appear that all lots and, perhaps, all improvements as well, look alike, each plot is unique at least to the extent that it is located in a specific spot and is situated between neighbors unique to itself.

A second major property of the land is its value. Land allows for the production of food and commodities and provides the natural resources and basic ground location for shelter. Land itself, unlike the improvements built upon it, cannot be increased in quantity. Aside from freakish and unusual acts of nature, the amount of land that there is is absolute and finite. Ownership of land represents ownership of something precious indeed.

Because of the inherent value of land itself and because of the singularity of location of each piece of land, a great body of law has grown up regarding land ownership and transfer. Land cannot be moved. It cannot be carried about with one's person nor can it be removed to a safe place. Since land remains in one public spot for all to see, proof of ownership must be established by a means beyond mere obvious possession.

Rules regarding land ownership, use and transfer have a history going back to the times people first recognized the value of land. Deeds and wills dating back to the First Century have been uncovered in excavations. In feudal England, only the King owned land. The King granted to certain lords the right to use the land, originating the term *landlord*. In feudal times, however, landlords were tenants of the King, not landowners. Some real estate terminology has drastically altered in meaning over the years. Throughout the long history of interest in the land, a special vocabulary of real estate has evolved and developed. In modern times rules concerning ownership, use, and transfer of property have been codified into law; and legal vocabulary, as the intimidated layman well knows, can be staggering.

However, the language of real estate is not impossible to master. In fact, study of the special meanings of words in their real estate context can be fun. This dictionary will let you know that “quiet enjoyment” of ones property has nothing to do with the neighbor’s crying baby, that “running with the land” does not refer to jogging, that “riparian rights” are not related to orchards or their fruits, that ownership in “severalty” is ownership by one person alone. A comprehensive lexicon such as this one brings real estate terminology into the grasp of everyone who has any need or any desire to know.

Thorough knowledge and understanding of the vocabulary of real estate is essential for real estate professionals—brokers, salespersons, appraisers. Likewise, attorneys, mortgage brokers, bankers, builders, land developers and serious, large-scale investors must have a real working knowledge of the language of real estate as well as of the laws which govern their specific activities and dealings in real estate. People who are engaged in these activities should already be conversant with the bulk of the vocabulary. For these people, this book may serve for brush up, as a back-up to fill in gaps in knowledge, as an argument settler and as a handy reference.

Would-be professionals or investors just entering the market place are well-advised to immerse themselves in the vocabulary of the business to prepare themselves for future study, examinations and business dealings. This book as a companion to other texts will keep the student from getting lost among the words. The portfolio of forms towards the back of the volume should also prove extremely useful to this group of readers. Study of the forms involved can serve as a step-by-step introduction to the actual transfer of land, from opening offer through recording of the deed. Prefamiliarity with the forms can

save the neophyte from embarrassing unpreparedness at crucial moments. The reader may make a dry run through a real estate transaction by following the forms involved at each stage of the deal.

Finally, this book will serve as an excellent guide and reference for the lay person who is buying or selling a single property for occupancy or investment. The book is very readable. Definitions are clearly written and succinctly stated. The many illustrative diagrams are well drawn and very helpful. These diagrams are a superb adjunct to the text. The lay person who refers frequently to this dictionary will be in a position to converse knowledgeably with real estate professionals and to appreciate the various steps that are being taken in guaranteeing ownership of the property. The buyer, seller, builder, landlord or tenant who understands the language can participate in and feel comfortable with the real estate transactions in which he or she is involved.

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A

AAA TENANT—A nationally known, highly rated tenant whose net worth is calculated to be in excess of one million dollars. A company whose name will lend prestige and importance to the property.

ABANDONMENT—Voluntary renunciation of ownership. Relinquishing any claim or rights to property. Giving up entirely without any intention of regaining possession or interest at a later time. Permanently leave or desert.

A BANKRUPT—(See **BANKRUPT**.)

ABATE—To decrease; make less; diminish or reduce. Nullify; deduct; subside.

ABATEMENT OF RENT CLAUSE—A clause in a lease that releases a tenant from his obligation to continue to pay rent in the event that the premises are made uninhabitable by fire, flood, hurricane, or other Act of God (See **ACT OF GOD**.)

ABATEMENT OF TAXES—An authorized cancellation of a portion or all of the taxes. A tax rebate.

ABATOR—One who unlawfully gains possession of an estate upon the death of the owner, thereby, preventing the rightful heirs from obtaining title.

ABEYANCE—1. In real estate law, the temporary suspension of title to property until the proper or competent owner is determined. 2. An interim suspension or inactivity. An undetermined condition.

AB INITIO—(Latin) From the beginning.

