

REAL ESTATE SALESPERSON
SYLLABUS

REAL ESTATE SALESPERSON SYLLABUS

1.	License Law and Regulations	3 Hours
2.	Law of Agency	11 Hours
3.	Legal Issues	10 Hours
	• Estates & Interests	3 Hours
	• Liens & Easements	2 ½ Hours
	• Deeds	2 ½ Hours
	• Title Closing & Costs	2 Hours
4.	The Contract of Sales and Leases:	3 Hours
	• Leases	1 Hour
	• Contracts	1 Hour
	• Contract Preparation	1 Hour
5.	Real Estate Finance	5 Hours
6.	Land Use Regulations	3 Hours
7.	Construction and Environmental Issues	5 Hours
8.	Valuation Process and Pricing Properties	3 Hours
9.	Human Rights and Fair Housing	4 Hours
10.	Real Estate Mathematics	1 Hour
11.	Municipal Agencies	2 Hours
12.	Property Insurance	1 Hour
13.	Licensee Safety	1 Hour
14.	Taxes and Assessments	3 Hours
15.	Condominiums and Cooperatives	4 Hours
16.	Commercial and Investment Properties	10 Hours
17.	Income Tax Issues in Real Estate Transactions	3 Hours
18.	Mortgage Brokerage	1 Hour
19.	Property Management	2 Hours

Total	75 Hrs
Examination	3 Hrs

1. INTRODUCTION

- A. The purpose of the licensing law
- B. The different categories of licensure
 - Real Estate Broker
 - Real Estate Associate Broker
 - Real Estate Salesperson
- C. Responsibilities of Licensure
 - Broker (to the public, to licensees)
 - Associate Broker (to broker, to the public)
 - Salesperson (to broker, to the public)
- D. Education requirements for obtaining licenses
- E. The duties that are performed that require licensure
- F. Exemptions for licensure
- G. Maintaining a license
 - who physically holds the license
 - pocket cards
 - changes in name/status/location
 - branch office requirements
 - fee for licensure
- H. Changes of Association/Termination
- I. Dual Licensure-Broker/Salesperson
- J. Renewals and continuing education
 - hours of approved courses/programs
 - renewal requirements
 - responsibilities of sponsoring brokers
- K. Regulations promulgated by the Department of State
- L. Guidelines on advertisements
- M. Description of most common violations of license law
- N. Liabilities & penalties for violation of law or regulations
- O. Unlicensed assistants guidelines
- P. Article 14 - "Property Condition Disclosure Act"
- Q. Disclosure of uncapped natural gas wells - section 242 of the Real Property Law
- R. Case studies involving disciplinary proceedings instituted by the Department of State

KEY TERMS

- administrative discipline
- Apartment information vendor
- Apartment sharing agent
- Article 12-A
- Article 78 proceeding
- multiple listing service
- net listing
- pocket card
- real estate appraiser
- real estate broker

- blind ad
- associate real estate broker
- Change of Association
- commingling
- continuing education
- escrow
- exemption
- home inspector
- irrevocable consent
- kickback
- listing agreement
- misdemeanor
- real estate salesperson
- revocation
- sponsor
- suspension
- termination
- termination of association notice
- violation

1. INTRODUCTION

10 hours

- A. The Real Estate Agent
 - Licensure
 - Definition of Agency
 - Client or customer - Who does the agent represent?

- B. The Agent as Fiduciary
 - Basic agency relationships
 - Fiduciary responsibilities
 - Loyalty, confidentiality, full disclosure, obedience, reasonable skill and care and duty to account
 - Scope of agent's authority
 - Duties of the agent to the other parties in the transaction
 - Misrepresentation and their consequences

- C. Agency and Brokerage - Are they synonymous?
 - Who is the Agent?
 - The role of a Salesperson (subagent)
 - The nature of Cooperating Brokers (agents? subagents? dual agents? buyer brokers? broker's agents?)

- D. The Creation of Agency
 - How is agency created?
 - How is compensation determined?
 - Anti-Trust Issues
 - Group Boycotting
 - Price Fixing
 - Market Allocation Agreements
 - Tie-in Arrangements
 - Implied agency
 - Ratification and Estoppel
 - How does an Agent decide who he or she represents

- E. Agency Alternatives
 - Agent
 - Subagent
 - Dual Agent
 - Dual Agent with Designated Sales Agent
 - Single Agent
 - Seller's Agent
 - Buyer's Agent
 - Broker's Agent
 - Landlord's Agent
 - Tenant's Agent

- F. Subagency/Subagent or Buyer's Broker?
- Who creates subagency?
 - The "blanket unilateral offer of subagency" (does it still exist?)
 - Rejecting subagency
 - The relationship of a principal to a subagent
 - Can brokerage be conducted without subagency?
 - Obligations of the subagent to the seller
 - Obligations of the subagent to the buyer
- G. Dual Agency
- What is Dual Agency?
 - Obligation of Informed Consent from all parties
 - Obtaining the Informed Consent
 - Advance consent to dual agency
 - Risks of Dual Agency
 - Undisclosed Dual Agency and its consequences
- H. Consensual Dual Agency - Does it Work?
- Single Licensee Dual Agency
 - Broker Dual Agency
 - The New York Regulatory Scheme
 - Receiving compensation for services rendered to another party in the transaction (eg. Mortgage brokerage referral fees)
 - Relationship of Regulation 175.7 to RPL Section 443

Company policies:

- Seller agency exclusively
- Buyer agency exclusively
- Consensual dual agency for in-house sales with seller agency only as the norm
- Consensual dual agency for in-house sales with buyer agency exclusively for all other transactions
- Designated agents

I. Agency Relationships

Single Agency

- Practicing single agency
- Providing advice to clients (principals)
- Duties and obligations to each of the parties in the transaction

"A single agency broker represents either the buyer or the seller in a transaction but never both."

Seller/Landlord Agency

- The relationship of the salesperson
- Express or implied seller agency
- Handling in-house sales
- Handling cooperative sales

Buyer/Tenant Agency

- Why buyer brokerage

- Does everyone need an agent?
- Who pays the buyer's broker?
- Buyers as clients
- Buyers as customers
- Broker's Agent

Consensual Dual Agency

- Disclosure requirements under New York Law (RPL Section 443)

J. Termination of Agency

K. Forms and Disclosure Policy

- The exclusive right to sell agreement
- The exclusive agency agreement
- The open listing agreement
- The exclusive right to rent agreement
- The exclusive right to represent (Buyer's broker)

L. Disclosure Requirements under section 443 of the Real Property Law

- How to explain the Agency Disclosure documents
 - Agency Disclosure Form prior to January 1, 2011
 - Agency Disclosure Form effective January 1, 2011

M. Completing the Signature Page

- What is the first substantive meeting?
- Have you made your role clear?
- What if buyer or seller refuses to sign?
- Once you have assumed a role as buyer's agent or a seller's agent can you change rolls?

