

FL Real Estate Notes

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CHAPTER 1- The Real Estate Business

Specialized Service

- Details of Property Transfer: economic and legal intricacies associated with transfers of title, property taxes, financing, and local zoning ordinances
- Knowledge of Market Conditions: changes in the market are due to changes in income tax laws, building moratoriums, and fluctuations in supply/demand to prep a CMA
- Knowledge of How to Market Real Estate or Businesses
- Knowledge of How to Analyze the Buyer's Needs
- Knowledge of Laws that Pertain to Real Estate
 - Real Estate Settlement Procedures Act (RESPA)
 - Equal Credit Opportunity Act
 - Truth in Lending Act (TILA)
 - Fair Housing Laws
 - Real Estate Licensing Laws (Laws pertaining to Brokerage Relationships)

Real Estate Brokerage

Business of bringing together buyers/sellers, owners/renters, and completing real estate transactions; real estate licensees are paid a fee/commission for their services.

Process

1. Prospect for sellers, list properties and businesses
2. Market listing and prospect for buyers
3. Buyer qualification- income, credit history, longevity in the workforce
4. Offer, negotiation process, and signed sale contract
5. Loan application and RESPA disclosures (receives RESPA at time of loan application or within 3 business days)
6. Post-Contract Activities
 - a. Lender's Credit Evaluation of Buyer
 - b. Property appraisal
 - c. Property survey
7. Loan approval and title search
8. Title closing
 - a. Buyer signs mortgage and promissory note
 - b. Seller signs deed conveying property to buyer

9. Record deed and mortgage
10. Follow-up

Sales & Leasing Specialties

1. Residential
 - a. Chapter 475 F.S. defines residential as:
 - b. 4 or fewer residential units
 - c. Vacant land zoned for 4 or fewer residential units
 - d. Agricultural property of 10 or fewer acres
2. Commercial
 - a. Income producing properties
 - b. Investment Analysis
 - c. Various techniques for increasing after-tax cash flow
 - d. Need contacts with financial institutions and mortgage lenders
3. Industrial
 - a. Sites in industrial parks or sub-divisions
 - b. Redeveloped industrial parcels in central areas
 - c. Industrial acreage
4. Agricultural (10 or more acres)
5. Businesses
 - a. Business Brokers/Business Opportunity Brokerage- real estate licensees who engage in the sale, purchase, or lease of businesses
 - b. Active current real estate license is required (in FL) to sell/lease business opportunities because it's assumed a biz will have a physical property
 - c. Brokers/SAs prefer to become an expert in a particular area ("farm area")

Farm Area

Area in which licensee specializes in (cities, neighborhoods). A good realtor must be able to explain property taxes, homestead exemptions, restrictive covenants, and approximate utility costs in the area. Farming involves maintaining data on each property like when it was built, sale history, typical marketing time, assessed value, property taxes, etc

Absentee Owner

Property owner who does not reside on the property and who often relies on a professional property manager to manage the investment. Rapid increase in absentee ownership.

Uniform Standards of Professional Appraisal Practice (USPAP)

Set of guidelines/standards of practice to follow when providing appraisal services. Do not apply to brokers, broker associates, or sales associates who perform CMAs or BPOs.

Appraising

- SA and brokers can do it for compensation as long as they don't represent themselves as state certified
- Uniform Standards of Professional Appraisal Practice (USPAP)
- Florida Real Estate Appraisal Board (FREAB)
- Paid flat fee, not commission so they cannot be influenced
- Comparative Market Analysis (CMA)- can charge but typically included
- Broker's Price Opinion (BPO)- written opinion of the real property value; can charge; SA can perform BPO under broker but payment must go to broker

Development & Construction

1. Land acquisition and pre-development: determine what type of dev is permissible incurring costs for engineering plans, attorney fees, surveys, application fees
2. Subdividing and development
 - a. Subdividing: converting parcels of land into smaller units/lots
 - b. Development: improving raw land so that it can be put to productive use
 - c. Plat map- engineer's plan for land use
 - d. Dedication- gift of land by owner to the government for public use
 - e. Restrictive covenants- affect how the land of an entire subdivision can be used, like whether garage doors may face the street
 - f. Deed restrictions- placed by owner on future owners, for example, that alcohol can never be sold from property
3. Construction
 - a. Speculative- purchasing lot(s) and building without a buyer
 - b. Custom- custom for buyer
 - c. Tract- model homes; buyers select a model and a lot