ABJURE—To retract or recant. To renounce an oath. To withdraw one's word. The opposite of pledge.

ABLE—Capable; qualified; competent. Financially able, as in the term Ready, Willing, and Able.

ABNORMAL SALE—A sale having irregularities or some unusual feature setting it apart from a normal transaction; a sale that in some way deviates from the ordinary transfer of property.

ABODE—A person's permanent living place. His domicile, habitation or home. One's fixed dwelling.

ABORTION—A common expression meaning an unsightly, poorly designed structure that usually is difficult to sell.

ABROGATE—To annul or nullify. Eliminate by the act of an authority. Abolish or otherwise put to an end.

ABSENTEE OWNER—A person who owns property, but does not reside upon it. One who is continually away from his property and leaves its management in the care of others.

ABSOLUTE FEE—(See **FEE: FEE SIMPLE: FEE SIMPLE ABSOLUTE.**)

ABSOLUTE SALE—A sale in which all parties to a contract perform as agreed upon, and the property passes to the purchase when title closes.

ABSOLUTE TITLE—An exclusive, complete title. A title without limitations or conditions. A title held by one party or one group.

ABSTRACT: ABSTRACT OF TITLE—A summarized, chronological compilation of all the recorded instruments, and a history of ownership that has affected the title to a specific piece of land. A synopsis of its recorded documents.

ABSTRACT COMPANY—(See **TITLE COMPANY OR AGENCY.**)

ABTRACTER—One who prepares abstracts. An abtracter can be a lawyer, a public official, or a company that specializes in reading abstracts and preparing title reports.

ABUTTING—Property contiguous to another. Bordering; joining; adjacent; touching.

ACCELERATION CLAUSE—A clause generally found in a mortgage or installment contract stipulating that the payment of the indebtedness must be made in full in the event of a default of any of its covenants. Certain other instruments, such as bonds, leases, and notes may also contain acceleration clauses.

ACCELERATED DEPRECIATION—A method of rapidly taking depreciation benefits of a building in the early years of its existence. In this manner, a faster recovery of invested capital can be realized over *Straight-Line Depreciation*. Some depreciation methods utilizing accelerated depreciation include **DOUBLE DECLINING DEPRECIATION**, **COMPONENT DEPRECIATION**, and **SUM OF THE YEARS' DIGITS**. (See those definitions.)

ACCEPTANCE—1. Agreeing to the terms and conditions of an offer making it a binding contract. 2. The receipt of a deed constitutes automatic acceptance of title to property.

ACCESSORY BUILDING—Any building other than the main one; an outbuilding, such as a barn, detached garage, store house, pump house, shed, etc. A secondary building; one used as an adjunct to another building.

ACCESS RIGHT—The vested right of an owner to passage over adjoining public property in order to enter and leave his land.

ACCOUNTANT—A skilled auditor who examines business accounts, makes fiscal recommendations, and prepares statements. (See **PUBLIC ACCOUNTANT**; **CERTIFIED PUBLIC ACCOUNTANT**.)

ACCRETION—The gradual acquisition of additional land by the forces of nature, such as occurs when wind or tides add sand deposits to waterfront properties, or when a watercourse is altered by the action of floods.

ACCRUE—An increase or addition. Something that is periodically accumulated. A natural process of growth. To come into existence.

ACCRUED INTEREST—Interest that has already matured. Earned interest. Accumulated interest that is due and payable.

ACCRUING DEPRECIATION—Depreciation that is in the process of building up. Accumulating depreciation.

ACKNOWLEDGMENT—The formal certification of a signature on a document before an authorized officer, such as a Notary Public, or County Clerk. A verification that the document which has been signed is that person's willful act and deed. Some state statutes specify that a particular form of acknowledgment be used. Some uses of the acknowledgment are for contracts and deeds, if they are to be recorded, for leases of more than a year, and for mortgages.

ACQUISITION—The process of obtaining property. The act of acquiring; becoming the owner.

ACQUISITION COST—The sum paid to obtain title to property. In addition to the actual selling price, cost, in this instance, includes closing expenses, such as stamps on deeds and mortgages, survey charges, appraisal fees, title insurance, legal fees, mortgage origination bank charges, and any other moneys expended to obtain ownership.

ACRE—Land measuring 43,560 square feet. 4,840 square yards. 160 square rods. 1/640th of a square mile. Abbreviated as "Ac" or "A", an acre measures

208.75	feet	wide	by	208.75	feet	long
150	"	"	"	290.04	"	"
132	"	"	"	330	"	"
100	"	"	"	435.6	"	"
75	"	"	"	580.8	"	"
66	"	"	"	660	"	"
50	"	"	"	871.2	"	"
33	"	"	"	1320	"	"
16.5	"	"	"	2640	"	"

ACREAGE—Area in acres.