KEY TERMS

- | | |
|---------------------------|-----------------------|
| • accountability | • group boycott |
| • advance consent to dual | • implied agency |
| • advance consent to dual | • informed consent |
| • with designated sales | • landlord's agent |
| • agency disclosure form | • loyalty |
| • agent | • market allocation |
| • broker's agent | • misrepresentation |
| • buyer agent | • obedience |
| • client | • open listing |
| • confidentiality | • price fixing |
| • cooperating agent | • principal |
| • customer | • reasonable care |
| • designated sales agent | • self dealing |
| • disclosure | • seller's agent |
| • dual agency | • special agent |
| • estoppel | • subagent |
| • exclusive agency | • tie-in arrangement |
| • exclusive right to sell | • undivided loyalty |
| • expressed agency | • undivided loyalty |
| • fiduciary | • undisclosed dual |
| • fiduciary duties | • vicarious liability |

- first substantive contact
- general agent

2. INDEPENDENT CONTRACTOR EMPLOYEE

1 Hour

- A. The nature of the Independent Contractor Relationship
- B. Independent Contractor Employee
- C. Common Law
 - case law
 - IRS
 - New York State
- D. 1986 Independent Contractor Laws - New York State
 - 1986 additions to New York State Labor Law and Worker's Compensation Law
 - Internal Revenue Code Section 3508
- E. Compliance with 1986 Law
 - Compensation directly related to sales or other output
 - Written contract between broker and salesperson
 - Written contract not executed under duress
- F. Elements of Independent Contractor Relationship
 - Commissions payable without deductions for taxes and directly related to output
 - No remuneration for number of hours worked
 - Salespersons are permitted to work any hours they choose
 - Salespersons can work from home or a broker's office
 - Brokers can provide office facilities and supplies but salespersons are responsible for expenses
 - Broker supervises but does not direct and control
 - Either party may terminate at any time
 - Both Federal and State Law requires a Written Contract
 - Consequences of Non-Compliance
 - Sales associates deemed employees - broker responsible for unemployment insurance premiums, Federal unemployment insurance, worker's compensation, disability insurance and liability for Federal and State withholding taxes including Social Security benefits.
 - Consequences to Salespersons - inability to file Form 1040, Schedule C and deduct expenses; all compensation subject to withholdings.
 - Review of recommended forms
 - Substance Over Form - Written documentation will not overcome broker's direction and control of salesperson
 - Balancing the need to supervise
 - DOS regulation 175.21 - Supervision of Salesperson by broker
 - DOS regulation 175.23 - Records of transaction to be maintained
 - Implications for the future - Will licensees become employees?

KEY TERMS

- employee
- independent contractor

1. ESTATES AND INTERESTS

3 Hours

- A. Introduction - Overview
- bundle of rights
 - land
 - real estate
 - real property
 - personal property
- B. Uses of Real Property
- residential
 - commercial
 - industrial
 - agricultural
 - special purpose
 - characteristics of real property
- C. Freehold Estates
- fee, fee simple, fee absolute
 - qualified fee
 - fee on condition
 - life estates
- D. Leasehold Estates
- estate for years
 - periodic estate
 - estate at will
 - estate at sufferance
- E. Forms of Ownership
- Estate (Ownership) in severalty
 - Co-ownership
 - tenancy in common
 - joint tenancy
 - tenancy by the entirety
 - termination of joint tenancies
 - termination of co-ownership by Partition
 - community property rights (an understanding)
- F. Trusts
- Definition
- G. Ownership of Real Estate by Business Organizations
- Partnerships
 - general, limited, uniform partnership act, tenancy in common
 - Corporations
 - ownership in severalty

- Syndicates
- Cooperative and Condominiums
 - What interests are transferred
 - What is owned

KEY TERMS

- | | |
|-------------------------|---------------------------------------------------|
| • act of waste | • partition |
| • air rights | • personal property |
| • beneficiary | • real estate/real property |
| • bundle of rights | • remainder interests/remainderman |
| • chattel | • reversionary interest |
| • curtesy/dower | • right of survivorship |
| • escheat | • riparian rights |
| • estate for years | • severalty |
| • fee simple estate | • special purpose real estate |
| • fixture/trade fixture | • tenancy in common |
| • homestead | • subsurface rights |
| • illiquidity | • tenancy by the entirety |
| • joint tenancy | • trustee/trustor |
| • joint venture | • undivided interest |
| • life estate | • unities of interest, possession, time and title |
| • littoral rights | |
| • parcel | |

2. LIENS AND EASEMENTS

2 ½ Hours

A. Encumbrances

- Liens - voluntary, involuntary
- General Liens
 - judgments (Lis Pendens)
 - estate and inheritance taxes
 - deceased person's debt
 - corporation franchise tax
 - IRS Tax
- Specific Liens
 - Tax Liens
 - Mortgage Liens
 - Mechanics Liens
- Effect on Liens and Title
- Priority of Liens
- Subordination Agreements
- Deed restrictions
- Easements
 - easement appurtenant
 - easement in gross
 - easement by necessity
 - easement by prescription
 - party walls

- Creating an easement
- Terminating an easement

KEY TERMS

- appurtenances
- dominant tenement
- easement
- easement appurtenant
- easement by condemnation
- easement by grant
- easement by implication
- easement by necessity
- easement by prescription
- easement for light and air
- easement in gross
- encroachment
- encumbrance
- general lien/specific lien
- involuntary/voluntary lien
- license
- lis pendens
- mechanic's lien
- mortgage
- party wall
- possessory/non-possessory
- right of way
- servient tenement
- subordination agreement
- tax lien

3. DEEDS

2 ½ Hours

- A. Definition of a deed
- B. Purpose of Deeds
- C. Essential elements of a deed
 - grantor
 - grantee
 - act of conveyance - granting clauses
 - consideration
 - legal description
 - metes and bounds
 - monuments
 - lot and block (plat of subdivision)
 - habendum clause
 - designation of any limitations
 - exemptions and reservations affecting the title ("subject to" clause)
 - signature of the grantor
 - delivery of the deed and acceptance
 - Acknowledgment
 - Recording
- D. Forms of Deeds
 - full covenant and warranty deed
 - covenant of seizin
 - covenant against encumbrances
 - quiet enjoyment
 - further assurance
 - warranty
 - bargain and sale with covenants
 - bargain and sale without covenants
 - executor's deed
 - quit claim deed

- referee's deed

E. Conveyance After Death

- Intestate
 - administration, administrator
 - title by descent
 - intestate secession
 - heirs
- Testate
 - probate
 - testator, testatrix
 - devise
 - devisee
 - executor, executrix

KEY TERMS

- | | | | |
|---|--------------------------|---|-----------------------|
| • | accession | • | full covenant and |
| • | accretion | • | grantee/grantor |
| • | Acknowledgment | • | habendum clause |
| • | adverse possession | • | involuntary/voluntary |
| • | alluvion | • | land patent |
| • | avulsion | • | lot and block |
| • | bargain and sale deed | • | metes and bounds |
| • | consideration | • | public grant |
| • | conveyance | • | quit claim deed |
| • | dedication/dedication by | • | referees deed |
| • | delivery and acceptance | • | reference to a plat |
| • | description | • | survey |
| • | executor | | |

4. TITLE CLOSING AND COSTS

2 Hours

INTRODUCTION

- A. Significance of the closing: what is a title closing and why is it important to those who attend?
- B. Functions of those who will attend a closing, the importance of recording acts and what will be done at the closing.

THE TITLE CLOSING

- A. Consummation of a real estate transaction
- B. The seller is paid the balance of the purchase price
- C. Existing liens against the real property are satisfied
- D. The purchaser normally will pay the balance of the purchase price through a combination of funds obtained through an acquisition mortgage and the purchaser's own funds.