Role of Government

- Local- property taxation and regulatory activities (e.g., permits)
- State- owns/manage property, identifies regions protected from development, state taxes
- Federal- fiscal and monetary policy (HUD, FHA, VA, EPA, IRS)

- HUD- Housing & Urban Development
- FHA- Federal Housing Administration
- VA- Department of Veterans Affairs
- EPA- Environmental Protection Agency
- IRS- Internal Revenue Service

National Association of Realtors (NAR)

Created Multiple Listing Service (MLS).

CHAPTER 2- License Law & Qualifications for Licensure**Sales Associate**

Performs real estate services for compensation under the direction/control/mgmt of a broker/owner-developer

Broker Associate

Holds brokerage license, but performs real estate services for compensation under the direction/control/mgmt of a broker/owner-developer

Broker

Performs real estate services for compensation

- Caveat emptor- let the buyer beware
- Department of Business and Professional Regulation (DBPR)
 - Division of Real Estate (DRE) provides support to Florida Real Estate Commission (FREC)
- FL Statute 20- organizational structure of FL's government
- FL Statute 475 (aka Real Estate Professional Practice Act)- establishes the legal rights/responsibilities of real estate licensees and appraisers
 - Part 1- brokerage
 - Part 2- appraisers
 - Part 3 (aka Commercial Real Estate Sales Commission Lien Act)- gives broker lien rights for earned commission; applies only to commercial property
 - Part 4 (aka Commercial Real Estate Leasing Commission Lien Act)- gives broker lien rights for earned commission associated with a brokerage agreement to lease commercial real estate
- FL Statute 455- defines practice/procedure for Department of Business & Professional Regulation (DBPR)
- FL Statute 120- defines procedural process by which regulatory agencies decide and implement agency action
- Chapter 61J2- rules of FREC
- Nolo Contendere- no contest
- Prima facie evidence- good and sufficient at face value
- FL & GA have mutual recognition agreements; if one has a GA license, need to take 40 Q exam on FL specific law
- Wait 30 days to retest Course I

- 4 months = FL resident

SA Applicant Requirements

- 18+
- HS diploma
- Social
- Good character
- Competent/qualified

SA Academic Requirements

- Course 1
- 60 hours of instruction; can't miss more than 8 hours (50 mins = 1 hour)
- 3 hour exam; 100 questions; 70% pass
- 75% on state exam

SA Post-licensing Education

- 45 hour end of course exam

Broker Requirements

- Course II
- 69 hours
- 3 hour exam
- Experience requirement- Licensed for at least 24 months during 5 year period
 - Licensed as SA under broker, SA under government agency as a salaried employee, held broker license in another state

SA & Broker Continuing Education

- 14 hour course every 2 years
 - Can take 3 hour core law course each year for 6 credits towards the 14
 - May substitute attendance at one legal session of the FREC for 3 hours of continuing education (CE) credit
 - Can only sub 3 hours per renewal cycle
 - Must notify DRE at least 7 days in advance of the session
 - May not attend session for credit if a party to disciplinary action slated for that FREC agenda

Services of Real Estate (A BAR SALE)

- Advertise real estate
- Buy
- Appraise
- Rent (or provide rental info)
- Sell
- Auction
- Lease
- Exchange

Exempt from Licensure

- Property owners/corporations/partnerships/trusts/joint ventures to buy, sell, exchange, lease
- Salaried employee:
 - Work onsite at rental office and do not receive commission
 - Managers of condos/coops who rent for 1 year or less and not paid a commission
 - Owner-developer and do not receive commission
 - Government agency performing work for government and do not receive commission
 - Business entities who negotiate sale/purchase of not real property (radio, television, cable enterprise)
- Sell cemetery lots
- Rent lots in mobile home
- Attorneys when acting within scope
- CPAs when performing accounting duties
- Person given power of attorney
- State-certified appraiser
- Court-appointed
- Hotel/motel clerks
- Federally regulated banks/dealers registered with SEC selling to accredited investors
- Apt property owners/mgmt forms for the purpose of paying finder's fee of no more than \$50 for referral