ACREAGE LISTING FORM—A form specifically designed for listing acreage property.

ACTION FOR COMMISSION—Legal action brought to recover a commission.

ACTION ON CONTRACT—Legal action brought to enforce the terms of a contract. The contract itself is used as the evidence.

ACT OF BANKRUPTCY—(See **BANKRUPT**.)

ACT OF GOD—An event occurring through the unexpected force of nature, as a hurricane, flood, earthquake, tornado or blizzard. An act not created or able to be controlled by human activity.

ACT OF LAW—The performance and application of legal rules by the proper judicial authority, as distinguished from “act of parties.”

ACT OF SALE—In Louisiana, it is a formal record of a sale of property. It must be properly signed, witnessed and notarized to be official and binding.

ACTUAL CASH VALUE—The phrase is synonymous with “market value” and “fair market price.” It is the price a property will bring on the open market under normal conditions, and not at a distress sale. It is understood that a reasonable, but not a protracted, period of time may elapse to obtain this value.

ACTUAL EVICTION—(See **EVICTION**.)

ACTUAL FRAUD—An intentional deceit and misrepresentation. Deliberate untruth and trickery. Cunning deception. (See **FRAUD**.)

ACTUAL POSSESSION—Existing physical control or occupancy of a premises, as distinguished from Constructive Possession, i.e., possession that is assumed by virtue of title.

ACTUAL VALUE—The price that a property will bring on the open market in the ordinary course of business. (See **MARKET VALUE**.)

ACTUARY—A statistical expert who calculates and charts probability of insurance risk and sets rates. His findings are utilized by insurance management in the setting up of reserve funds and in issuing dividends.

ADDENDUM—(Latin) Additional material attached to a document. An appendix. The plural is *addenda*. The addendum to a contract is that which is attached to and made a part of it.

ADDITION—1. A portion of a building that is added to an existing structure. A further improvement upon that which is already erected. 2. Acquisition of land that adds to the original parcel, thereby increasing its dimensions and value. 3. A Subdivision.

ADDRESS—The common known description of a property, including its street and number, town, county and state. (See **LEGAL DESCRIPTIONS**.)

ADEMPITION—The disposal of specific property by a living person who has bequeathed the property in his will. Upon the death of that person, the portion of the will that is unable to be fulfilled is automatically revoked.

AD HOC—(Latin) For a special purpose or end. For this.

ADJACENT—Bordering; neighboring, but it may or may not be in actual contact. Close by.

ADJOIN—To be in actual contact; to abut. To touch at some point. Contiguous.

ADJUDGE—To rule upon; decide or determine by law; legally, award or assign. Adjudicate.

ADJUSTMENTS—As applied to real estate, the credits and debits of a closing statement including such matters as taxes, insurance, rent prorations, escrowed funds, etc. when property is sold. A settlement.

ADMINISTRATOR—A court-appointed person authorized to manage and distribute the estate of one who dies leaving a will in which no Executor is named or of one who dies Intestate (leaving no will). An administrator may also be appointed when an executor is declared legally incompetent, dies before his duties can be performed or refuses to serve.

ADMINISTRATOR'S DEED—A form of deed used by the administrator of an estate to convey the property of one who has died leaving no will or executor.

ADMINISTRATRIX—A female appointed by the court to administrate the estate of a deceased person.

ADOBE—1. Sun-baked brick and clay used for construction in arid areas of the west and southwest. 2. A house or other building made of adobe brick.

AD VALOREM—(Latin) According to the value.

AD VALOREM TAXES—Taxes on real estate assessed according or proportionate to the value of the property.

ADVANCE—The paying of money, or the furnishing of goods or services, beforehand. Giving consideration before it is due.

ADVANCE FEE—A fee paid in advance of completion of services. (See **RETAINER**.)

ADVERSE LAND USE—The utilizing of land in such a manner that it is detrimental either to itself, the surrounding properties, or both. For example, a factory located in a residential area, or homes constructed too close to one another.

ADVERSE POSSESSION—The acquiring of property by one who does not have title, or who has defective title, to it. That person must be in “actual, open, notorious, exclusive, and continuous” occupancy for a prescribed statutory period. The period of occupancy varies in different states. In some, the period is 5 or 7 years; whereas, in others, it is as long as 20 years. It is also referred to as hostile possession, or notorious possession.

ADVERSE TITLE—Title that is created in opposition to another title to render the former one void, or to defeat a claim by adverse possession.

AEOLIAN SOIL—Soil developed from wind-blown solid materials, as in the