- E. Significance of:

- deed and other closing documents
- recording acts
- chain of title
- abstract of title
- title insurance

- F. Where closings are held?
- G. A broker or salesperson's role prior to closing involves inspection of the property with the purchaser
- H. Payment of the commission
- I. Homeowner's insurance
- J. RESPA
- K. Closing statement

CLOSING COSTS AND ADJUSTMENTS

- A. Seller's closing costs
- transfer taxes
 - state
 - local
 - broker's commission
 - attorney's fees
 - recording documents to clear title
 - satisfy existing liens
 - special
 - co-op and condo fees
- B. Purchaser's closing costs
- appraisal and credit report fees
 - inspections
 - mortgage recording tax
 - title insurance
 - attorney's fees
 - bank fees
 - recording
 - mortgage insurance
 - special
 - co-op and condo fees
- C. Adjustments
- real estate taxes and assessments
 - insurance
 - fuel
 - water and sewer charges
 - rent
 - security deposits
 - arithmetic of prorations

KEY TERMS

- abstract of title
- assessments
- proration
- Real Estate Settlement

- chain of title
- closing statement
- constructive notice; actual notice
- credits
- debits
- marketable title
- proration

- Procedures Act (**RESPA**)
- reconciliation
- survey
- title
- title closing
- title insurance
- title search

1. LEASES

1 Hour

A. Definition

B. Types of Leasehold Estates

- estate for years
- periodic estate
- estate at will
- tenancy at sufferance

C. Standard Lease Provisions

- The Law of Contracts governs the making, interpretation, and enforcement of leases. Therefore, the requirements for making a valid lease are the same as making a valid contract.
 - capacity to contract
 - a demising clause - "the demised premises"
 - description of the premises
 - clear statement of the "term" (length)
 - specification of rent and how it is to be paid (consideration). Unless lease provides otherwise rent is due in arrears.
 - must be in writing for a term of more than one year
 - signatures (not notarized) unless to be recorded
 - plain language requirement for residential leases
 - use provisions
 - often a point of negotiation in a commercial lease. Hence the significance of the language "for no other purpose" versus "any lawful purpose"
- usually expressed in annual terms
- commercial leases often provide for:
 - renewals or options to renew
 - no rights to renewal by statute
- residential leases
 - under ETPA (Emergency Tenant Protection Act), tenant in most cases is entitled to a one or two year renewal
 - decontrolling of a stabilized unit
 - luxury decontrol
 - Can occur when the legal registered rent reaches \$2000; and
 - Household income exceeds \$175,000 for 2 years preceeding the legal rent of \$2000
 - Household income defined
 - non-primary resident
 - define primary resident
 - security deposits
 - possession and habitability
 - improvement
 - assignment & subletting
 - apartment sharing
 - renewals
 - termination

KEY TERMS

- | | | | |
|---|-----------------------|---|-------------------|
| • | assignment | • | lease/net |
| • | constructive eviction | • | leasehold estate |
| • | covenant | • | lessee/lessor |
| • | eviction/actual and | • | option to renew |
| • | graduated lease | • | percentage |
| • | gross lease | • | periodic lease |
| • | ground lease | • | proprietary lease |
| • | holdover tenant | • | quiet enjoyment |
| • | implied lease | • | security deposit |
| • | index lease | • | sublease |
| • | landlease | | |

2. CONTRACTS

1 Hour

A. Definition

B. Types

- expressed
- implied
- bilateral
- unilateral

C. Essentials of a valid contract

- competent parties
- mutual agreement
- lawful objective
- consideration
- in writing

D. Sales Contract

- date
- identification of parties
- legal description
- personal property provision
- consideration
- terms of payment
- "subject to" provision
- type of deed
- closing time and place
- broker clause
- apportionments
- lien law
- condition of property
- merger clause
- limit of seller's liability
- liquidation of seller's liability
- loan contingency clause
- possession paragraph
- down payment

- no survival (unless provide D)
- E. The use of binders
- F. Purchase offers
- G. Installment sales contract
- when is deed delivered?
 - cash flow reason for purchaser
 - tax reasons for seller
- H. Lease with option to buy/Right of first refusal
- I. Contracts affecting brokers
- employment contracts
 - listing agreements
 - sales contracts
 - leases
- J. Statute of Frauds GOL 5-703 sub. 2

KEY TERMS

- | | |
|----------------------------------------|----------------------------|
| • assignment | • option |
| • caveat | • power of attorney |
| • caveat emptor | • reformation |
| • consideration | • rescission |
| • contingency | • rider |
| • counteroffer | • right of first refusal |
| • earnest money deposit | • specific performance |
| • express/implied contracts | • Statute of Frauds |
| • executed contract/executory contract | • Statute of Limitations |
| • forbearance | • "time is of the essence" |
| • liquidated damages | • Uniform Commercial Code |
| • novation | • void/voidable |

3. CONTRACT PREPARATION

1 Hour

- A. What Form of Contract to Use
1. Upstate Contracts
 2. Downstate Contracts
- B. Data Required for Contract Preparation
1. Prior deed
 2. Prior title insurance policy
 3. Survey
 4. Certificate of occupancy (what must the preparer look for?)
 5. Personal data (ie. Names, addresses, telephone numbers, security numbers, etc.)

6. Tax bills
- C. Verifying Property Description
 1. Metes and bounds description
 2. Lot on a filed map
 3. Tax map designations
 4. Street addresses
 5. Which is to be used?
 - D. Who Prepares the Contract?
 1. Seller's attorney
 2. Seller's broker
 3. Purchaser's broker (purchase offer contracts)
 4. Other
 - E. The Mortgage Contingency
 1. Traditional mortgage financing
 2. VA or FHA financing
 3. Purchase Money Mortgage
 4. Assumable Mortgages
 - F. The Down Payment
 1. Custom and practice in New York regarding the amount of down payment upon contract
 2. Who holds the down payment?
 - a. listing agent
 - b. seller's attorney
 - c. no escrow agent?
 - d. advantages of lawyers holding down payments (Lawyers Fund for Client Protection)
 - G. Contract Procedures
 1. Who signs first and why?
 2. Review of contract with seller to verify accuracy of information
 3. Riders
 4. Clauses relating to lead based paint (properties constructed after 1978)
 5. Requirement for inclusion of section 443 Disclosure statement when brokers prepare contracts
 - H. Customs and Practices Regarding Signing of Contract
 1. Delivery by mail
 2. Sit down contract signings
 - a. delivery of down payments
 - b. who can give legal advice with respect to contract? (Should brokers ever prepare riders?)
 - c. attorney review clauses

Key Terms

- Attorney review clause
- Down payment
- Lawyer's fund for client protection
- Mortgage contingency clause

- A. Mortgage - Definition 4 Hours
- creates a lien
 - owner retains the usual rights of ownership
 - mortgagee (lender) has the right to pursue mortgagor's (borrower) real estate to satisfy debt
 - bond/note
 - secures the repayment of a promissory note
 - principal, interest, taxes and insurance (PITI)
 - foreclosure
 - deficiency judgement
 - discount points
- B. Duties of a mortgagor
- keep the property in good repair
 - to insure the property
 - to pay all taxes and assessments
 - to pay the debt insured by the mortgage
- C. Sale of Property that has a mortgage
- sale free and clear
 - sale subject to the mortgage
 - sale subject to the mortgage with the buyer assuming the mortgage debt
- D. Recording of the Mortgage
- E. General Types of Mortgages
- conventional
 - governmental insured or guaranteed
- F. Specific loans and payment
- fixed rate
 - adjustable rate
 - balloon
 - graduated payment
 - open-end
 - blanket
 - wraparound
 - swing/bridge loan
 - purchase money
 - construction
 - land contract
 - equity loan
 - reverse mortgage
- G. Government Backed Loans
- FHA
 - VA
 - Rural Housing Service (RHS)
 - Sonyma