Exempt from Education

- 4-Year Real Estate Degree must pass the license exam, but is exempt from Pre-licensing Course I, Pre-licensing Course II, and Post-License Education (not exempt from Continuing Education)
- Florida-Licensed Attorney must pass the license exam and be an active member of The Florida Bar, but is exempt from Pre-licensing Course I and Continuing Education (not exempt from Pre-licensing Course II or Post-License Education)

CHAPTER 3- License Law & Administration**Florida Real Estate Commission (FREC)**

- Administer/enforce law, keep records, conduct investigations, and power to grant/suspend/revoke licenses
- 7 members (1 must be 60+ years old)
 - 5 professional
 - 4 brokers active for 5 years preceding appt
 - 1 broker or SA active for 2 years preceding appt
 - 2 consumer (unlicensed who have never been brokers or SA)
- Governor appoints Commission members to 4 year terms; cannot serve more than 2 terms
- Do not receive salary; paid \$50/day on official meeting and Commission business; reimbursement
- Quorum of 51% (4 members) to conduct business

Powers of FREC

- Executive- Regulate and enforce license law
 - Dept of Business and Professional Regulation (DBPR); Chapter 120
- Quasi- legislative- enact and revise administrative rules and regulations; interpret questions
- Quasi-judicial- grant/deny license applications, determine violations, administer penalties
- Division of Real Estate (DRE)

Central Intake Unit (under DBPR)

Issues real estate licenses

Division of Real Estate

- FL statute mandates that the DRE offices and the principal office of the Commission are located in Orlando
- The Director is appointed by the Secretary of the DBPR, subject to approval by majority vote of the FREC
- DBPR employs all DRE personnel to support FREC activities
- Members of the Commission are appointed by the governor, subject to senate confirmation and are not employees

Mailing Address/License

- Change of address- 10 days
- SA or instructor changes employer- 10 days
- Out of State- 60 days

License Expiration

- March 31/September 30 (closest to 24 months)
- 14 hours of continued education
- Fail to renew = involuntary inactive
 - 2 years to renew, otherwise void; start over
 - Inactive 12 months or less = 14 hours education
 - Inactive 12-24 months = 28 hours education
 - Ineffective = inactive/suspended
- Cease to be in force- licensee cannot conduct business; for example, if a SA were to leave a firm and join a new one, the licensee would cease to be in force until the DBPR was notified of the change

Multiple Licenses

- Broker can hold multiple licenses for multiple businesses; SA and BA cannot
- Group License- issued to SA/BA who are registered under an owner-developer whom may own multiple developments

Reasons for School Permit Suspension

- Guaranteeing that students will pass state exam
- Offering refund for fail
- Representing that a state agency endorses the school
- Obtaining or acting like they have obtained exam questions
- Giving a student exam questions
- Recruiting for employment during class time

CHAPTER 4- Brokerage Relationship & Ethics**Law of Agency**

- Common Law/Unwritten Law- based on usage, general acceptance, and custom
- Statutory Law- written statutes and rules enacted by legislatures; directly affect/regulate brokerage relationships with SAs, buyers, sellers, public
- Principal- delegates authority
- Agent- acts for principal

Agency Relationships

- Universal- all acts the principal can perform that may be lawfully delegated to another
- Principal- person who delegates authority to another
- Fiduciary- acts in a position of trust and confidence for another; owes complete allegiance to principal
- General- operations, only acts related to a business, i.e., property manager
- Special- specific business, i.e., CPA
- Dual agent- represent buyer/seller = illegal
- Transaction broker- represents in a transaction but not as a fiduciary
 - Deal honestly and fairly
 - Account for all funds
 - Use skill, care, and diligence
 - Disclose all known facts that materially affect the value and are not observable to the buyer
 - Present all offers and counteroffers in a timely manner
 - Exercise limited confidentiality, unless waived in writing by a party
 - Perform any additional duties that are mutually agreed to with a party

Duties of Real Estate Licensee Owes to Buyer/Seller

(COLD apply only to Single Agents; ADD to NBR)

- Deal honestly and fairly- **NBR**
- Loyalty
- Confidentiality
- Obedience
- Full Disclosure
- Account for all funds- **NBR**

- Skill, care, and diligence in the transaction
- Present all offers and counteroffers in a timely manner
- Disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer- NBR

Brokerage Relationship Options

- Transaction broker for buyer and/or seller (FL assumes TB unless other is specified)
- Single agent of either buyer or seller (not both in same transaction; only if non-residential with each having assets of \$1m+ then broker serves to guide each agent not to buyer/seller)
- No brokerage relationship- broker doesn't represent either buyer/seller

Principal's Signature Exemption

Not mandatory on disclosure notice, only on transition to another agent/broker relationship.

Disclosure Requirement Exemptions

- Non-residential transactions
- Rental/leasing of real property (unless an option to purchase 4 or fewer units is given)
- Appraisals
- Dispositions of any interest in business enterprises/opportunities except for property with 4 or fewer units

Disclosure Requirement

- Single agent (before/at time of entering listing agreement, or before showing property whichever comes first)
- No brokerage relationship (before showing property)

Record Keeping

Broker must maintain records for 5 years.

Actions Resulting in Agency Termination

- Fulfillment of the brokerage relationship's purpose
- Mutual agreement to terminate the brokerage relationship
- Expiration of the terms of the agreement
- Broker renounces the single agent/transaction broker relationship by giving notice to the principal/customer (or vice versa- principal/customer give notice)

- Death of broker/buyer/seller
- Destruction of property
- Bankruptcy of principal/customer

Misrepresentation

- Puffing- boasting about a property; okay as long as it's fact and not opinion (fantastic view versus view of the coast)

CHAPTER 5- Real Estate Brokerage Operations**Brokerage Office Requirements**

- Office:
 - At least one enclosed room in a building of stationary construction
 - Books, records, files must be kept there
 - Not required to have desk, phone, business checking acct, or escrow acct
 - If multiple offices, all must be registered/pay fees
- Exterior:
 - Trade name (if applicable)
 - Broker's name
 - "Licensed Real Estate Broker" or "Lic. Real Estate Broker"
 - -----
 - Optional- SA/BA name and title (must appear under a line)
- Sign if brokerage entity is a Partnership, Corp, LLC, LLP:
 - Name of firm/corp/trade
 - Name of at least one active broker
 - "Licensed Real Estate Broker" or "Lic. Real Estate Broker"

Advertising

- Name of brokerage firm (if not, "blind ads"; prohibited)
- If personal name is included, must be last name registered with DBPR
- Can have nickname in addition to full name
- Broker's address and phone are not required

Escrow/Trust Accounts

- SA receives binder deposit must deliver by end of next business day
- Broker must deposit funds no later than end of 3rd business day (day SA receives the check doesn't count)
- Commingle- can't mix personal/business funds
- Conversion- unauthorized control/use of another person's personal property
- \$1k of personal/brokerage funds in escrow account
- \$5k of personal in property management account
- If escrow and prop management funds in one account, no more than \$5k of personal

Record Keeping

- 5 years
- 2 additional years if subject of litigation/evidence for litigation

Conflicting Demands

- Buyer & seller make conflicting demands regarding the disbursing of the escrowed property that cannot be resolved OR broker has good-faith doubt
 - Broker must notify FREC within 15 business days
 - Must institute one for the 4 settlement procedures below within 30 total business days
 - Good-faith doubt
 - Closing date has passed and broker hasn't received identical instructions on disbursement
 - One or more parties express intention not to close and broker hasn't received identical instructions
 - One party has failed transaction and is non-responsive on disbursement
- Mediation- when all parties give written consent of a negotiated settlement
 - If nonbonding mediation process is not successfully completed within 90 days following last demand, licensee must use another procedure
- Arbitration- each side presents case to a disinterested third party who makes a binding judgment in favor of one side; parties must agree to an arbitration prior
- Litigation- take matter to court
 - Interpleader- broker does not have financial claim to funds and is excused from the case while disputing parties argue their case in court
 - Declaratory Judgment- broker believes they are entitled to a portion of disputed funds
- Escrow disbursement order- FREC determination of who is entitled to disputed funds
- Exceptions
 - Residential sale contract used by HUD; must follow HUD agreement
 - Timely delivery of a buyer's intent to cancel the contract
 - Buyer, in good faith, fails to satisfy the terms specified in the financing clause, licensee may return funds
 - Money is with title company or attorney escrow account