- H. Secondary Markets
 - Fannie Mae (FNMA)
 - Ginnie Mae (GNMA)
 - Federal Home Loan Mortgage Corporation

- I. Truth in Lending (Regulation Z)
 - Consumer Credit Protection Act
 - disclosure
 - right to rescind
 - advertising
 - effect on real estate licensees

- J. PMI

- K. Lender's Criteria for Granting a Loan
 - investment quality of property
 - sales price
 - appraised value
 - o location
 - o condition
 - o comparable
 - loan to value
 - o down payment
 - type of property
 - o one (1) to four (4) family
 - owner occupied
 - income producing
 - Borrower's ability to repay loan
 - income/salary
 - qualifying ratios
 - employment history
 - o stability and continuance
 - o education/training
 - sole proprietor, partnership, corporation
 - verification/documentation
 - liquid assets
 - monthly obligations, history of repayment/credit reports
 - Consumer Credit Protection Act

L. Predatory Lending

1 Hour

What is Predatory Lending?

Sub-prime loans

high interest loans and closing
 costs hidden fees
 balloon payments
 unqualified buyers
 refinancing
 (flipping)

debt
consolidation
home equity
loans

Fraud

Foreclosures caused by predatory lending practices

Predatory Lending Laws

KEY TERMS

- acceleration clause
- adjustable rate mortgage
- alienation clause
- amortization
- assignment
- balloon mortgage
- blanket mortgage
- bridge loan
- buydown
- construction mortgage
- conventional mortgage
- default
- discount points
- "due on sale" clause
- FHA/mortgage
- grace period
- graduated mortgage
- home equity loan
- inflation
- interest and tax
- lifetime cap/ceiling
- loan flipping
- loan to value ratio
- margin
- MIP/mortgage insurance
- mortgage, mortgagor,
- negative amortization
- package mortgage
- pledged account mortgage
- PMI/private mortgage insurance
- point
- predatory lending
- prepayment penalty clause
- primary market/secondary
- promissory note
- rate cap; payment cap
- red-lining
- Regulation Z
- release clause
- RESPA/Real Estate Settlement
- Procedures Act
- reverse annuity mortgage
- sale-and-leaseback
- satisfaction of mortgage
- shared equity mortgage
- SONYMA/State of New York
- Association
- straight mortgage/term
- sub-prime loan
- usury
- VA/mortgage
- wrap-around mortgage

- A. Bundle of rights and "As of Right Zoning"
- B. The need to plan for the future
- C. Private Land Use Controls: Deed restrictions, Covenants
 - State Environmental Quality Review

- D. Police Power
 - New York State Article 9-A
 - Interstate Land Sales Full Disclosure Act
 - Environment Impact Statements
 - Taxation
 - State Building and Fire Codes Regulations
 - Local Authority
 - enacts local zoning ordinance and building codes
 - zoning classifications; residential, commercial, industrial, vacant, agricultural, public open space, park lands, recreational, institutional
 - incentive zoning
 - clustering
 - open meetings law (Sunshine Law)
 - local legislative body: planning board & zoning, board of appeals

- E. The Planning Board - Planning Defined
 - Master of Comprehensive Plan, Official Map, etc.
 - subdivisions
 - development costs
 - zoning actions
 - capital budgeting
 - other planning related actions
 - FHA approval
 - Plat, density, street/traffic patterns
 - PUD - Planned Unit Development
 - Site plan and review

- F. The zoning board of appeals: administrative and quasi-judicial, not policy making. Local administrative appeal mechanisms. Interpreter of Ordinance.
 - Article 78 Procedure
 - Special exception use permit or special use permit
 - USE variance: "Unnecessary Hardship"
 - applicant is deprived of all economic use or benefit
 - hardship is unique, not universal to area or neighborhood
 - variance will not change essential character of neighborhood
 - alleged hardship is not self-created

 - AREA Variance "Practical Difficulty", Health, Safety, Welfare
 - Undesirable change or detriment to nearby properties if granted
 - If benefit sought can be achieved by other feasible means
 - If requested variance is substantial
 - If it would have an adverse effect or impact on physical or environmental conditions in the neighborhood or district

- If the difficulty was self-created (does not preclude granting)
- Local Enforcement
 - Building department: inspector, code enforcement officer, etc.
 - Professional services: engineer, environmental, planning, etc.
 - Board of Health
 - Local courts

KEY TERMS

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • abutting • accessory • accessory • air rights • building code • building • census tract • CO/certificate • condemnation • cul-de-sac • deed • demography • Doctrine of • easement • eminent • escheat • family, defined • group home • home | <ul style="list-style-type: none"> • infrastructure • lead agency • master plan • moratorium • New York State Office of Recreation and Historic Preservation (OPRHP) • non-conforming use • police power • restrictive covenant • right-of-way • setbacks • spot zoning • subdivision regulations • survey • "taking's defined by courts • topography • Transfer of Development • variance/area variance/use • zoning ordinance |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

CONSTRUCTION - 2 HOURS1. INTRODUCTION

A. Land Use

- plans, specifications
- building permits and requirements
- codes
- certificates of occupancies

B. Site Requirements

- New York State on-site well, requirements
- New York State on-site sanitary waste system requirements
- New York State Energy Code

C. Site Use

- drainage
- landscaping
- appurtenances
- shading
- walks
- zoning

D. Structure

- footings
- foundation walls
- wood framing members
- sill plates
- beams/joists
- girders
- lally columns
- studs
- roof rafters
- roof ridge beam
- sheathing
- slab-on-grade construction

E. Structural tie-in of all components

- terminology
- headers
- bearing walls
- lintels
- fitch plates

F. Energy Efficiencies

- R-factor
- types of installation
- location of insulation

G. Tie-in of insulation with structural components

2. MAJOR SYSTEMS HEATING - AIR CONDITIONING, PLUMBING & ELECTRICAL

A. Ventilation

- why is ventilation important
- ventilation systems
- proper ventilation

B. Types of heating systems and components/identification/sizing/life expectancies

- Heating:
 - hot water system
 - steam system
 - forces/warm air
- Application of:
 - electrical heating
 - oil fired heating
 - gas fired heating
- Oil Tanks:
 - UST - underground storage tanks
 - AST - above ground storage tanks
 - DEC - Department of Environmental Conservation regulations on oil tanks (abandonment, testing, etc.)
 - BTU ratings
 - Life expectancies
- Air conditioning:
 - central air conditioning
 - major air conditioning components
 - integral systems with forced air
 - water cooled systems
 - air cooled systems
 - BTU ratings
 - life expectancies
- Heat Pumps:
 - air to air heat pumps
 - cycling of systems
 - advantages and disadvantages
- Plumbing:
 - hot water heating, i.e., hot water tanks, boiler coils, sizing requirements, etc.
 - sanitary waste systems
 - on-site
 - municipal

Type of piping:
-cast iron

- galvanized
- copper
- PVC

- domestic water
 - incoming services - well and town
 - type of piping materials (galvanized, brass, copper)
 - advantages/disadvantages of piping materials (all)
 - pipe sizing for adequate pressures
 - venting requirements of plumbing fixtures