Kickback

- Referral fee for non-real-estate services, like referring buyer to a blinds company
- Kickback must be disclosed to buyer/seller
- Cannot violate RESPA- closing, title, insurance, attorney, surveys, credit reports, appraisals
- Recipient must be properly licensed
- Cannot share commission with an unlicensed person for real estate services
- Property management firm or apt complex is allowed to give finder's fee of up to \$50 to a person that is a tenant of the apt complex

Business Types (Corp, LLC, Partnership, LLP, Sole)

- Sole proprietorship- business owned by one person
- General Partnership- two or more personas
 - Register under partnership name
 - At least one partner must be licensed and active broker
 - If only active broker dies, must remove sign within 14 days or replace broker
- Limited Partnership- general and limited partner; limited makes investment, no service
 - Register under partnership name
 - At least one partner must be licensed and active broker
 - Other partners must register with DBPR
 - SA/BA can't be general but can be limited
 - Limited not required to register with DBPR
- Limited Liability Partnership
 - Not liable
 - Must file with FL Dept of State
 - Name of LLP must include "Registered Limited Liability Partnership" or "L.L.P." or "LLP"
- Corporation
 - Register with DBPR, licensed and unlicensed
 - At least one officers must be licensed active broker
 - Inactive/unlicensed may be officers but cannot deal with public on real estate matters
 - SA/BA cannot be officers but can be shareholders
 - Limited Liability Company- provides owners protection from personal liability, like a corporation and partnership

Ostensible/Quasi Partnership

Not intentionally created, e.g., leave broker but client still thinks you're together (prohibited)

Cannot Register as Brokers

- Corporation Sole- church org; nonprofit
- Joint venture- like a partnership but restricted to one transaction; don't need written agreements of registration
- Business Trust- truncations involving own real property; money is used to buy/sell/develop
- Cooperative Association- commercial business to convey/sell/buy its own property
- Unincorporated Associations- groups of people associated for some noncommercial common purpose like group of property owners that get together to organize maintenance; liable as an individual

Trade Name

- Registered with FREC
- Trading As (T/A)
- Doing Business As (D/B/A);
- Only for brokers not SA/BA

Violations

- Telemarketing Act- Up to \$10k
- Calling on Do Not Call List- \$11k
- Advertising rental property information that is materially inaccurate- 1st degree misdemeanor

CHAPTER 6 Complaints, Violations & Penalties**Process in Reporting Violations**

1. File complaint
2. Investigate complaint
 - a. Summary suspension when broker's violation is so bad they need to suspend license immediately; issued by DBPR Secretary
3. Determine probable cause
 - a. Determined by 2 member FREC panel
 - b. Stipulation- agreement on the facts of the case and the penalty; must be approved by FREC
4. Issue formal complaint if probably cause is found
5. Informal/formal hearing
 - a. 14 day notice of hearing
 - b. Judges employed by Division of Administrative Hearings (DOAH)
 - c. Subpoena- command to appear at a certain time/plane to give testimony or produce records
 - d. Recommended order- judge's conclusions
6. Issue final order
7. Determined by FREC (with members of probable cause panel excused)
8. Effective 30 days after it has been entered
 - a. 30 days to file an appeal
 - b. Licensee has right to practice real estate until final order becomes effective
9. Judicial review (appeal) of final order
 - a. Writ of supersedes- order for DBPR to stop from suspending/revoking license pending outcome of appeal

Grounds for License Denial

- Neglecting to:
 - Answer application completely
 - Fwd proper fees with app
 - Correct errors/omissions on returned app
 - Take/pass exam
 - Meet minimum requirements
 - Possess required character
 - Possess general competence to deal with public, or complaints received

- Guilty of acts that would result in revocation/suspension
- Acted in violation
- Cheated on exam
- Applicant can appeal to DOAH if denied twice

Suspension

- Temporary
- Max 10 year suspension
- 2nd suspension may result in revocation (permanent)

Types of Penalties

- Administrative- violations of the law or rules and regulations
 - Denial
 - Letter of reprimand
 - Notice of noncompliance
 - Citation
 - Probation
 - Fine
 - Suspension
 - Revocation
- Civil- performing real estate without a license (3rd degree felony; \$5k fine per count)
- Criminal- violation of FL Statute 475 (2nd degree misdemeanor)
 - 1st degree misdemeanor for failing to provide accurate rental information for a fee

Real Estate Recovery Fund

- Reimburse person/business judged by a FL court to have suffered monetary damages as a result of an act committed by a broker or SA who:
 - Was at the time of the committed act a holder of a current, valid, active license
 - Was not the seller, buyer, landlord, or tenant in the transaction nor a business which was the seller, buyer, landlord, or tenant in the transaction AND
 - Was acting solely in the capacity of a real estate licensee in the transaction
 - Claim must be made within 2 years; in no case can it be made more than 4 years later

- Payments limited to \$50k for one judgment
 - \$150k for multiple judgments
- Limit of \$1m for the fund
 - Collect \$3.50 from broker and \$1.50 from SA per year
- License is automatically suspended until money plus interest is repaid to fund (when due to misconduct)
- Punitive damages, court fees, interest cannot be reimbursed from the fund
- Broker who complies with an escrow disbursement and is later sued may be reimbursed from fund without penalty

CHAPTER 7- Federal & State Housing Laws**Civil Rights Acts**

- 1866- prohibits any type of discrimination based on race in any real estate transaction without exception for residential and non-residential
- 1964- ended segregation in schools, workplace, public accommodations on the basis of race, color, religion, and national origin
- 1968/Fair Housing Act- prohibits discrimination on basis of race, color, sex, and national origin
- 1988/Fair Housing Act- protects families/pregnant women, and handicap
- Housing for age 62+ exempt (or at least 80% of units occupied by 55+)
- Exempt (racism is never exempt)
 - Seller owns 3 or fewer single-family dwellings and sells/rents the property
 - Seller was not living in the single-family house and was not the most recent resident when property was sold/rented (only 1 exempt in 24 month period)
 - Rentals in multi-family dwellings with 4 or fewer family units as long as the owner lives in one of the units
 - Religious/private clubs

Americans with Disabilities Act (ADA) of 1990

Public accommodations must be handicap friendly (ramps)

Interstate Land Sales Full Disclosure Act

- Developers must register their developments with Housing & Urban Development (HUD)
- Antifraud Provision- 25+ lots needs to provide each purchaser with property report (can cancel within 7 days of receiving report; or 2 years if report is received after signing)
- Registration Requirement- subdivisions of 100+ lots must register by filing statement of record with HUD

Fair Housing Act

- Steering- channeling home seekers to or away from particular neighborhoods because they are members of a protected class
- Redlining- denying loans or insurance coverage or with different terms for homes in certain neighborhoods

- Blockbusting- inducing homeowners to sell their property by making misrepresentations regarding the entry of minority persons in order to cause a turnover of properties

Truth in Lending (1969)

- Consumer Credit Protection Act- inform borrowers of the true cost of obtaining a loan
- All creators must use same terminology
- Right to cancel credit transactions, regulates credit card practices, fair and timely resolution of billing disputes
- Only applies to consumer, not business/commercial/agricultural/government
- Regulation Z requires disclosure of credit cost on:
 - APR
 - Finance charge
 - Amount financed
 - Total payments
- Buyer has the right to back out of loan up until the third day of signing for:
 - Home equity lines of credit
 - Second mortgages
 - Refinance loans

Equal Credit Opportunity Act (ECOA)

- Enforced by Federal Trade Commission
- Requires financial institutions and firms engaged in extending credit to make credit available with fairness and without discrimination

Real Estate Settlement Procedures Act (RESPA)

- Buyers are informed about charges they will pay at closing
- Eliminates kickbacks that would increase closing costs
- When buyers apply for a mortgage loan or within 3 business days they must be given:
 - Special information booklet (by HUD) on closing services
 - Good-faith estimate (GFE) of closing costs
 - Servicing disclosure statement which discloses if a lender intends to service or transfer the loan
- Must disclose if an affiliate

- Prohibits seller from requiring a certain title insurance company as a condition of sale