C. Electrical:

- Incoming services
 - above ground
 - below ground
- Utility company responsibilities
- Land owner responsibilities
- Voltage - what is voltage?, how to identify 110/220
- Amperage - what is amperage
 - capacity requirements
 - fuses vs. circuit breakers
 - how to identify amperage

Aluminum vs. copper wiring

Wiring materials

- BX
- Romex
- Conduit
- Greenfield
- Diagram main panel interior with distribution (show 110 and 220 connections)
- National Electric Code

3. MANDATED GUARANTEES AND WARRANTIES

- Home improvement
- New home construction

KEY TERMS

- | | |
|----------------------------|------------------------------|
| • amperage | • lally columns |
| • basement | • percolation rate |
| • beam | • pitch |
| • bearing walls | • plaster board/wall board |
| • blueprint | • platform construction |
| • BTU/British Thermal Unit | • post and beam construction |
| • building envelope | • rafter |
| • circuit breaker | • R-value |
| • crawl space | • septic system |
| • eave | • sheathing |
| • fascia | • siding |

- flashing
- footing
- foundation walls
- fuse
- girder
- headers
- joists
- sill plates
- slab-on-grade construction
- soffit
- specifications
- studs
- voltage

ENVIRONMENTAL ISSUES - 3 HOURS

1. INTRODUCTION OVERVIEW OF TODAY'S MAIN ENVIRONMENTAL ISSUES

A. Long Standing Issues

- air
- water
- septic
- termites

B. Contemporary Issues

- asbestos
- lead (paint, water, soil)
- radon
- indoor air quality (sick building syndrome)
- polychlorinated biphenyls (PCBs)
- environmental assessment (Phase I, II, III)
- underground storage tanks
- electro-magnetic fields
- chloro-fluoro carbons (CFCs)
- mold

2. LONG STANDING ISSUES - FAMILIAR TO ALL

A. Water

- municipal drinking water - public
- private distribution systems
- private water systems
 - wells
 - private
 - community
- health related issues
 - bacteria
 - minerals
 - hardness
 - Ph
 - organic
- Testing Procedures and Remediation

- B. Private Sewerage Disposal Systems - Septic Systems
 - governed by the Department of Health
 - must be designed by professional engineer or a registered architect
 - most septic for homes have As Built Drawings filed with the local health department
 - testing & remediation

- C. Wood Destroying Insect Testing
 - must be certified by the New York State Department Environmental Conservation (NYSDEC)
 - testing & remediation

3. CONTEMPORARY ISSUES

- A. Asbestos
 - historical overview
 - what is asbestos?
 - what are its uses?
 - health effects
 - asbestosis
 - lung cancer
 - mesothelioma
 - testing procedures
 - bulk sampling
 - air monitoring
 - wipe sampling
 - Removal procedures

- B. Lead
 - paint
 - water soil
 - health effects
 - adults
 - children

 - testing & remediation
 - disclosure requirements

- C. Radon - including health effects
 - radon entry/behavior
 - testing & remediation
 - new construction

- D. Indoor Air Quality

- E. Poly-Chlorinated Biphenyls - (PCB's)
 - where they come from
 - testing & remediation

- F. Environmental Assessments
 - primarily used during commercial real estate transactions
 - Phase I, II, III and IV
 - Phase I - investigative
 - Phase II - testing phase
 - Phase III - remediation
 - Phase IV - management phase

- G. Underground storage tanks
 - concerns of leaking
 - age of tanks
 - testing and remediation

- H. Electro-magnetic fields
 - health effects
 - testing and remediation

- I. Chloro-fluoro carbons - CFC's
 - problems with CFC's
 - depletes ozone layer
 - major CFC problems in homes
 - aerosols
 - air conditioners
 - testing techniques

- J. Mold
 - testing and remediation

4. AGENT'S ROLE

- Impact on salesperson/broker
- Liability on salesperson/broker

KEY TERMS

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • asbestos • asbestosis • CAA/Clean Air Act • CERCLA/Comprehensive Environmental • Environmental Response, Compensation • Liability Act • chlordane • chloro-flouro carbons (CFCs) • due diligence • electro-magnetic field • environmental impact state • friable | <ul style="list-style-type: none"> • freon • groundwater • HUD
 • Lead • mold • poly-chlorinated byphenols (PCBs) • radon • SDWA/Safe Drinking Water Act • Superfund Amendments and • Act • underground storage tanks • urea formaldehyde foam insulation (UFFI) • wetlands |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Instructors should consult state regulations for any changes to these areas of concern, especially with reference to Sections B, G, H, I --these areas are evolving very quickly and constant changes are being made.

A. Differences between Appraisal, Valuation and Evaluation

- Appraisal - an unbiased estimate of the nature, quality, value or utility of an interest in or aspect of, identified real estate and related personality. Is a CMA an appraisal?
- Valuation - the process of estimating the value of an identified interest in specific property as of a given date.
 - Types of value:
 - Market value (see below)
 - Investment value - based on specified value
 - Insurable value - omits land and foundations
 - Other defined value - value in use, etc.
- Evaluation - a study of the nature, quality, or utility of certain property interests in which a value estimate is not necessarily required, e.g. highest and best use, feasibility, market supply and demand, etc.
- Market Value - is the most probable price, as of a specific date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should be sold after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
 - probable price vs. highest
 - price vs. "first offer"
 - specific date
 - cash equivalency
 - specified rights
 - reasonable exposure vs. marketing time
 - conditions requisite to fair sale - broad market, widely publicized offering, time, knowledge, no duress, both parties "cool".

B. Difference between value, price and cost

- Price - an amount a particular purchaser agrees to pay and a particular seller agrees to accept under the circumstances surrounding the transactions (may or may not equal value).
- Cost - the total dollar expenditure for labor, materials, legal services, architectural design, financing, taxes during construction, interest, contractor's overhead and profit, and entrepreneurial overhead and profit (may or may not equal value).
 - Types of Costs

- Direct costs - labor and materials (hard costs)
 - Indirect costs - architectural and engineering fees, professional fees (appraiser), financing costs, lease-up costs, administration, filing fees, etc.
- C. Comparative Market Analysis
- how is a CMA used?
 - by law CMA's may never be referred to as appraisals
 - CMA's are opinions of value
- D. Residential Market Analysis
- recent sold properties
 - current competing properties
 - recent expired properties
 - buyer appeal
 - market position
 - assets
 - drawbacks
 - area market conditions
 - recommended terms
 - market value range
- E. Salesperson's Role
- competence
 - diligence
 - documentation
 - effective communication
- F. Highest and Best Use
- as vacant
 - as improved
- G. Site Valuation
- H. Three Approaches to Value
- sales comparison approach
 - cost approach
 - income approach
- I. Pricing Properties
- Preparing the CMA
 - data collection
 - listing comparable past sales (sold within the last 12 months), expired listings and current competition
 - making adjustments
 - formulating a price

KEY TERMS

- appraisal
- assessed value
- comparative market
- analysis
- cost
- cost approach
- depreciation
- direct cost
- evaluation
- income approach
- indirect cost
- insured value
- Investment value
- Market price
- Market value
- Mortgage value
- Obsolescence/functional/ext
- Plottage
- Price
- Sales comparison approach
- Valuation
- Value-in-use

1. FAIR HOUSING

- A. Pressure from society
- landlord and sellers requesting specific types of people to be shown their dwellings
 - what will the neighbors think, say or do?
 - buyers and renters
 - making statements about certain parts of the community
 - asking pointed questions about the community
 - refusing to be shown houses if certain people live in that part of the community
- B. Broker's Responsibility
- Maintain a Fair Housing office
 - post Fair Housing signs
 - in advertising, maintain the concept of Fair Housing
 - Ongoing training and education of staff and agents
 - Reporting of any Fair Housing misconduct
 - Have available all necessary material for record keeping by broker and agents
- C. Salesperson's Responsibility
- know the Fair Housing Laws and responsibility
 - act in accordance with the law
 - learn excellent record keeping skills
 - attend Fair Housing training seminars
 - know the referral resources
- D. Federal Laws
- Civil Rights Act of 1866
 - Civil Rights Act of 1964
 - Fair Housing Act of 1968
 - 1896 Plessy vs. Ferguson
 - 1917 Buchanan vs. Warley Supreme Court
 - 1954 Brown vs. Board of Education
 - The Housing and Community Development Act of 1974
 - The Fair Housing Amendment Act of 1988
- E. New York State Law
- Executive Law includes the Civil Rights Law of the State, (NY Human Rights Law – Article 15)¹
 - additional protected classes; age and marital status
 - New York City Commission on Human Rights
- F. Exemptions and exceptions
- senior citizen housing
 - drug users and alcohol abusers

¹ Relevant portions enforced by NYS [Division of Human Rights](#) & NYS [Homes & Community Renewal](#)

- two family exemption

Discussion of the development of Fair Housing Laws and the protected classes both federally and protected classes in New York State

G. Types of Discrimination

- refusal to rent, deal, sell or to work with a member or members of a protected class
- unequal treatment by the client in terms of not showing or making available all possible dwellings within their price range
- misinformation or different information
- steering minority home seekers to specific minority neighborhoods
- blockbusting-creating panic in a neighborhood or street which causes individuals to decide to sell their homes immediately
- advertising awareness
- discussion for understanding of forms of discrimination

H. Responsibility in the legal sense

- responsibilities of the office
- responsibilities of the individual agent
- legal ramifications of discrimination fines and penalties
- emotional results of discrimination in housing
- discussion of responsibilities

I. The Fair Housing Agent

- role playing
- discussion

J. Cease and Desist Lists

K. Non-solicitation Orders

KEY TERMS

- | | |
|---------------------------------------------------|-------------------------------|
| • Americans with Disabilities | • Jones vs. Mayer Supreme |
| • blockbusting | • Decision, 1968 |
| • cease and desist list | • marital status |
| • Civil Rights Act of 1866 | • N.Y. State Human Rights Law |
| • disability or handicap | • non-solicitation order |
| • Fair Housing Act of 1968 | • redlining |
| • familial status | • steering |
| • filtering down | • testers |
| • HUD/Department of Housing and Urban Development | |

1. Percentages
 - commissions
 - interest
 - appreciation and depreciation
 - points

2. Calculating area and length
 - square feet
 - irregular lot size
 - perimeter
 - acre
 - hectare
 - price per square foot

3. Basic Mortgage Qualifying
 - mortgages

4. Rates
 - Real property transfer tax
 - Mortgage recording
 - Real property tax

KEY TERMS

- acre
- commission
- front foot
- gross income/net
- hectare
- interest
- point
- principal
- real property tax rate

- A. Description of the following agencies matched with their functions:
1. City/Town Council: Elected
 2. Village Board of Trustees: Elected
 3. Adoption of laws and ordinances including zoning ordinance and cluster zoning approval
 4. Adoption of budget and tax rate
 5. Planning Board: Appointed
 - a. Master Plan
 - b. Subdivision approval
 - c. Advises all other boards on land use matters
 6. Zoning Board of Appeals
 - a. Variances
 - b. Zoning interpretations
 - c. Special Permits (may be other agencies)
 7. Architectural Review Board
 - a. Approves new construction and remodeling per municipal ordinances
 8. Conservation Advisory Council/Wetlands Commission
 - a. Deals with environmental issues per municipal ordinances
 9. Historic Preservation/Landmark Commission
 - a. Approves construction/remodeling of designated properties
 - b. Recommends properties for preservation
 10. Building Department
 - a. Building permit approvals
 - b. Acts as “gatekeeper” for all construction activity
 11. Planning Department
 - a. Professional advisement to all agencies and boards
 12. Tax Assessor
 - a. Assessments
 - b. Records
 13. Receiver of Taxes/Treasurer
 - a. Collects taxes
 - b. Accounting functions
 14. City/Town/Village Engineer
 - a. Roads
 - b. Sewer and water connections
 15. County Health Department
 - a. Septic system approval
 - b. Certain sewer approvals

Key Terms

- Architectural Review Board
- Building department
- Conservation Advisory Council
- County Health Department
- Historic Preservation/Landmark Commissions
- Planning board
- Receiver of Taxes
- Tax assessor
- Village Board of Trustees
- Zoning Board of Appeals

- A. The purpose of property insurance
- B. Choices in purchasing property insurance
- Independent agents Insurance companies Insurance brokers
- C. Types of policies
- Monoline policy
 - Package policy
- D. Standard coverage on a home-property, liability, medical
- Fire, windstorm, hail, tornados, vandalism and other physical damage
 - Theft of personal property
 - Someone injured on the property because of owner's or owner's family negligence or damage by insured to someone else's property due to negligence
- E. Basic types of homeowners and tenant policies in New York
- Homeowners -1 (HO-1) Basic Policy-standard insurance against perils
 - Homeowners -2 (HO-2) Broad Form Policy -coverage in HO-1 plus other perils
 - Homeowners-3 (HO-3) Special Form Policy-Most widely used policy for the home; covers all forms of loss except those specifically excluded
 - Homeowners -5 (HO-5) Comprehensive Form Policy -Includes all coverage in HO-3 plus personal property
 - Homeowners- 8 (HO-8) Market Value Policy-modified version of HO-1; provides cash value coverage instead of replacement cost coverage
 - Homeowners-4 (HO-4) Tenants or Cooperative Owners Policies
 - Homeowners-6 (HO-6) Condominiums Owners Policies
- F. The amount of insurance needed
- Actual cash value or replacement cost
 - Structure
 - Contents
 - Basic amounts of coverage
 - Adding to the basic policy
 - Increased limits of liability
 - Insuring additional personal property and other structures on the property

G. Problems in Obtaining Insurance

New York Property Insurance Underwriting Association
National Flood insurance Program
Coastal Residents Assistance

H. Cancellation and non-renewals of a policy

I. The cost of homeowner's insurance

J. Insurance policy deductibles

New York disclosure requirements regarding deductibles for windstorm damage

K. Other types of property insurance

- Commercial policies
- Umbrella policies

L. Real Estate Agents Role

Explain the purpose and costs of property insurance to a buyer
Explain the lenders' interest in property insurance
Explain the escrow of property insurance along with property taxes
Explain when to obtain property insurance if there is a cash sale

Key terms

- actual cash value
- deductible
- liability insurance
- package policy
- property insurance
- replacement cost
- umbrella policy

A. General Safety Concerns

- Know your surroundings
- Office point of entry/exit
- Security cameras, alarms, and lighting
- Accounting of Staff and visitors
- Office access/ Keys and security codes

B. Safety at the Office

- Working alone
- Entering and exiting office while alone
- Meeting unknown individuals

C. Safety on the Road and at Home

- Meeting clients at vacant home(s)
- Safety on the road
- Open houses
- Home office safety concerns