Florida Fair Lending Act

Prohibits high-cost loans

Growth Mgmt Act

Cities/counties must prepare a comprehensive plan of land use

Triggering Term

Include amount or percentage of any down payment

Florida Residential Landlord & Tenant Act

- Applies only to residential rentals
- How deposits are held (must inform tenant within 30 days in writing of which method will be used):
 - Separate non-interest account
 - Interest with at least 75% to tenant
 - Posted bond
- Landlord must:
 - Maintain dwelling
 - Extermination service for insect/rodent
 - Garbage receptacles and pickup
 - Working equipment for heat and running hot water
- Deposit:
 - 15 days- if landlord does not intend to make a claim on deposit
 - 30 days- if landlord does intend to make a claim
 - 15 days after receiving notice for tenant to object in writing
- Tenant must:
 - Comply with applicable codes
 - Keep premise clean and sanitary
 - Use reasonable care in the operation of all plumbing, electrical, heating, and AC
 - Conduct self and guests so as not to disturb the peace
- Landlord can enter premises to:
 - Inspect
 - Make necessary repairs/improvements

- Supply agreed-on services
- Show premises
- Can enter at any time for an emergency
- If not an emergency must get permission with at least 12 hours of notice
- Termination of rental by tenant
 - Give written notice of issue and intent to cancel
 - Landlord has 7 days to correct issue
 - Tenant can get reduced rent or not pay rent for days premise was uninhabitable
- Termination of rental by landlord
 - Written notice
 - Tenant has 3 business days to pay rent, or will get evicted
 - If for reason other than not paying rent, tenant has 5 business days to reply with a defense

CHAPTER 8- Property Rights: Estates, Tenancies & Multiple Ownership Interests**Terms**

- Land- surface of the earth and everything attached to it by nature like trees, lakes, oil, limestone from center of earth into the air to infinity (doesn't include improvements)
- Real estate- land and all human-made improvements permanently attached like fences
- Real property- real estate plus legal rights associated with ownership
- Personal property- movable items not attached
 - Real property can become personal- example, timber is real but if cut becomes personal by the act of severance
 - Vice versa, personal can become real by attachment
 - Fixtures were personal but have been permanently attached, like an installed bathtub

Surface Rights

- Riparian- land abutting the bank of a river, stream
- Littoral- land abutting tidal bodies of water like ocean, sea, lake

Water Rights

- Accretion- land buildup from water-borne rock, sand, soil
- Alluvion- new deposits of land as a result of accretion like new soil deposits at the mouth of a river
- Erosion- gradual loss of land due to natural forces
- Reliction- gradual receding of water, uncovering additional land

Subsurface Rights aka Mineral Rights

Owner's rights to underground minerals, petroleum, natural gas, etc

Air Rights

Extending up to a height established by law (building rights, aerial navigation)

Test for Fixtures (IRMA)

- Not necessary if all property sold is listed in sale contract
- Intent of the parties- example, including a washer/dryer in a sale contract would remove any doubt of the owner's intentions
- Relationship between parties- originally, you must leave any item attached to the property except in the case of a trade fixture (racks attached to walls as a necessary part of the tenant's trade of business) which is considered personal property
- Method of annexation- method of attachment; if removing results in damage it's a fixture
- Adaption of the article- if custom-built to fit house, like hurricane shutters

General Property Rights

- Disposition/Sell- permits owner to sell, mortgage, dedicate, give away, dispose of all/any portion of property
- Use/Control- uninterrupted use and control of owner's land in any manner consistent with local laws
- Possession/Occupy- occupy premises in privacy with maximum legal control over entry and use
- Exclusion/Quiet Enjoyment- control entry onto land without interference and collect damages for trespass

Types of Estates & Tenancies

- Freehold Estate- ownership interest for an indefinite period; interest can be inherited or measured by the lifetime of an individual
 - Fee Simple/Fee Simple Absolute- most comprehensive estate and it is inheritable; absolute and complete ownership (subject only to government restrictions)
 - Life Estate- measured by a natural life span (when life ends, property returns to original owner/remainderman)
 - Estate in Reversion- property returns to the grantor
 - Remainder Estate- occurs when property goes to a third party (property will be given to this person when life estate person passes)
 - Vested Remainderman- someone whose legal name is specified
 - Contingent Remainderman- someone whose legal name is not specified (like first-born child)

- Nonfreehold/Leasehold Estate- have a known duration and do not involve ownership interest; grant right to use but not own
 - Estate for Years- written lease agreement with a specific starting/ending date
 - Tenancy at Will- oral agreement or one that has no specific ending date
 - Notice for termination
 - 7 days for week to week
 - 15 days for month to month
 - Tenancy at Sufferance- when lease period has ended and the tenant is a holdover/stays without consent of landlord