D. Licensee Safety Issues

- Protection of online personal and electronic information
- Cyber Security
- Protection of client information
- Identity theft concerns for licensee/client

E. Liability Issues with Accidents, Incidents & Injuries

- Broker
- Agent
- Buyer/Seller
- Third Party Acts (Liability limited in listing contract)
- Aggressor (Penal Code Article 35 Use of Physical Force)

F. Risk Reduction

- Establishing and Implementing an Office Policy
- Buyers/Sellers Liability
- Incident Follow-up
- Broker's/Agent's Responsibility

- A. Purpose of Taxation
 - 1. Pay for municipal services
 - 2. Exempt properties

- B. Why tax land and improvements (as opposed to sales and income taxes)?
 - 1. Predictable
 - 2. Hard to conceal
 - 3. Historic relationship to wealth and land productivity

- C. Calculation of real estate taxes

- D. Assessed Value
 - 1. Relationship to full or market value
 - 2. Assessment ratio
 - 3. Equity issues
 - 4. Why assessments differ
 - 5. Old vs. new construction
 - 6. Undeclared improvements
 - 7. Community wide re-assessment
 - 8. Re-assessment upon sale
 - a. Illegal
 - b. legal
 - c. undeclared improvements discovered
 - d. relationship of building permit process to re-assessment
 - e. back taxes

- E. Tax Rate
 - 1. Municipal budget
 - 2. Sample calculations of tax rate
 - 3. Sample calculations of taxes

- F. Various Taxing Jurisdictions
 - 1. City
 - 2. Town
 - 3. Village
 - 4. County
 - 5. State (no real estate taxes)

- G. Equalization

- H. Special Assessment Districts
 - 1. Purpose

- I. Exemptions
 - 1. Veterans
 - 2. Elderly
 - 3. STAR program

- J. Protesting Assessments
- K. Tax Assessor
 - 1. Factual errors
- L. Grievance Board
 - 1. Unequal assessment
 - 2. Full value disagreement
 - 3. Unequal assessment ratio
 - 4. Possible decisions
 - a. Full denial
 - b. Full re-assessment per application
 - c. Partial re-assessment
- M. Small Claims Assessment Review
 - 1. Residential only
 - 2. Filing with county clerk
 - 3. Hearing procedure
 - a. Types of evidence:
 - Sales information
 - Assessment information
 - Assessment ratios
 - 4. Possible decisions
 - a. Same as grievance board
 - 5. Appeal
- N. Protesting Commercial Property Assessments
 - 1. Certiorari proceedings
- O. Tax Liens
 - 1. Tax foreclosure
 - 2. Tax sale
- P. Agent Responsibilities
 - 1. Calculate taxes

KEY TERMS

- ad valorem taxes
- appropriation
- assessed value
- assessing unit/approved assessing unit
- assessment
- assessment review board
- homestead/non-homestead
- in rem
- levy
- lien
- special assessment
- special assessment districts

1. Condominiums

- A. Define a Condominium (real property)
- B. Condo Issues
 - 1. By-Laws
 - 2. Role of the sponsor
 - a. Appointment of board members
 - b. Appoints managing agent
 - c. Limitation on sponsor control of the board
 - 3. New Development
 - a. Reading an Offering Plan
 - Special risks
 - Real estate tax validation
 - Floor plans (sq. ft.)
 - Price increases
 - Hidden fees
 - Closing date
- C. Letters of Intent
 - 1. CPS1 Phase
 - 2. Written offers to reserve specific units - non binding as to purchaser or price
 - 3. Legal ramifications
 - 4. How to submit "letters of intent"
- D. Price Changes
 - 1. Offering plan amendments
 - 2. Why and when developers raise prices
 - 3. Current market practices
- E. Certificate of Occupancy (C of O's)
 - 1. Requirements to obtaining C of O
 - 2. C of O's and mortgage financing
- F. Flipping/Simultaneous Closings Developer's Policy
- G. Title Issues in Purchase of Condominiums
- H. Closing Costs
 - 1. Buyer's fees
 - 2. Sellers' fees
 - 3. Sponsor's fees
 - 4. Buyer's concern
 - a. Common charges
 - b. Real Estate Tax
 - c. Tax deductions
 - d. "Right of First Refusal"
 - e. Mortgage Recording Tax
 - f. Mansion Tax
 - g. Title Insurance

5. Buyer's financial ability to purchase a cooperative or condominium residence
 - a. Income and Related Topics
 - Various Types of Income: salary, commission, bonus, interest, dividend, capital gains, business, rental, trust, alimony, social security.
 - Income Parameters and Bank Financing: acceptable and non-acceptable income earnings to debt ratios, loan to value ratios, fixed rate and adjustable mortgages, mortgage terms, no income verification.
 - Income Parameters for Coop/Condo Admission: acceptable and non-acceptable income, earnings to debt ratios, loan to value ratios.
 - b. Assets and Related Topics
 - Various Types of Assets: cash, stocks, bonds, mutual funds, T-bills, privately held companies, trust funds, gifts, real estate, collectibles, retirement assets.
 - Asset Requirements for Bank Financing: down payment, gifts, cash reserves, retirement assets.
 - Asset Requirements for Coop/Condo Admission: down payment, gifts, cash reserves, retirement assets.

2. Cooperatives

- A. Define a Cooperative (what are shares)
- B. Due Diligence Issues
 1. Understanding a financial statement
 2. What key issues to review in Coop's Board Minutes (maintenance and assessment history, underlying mortgage reserve fund)
 3. Is ownership fee simple ownership or lease hold?
- C. Documents Needed by Agent for Sale/Purchase of Coops
 1. Proprietary lease (what does it proscribe for owners)
 2. Stock certificate
 3. Offering plan
 4. House rules - why are they important to an agent?
 5. Alteration agreements
 6. Board packages
 - a. Who reads board packages
 - b. What information does the board look for?
 7. Financing
 - a. Coop lien search
 - b. Lender/Coop recognition agreements
- E. Cooperative Board Application and Interview Preparation
 1. Board package checklist
 - a. Purchase Application Form
 - b. Fully Executed Contract of Sale
 - c. Financial Statement (verification of all assets)
 - d. Letters of Personal Reference
 - e. Employment Verification Letter
 - f. Business Letters of Reference
 - g. Tax Returns (3 years recommended)
 - h. Credit Search (authorization with signature)
 - i. Appropriate NYS Disclosure Forms (eg. Lead Paint)
 2. Interview Preparation

- a. What role timing plays to schedule board interview (most boards meet once a month)
 - b. Familiarize purchaser with his/her complete package for purpose of discussion
 - c. Need for total disclosure by purchaser during interview
- F. Primary Residency vs. Subletting Issues in Coop
1. Sponsor shares
 2. Holder of unsold shares
 3. Sold shares
- G. Define and differentiate a “condop” from a condominium and cooperative property
- What is a Cond-op?
 - Condo or Coop
 - Why is it created?
 - 80/20 rule concerning passive income activities

Key Terms

- | | |
|-----------------------------------------------|-------------------------|
| • Alteration agreement | • Flip tax |
| • Board package | • Flipping |
| • By-laws | • House rules |
| • Common elements | • Letter of Intent |
| • Condominium | • Maintenance |
| • Condop | • Offering statement |
| • Cooperative | • Proprietary lease |
| • Covenants, Conditions & Restrictions (CCRs) | • Recognition agreement |
| • Declaration | • Share loan |
| | • Sponsor |

- A. Characteristics of Real Property Investments
 - Risk
 - Liquidity
 - Leveraging

- B. Investment Properties Types
 - Unimproved Land
 - Office Building Low-rise Mid-rise High-rise
 - Residential Building
 - Single Family
 - Multi-Family
 - Mixed Use Building
 - Retail
 - Strip Centers
 - Neighborhood Centers
 - Malls
 - Regional
 - Malls Mega
 - Malls Outlet Centers
 - Manufacturing
 - Industrial
 - Warehouses
 - Loft Buildings
 - Fee Simple versus Leasehold
 - Ownership in Land
 - Long-term lease on land

- C. Property Analysis and Terminology
 - Reconstructed Income and Expense Statement
 - Cash World
 - Deriving the Net Operating Income (NOI)
 - Examining Income and Expense
 - Deriving the Before Tax Cash Flow (BTCF)
 - Formula for Equity Dividend Rate (Cash on Cash Return)
 - Deriving the After Tax Cash Flow (ATCF)
 - Tax World
 - Formula for deriving the Income Tax

 - Valuation Overview via Capitalization
 - Determining the Cap Rate
 - Income/Rate/Value (IRV)

- Square Footage
 - Rentable Useable Carpetable
- Loss and Add-On Factors
 - Common Areas
- Net Lease
- Gross Lease
- Office Lease
- Retail Lease
 - Percentage Lease
 - Natural Break-Even
- Loft Lease
- Lease Clauses
 - Use Clause
 - Attornment
 - Estoppel
 - Sublease/Assignment
 - Subordination/Non-Disturbance
 - Clause Electric Service
 - Direct Meter
 - Sub-Meter
 - Rent Inclusion
- Lease Escalation Clauses
 - History/Purpose
 - Proportionate Share(s) of Occupancy
 - Base Year
 - Operating/Tax Stop
 - Real Property Tax Clause
 - Direct Operating
 - Porter's Wage Escalation
 - Formula Fixed Percentage
 - Increases Consumer Price Index (CPI)

Key Terms

- anchor tenant
- debt service
- capitalization rate cash flow/before tax cash flow/after tax cash flow
- cash on cash return
- common areas
- lease escalation clause
- leverage
- net operating income
- gross income
- proforma statement
- tax shelter
- time value of money
- rate of return
- useable (usable) square footage
- rentable square footage

A. Taxpayer Relief Act of 1997

1. Federal Income Tax Treatment
 - a. Primary/Principal Residence
 - Use of IRA funds toward down-payment without penalty
 - Permitted Deductions
 - Property Tax
 - Mortgage Interest
 - b. Second Home/Vacation Home
2. Capital Gains
 - a. Short-term Gain
 - b. Long-term Gain
 - c. Sale of a Primary/Principal Residence
 - \$250,000/\$500,000 Rule
 - d. Sale of Investment Property
 - Three Classifications of Income:
 1. Active Income
 2. Passive Income
 3. Portfolio Income
 - Calculating the Gain or Loss
 - Tax rate on Recaptured Depreciation
 - Formula for calculating Federal Tax on income derived from operations
 - Like-Kind Exchanges (1031 Exchange)
 - Eligible Property for Exchange
 - Residential
 - Commercial
 - Industrial
 - Leaseholds greater than 30 years
 - Unimproved land (non-dealer held property)
 - Hotels/Motels
 - Taxable Realized Gain
 - Boot
 - Qualified Intermediary
 - Who may act as an Intermediary
 - Rules Concerning 1031 Exchanges
 - 45 day replacement property identification
 - Closing on replacement property
 - Must occur at the earlier of 180 days or prior to tax return due date
 - Reverse Exchanges
 3. Federal Tax Rules on Acquisition and Subsequent Financing
 - a. Interest Deductions
 - Home Acquisition Financing
 - Refinancing Rules and Limitations

Home Equity Financing
Home Improvement
Loans Construction
Financing

- b. Rules Concerning Treatment of Points and Closing Costs
 - c. Prepayment Penalties
4. Low Income Housing Incentives
5. Depreciation
- a. Straight-line method
 - Income Producing Residential — 27.5 years
 - Income Producing Non-Residential — 39 years
 - b. Calculating Depreciable Basis

Key Terms

- Adjusted basis
- Appreciation
- Basis/adjusted basis
- Boot
- Capital gain
- Capital loss
- Cash flow
- Debt service
- Passive activity income/active income
- Tax depreciation
- Tax depreciation/recaptured depreciation/straight-line depreciation
- Tax shelter
- Tax-deferred exchange

- A. What is a Mortgage Broker?
- B. Requirements and Responsibilities of a Mortgage Broker
Dual agency disclosure under the Banking Law for those that are also real estate brokers
- C. Mortgage Broker vs. Mortgage Banker
- D. The role of a Mortgage Broker in the Real Estate Transaction

Key Terms

- mortgage banker
- mortgage broker
- mortgage broker dual agency disclosure form
- mortgage commitment
- lender rebate
- nonconforming loan
- pre application and fee agreement
- preapproval
- prequalification
- rate lock
- underwriting

- A. Introduction
 - 1. What is property management?
 - 2. What are the functions of a property manager?
 - 3. What types of property are managed?
 - 4. When is a license required?

- B. The Management Agreement
 - 1. The management agreement creates an agency
 - 2. Property manager becomes a general agent and as such owes loyalty to the owner
 - 3. The management agreement is a contract and should be in writing, as well as signed and contain some or all of the following:
 - Description of property;
 - Length of agreement;
 - Management authority;
 - Reporting;
 - Management fee;
 - Accounting responsibilities;
 - Insurance and risk management;
 - Reports;
 - Owners responsibility and objectives;
 - How or why agreement may be terminated

- C. Skills Required of a Property Manager
 - 1. A property manager must be able to:
 - Supervise others;
 - Understand general accounting principles (GAP), monthly and yearly reports;
 - Understand building systems: heating, ventilating, and air conditioning (HVAC), structural engineering, waterproofing, plumbing, electrical, gas, oil, water, chiller, water, security, maintenance, elevators, etc.;
 - Handle landlord-tenant relations, must have working knowledge of local laws;
 - Lease space including space planning, area design, and building layout;
 - Advertising and marketing;
 - Codes and regulations - local, state and national;
 - Union negotiations;
 - Purchasing;
 - Appraisal, finance, money markets, depreciation techniques, financial trends, local market conditions;
 - General construction knowledge;
 - Ecology

- D. Differences Between Markets
 - 1. Office building management
 - 2. Retail management
 - 3. Residential management
 - 4. Condominium and cooperatives
 - 5. Management office operations

- E. Obligations to Owner
 - 1. Goals
 - 2. Maintenance criteria
 - 3. Future of the project
 - 4. Reporting

- F. The Management Field
 - 1. How does one become a property manager?
 - 2. Education and designation

- G. Examples of:
 - 1. A budget
 - 2. Marketing plan
 - 3. Rent roll
 - 4. Expenses
 - 5. Management proposal

KEY TERMS

- anchor stores
- capital expense
- capital reserve budget
- corrective maintenance
- eviction - actual/constructive
- fiduciary
- general agent
- lessee
- lessor
- management agreement
- management proposal
- operating budget
- planned unit development
- preventative maintenance
- property management
- property management report
- property manager
- resident manager
- risk management
- stabilized budget
- tenancy for years
- variable expense