Ownership

- Sole Ownership/Estate in Severalty- one owner
- Tenancy in Common- 2+ people, equal/unequal interest, same/different time, same/different title, no right of survivorship/heirs inherit
- Joint Tenancy- 2+ people, equal interest, same time, same title, right of survivorship
 - PITT (possession, interest, title, time)
- Tenancy by the Entireties- husband/wife only, interest equal, same time, same title, right of survivorship

Homestead

- Entitle the owners to protections
- Protection of homestead- protected from forced sale for debts owing to personal loans, credit, etc (does not protect against foreclosure for nonpayment or property taxes, special assessments, mortgages, liens)
- Tax exemption- exemption from assessed property value of up to \$50k
- Size of homestead- size is restricted to 160 acres outside a municipality/city or up to 1/2 acre if the property is located within the city
- Protection of the family- if married person dies and family homestead was titled in their name, surviving spouse receives a life estate and the children receive the remainder estate; if no children spouse receives fee simple estate
- Elective share consists of 30% of the defendant's net estate

Co-Ops, Condos, Time Shares

- Cooperative- Corporation holds title to the land and improvements

- Condominium- owns unit exclusively and undivided fractional share of the common elements
 - Condominium documents (must give for developers of 20+units)
 - Declaration of condominium in county records
 - Articles of incorporation of the association (corporate entity responsible for operating)
 - Bylaws of association (operational requirements)
 - FAQ (for prospective purchasers on restrictions of leasing)
 - Estimated operating budget (common expenses)
 - 3 business day to cancel from property owner; 15 calendar day to cancel from developer
- Time Share- undivided interest in a unit by number of weeks purchased

CHAPTER 9- Titles, Deeds & Ownership Restrictions**Terms**

- Title- vested ownership rights in property
- Equitable title- beneficial interest in real estate implies that an individual will receive legal title at a future date

Alienation

- Act of transferring ownership, title, interest in real property
- Voluntary- intending to gift property
 - Gift of real property- devise; devisee is the recipient
 - Gift of personal property- bequest; beneficiary is the recipient
- Involuntary- not intending to gift property; escheat provides for the government to take property when there are no known heirs entitled to receive it
 - Eminent domain- government right to take land from an owner thru condemnation as long as it's for public purpose; government must pay fair price

Testate

Person who dies with a valid will; intestate- doesn't have valid will

Conditions for Alienation by Adverse Possession (HOT CAN)

- True owner fails to maintain possession and property is seized by another
- Hostile possession of the property (without owner's permission), to the exclusion of the true owner or any who may contest it
- Open possession with no attempt to conceal occupancy
- Taxes paid on the property by the adverse possessor during all the years of possession
- Claim of title, even an imperfect one, exists (sometimes called color of title), thus creating a reasonable basis for the action
- Adverse possession must continue for seven or more consecutive years without the consent of the owner
- Notorious and flagrant public possession of the property

Types of Notice

- Actual- direct knowledge acquired in the course of a transaction (seller discloses orally there is a construction lien on the home for unpaid pool repair)
- Constructive/Legal- recording information in public records (pool company records construction lien)
- Lis Pendens- action pending
- Chain of title- complete successive record of property's ownership
- Title Search- examination of public records to determine whether any defects exist in the chain of the title
 - Abstract of Title- summary of Title Search
 - Opinion of Title- executed by an attorney who has studied Abstract of Title
- Title insurance- protects policyholder from losses arising from defects in the title; not required by FL law
 - Owner's Policy- issued for the total purchase price of the property; protects against risk like forged deed signatures/damages; cannot be transferred to another owner
 - Lender's Policy (Mortgagee)- issued for unpaid mortgage amount; protects lender against title defects; is transferable

Deed

- Written instrument that conveys title to real property; title is transferred from one party to another
- Grantor- owner giving title
- Grantee- new owner receiving title
- Elements (CEDDING)
 - Consideration (valuable or good)
 - Execution (signed by a competent grantor and two witnesses)
 - Description of property
 - Delivery and acceptance (voluntary)
 - Interest or estate being conveyed (habendum clause)
 - Names of grantee and grantor
 - Granting and other appropriate clauses

Statutory Deeds

- Law provides for a short form of deed in which the covenants/warranties mentioned are implied to exist just as if they were written out in complete detailed form
- Quitclaim- owner/grantor "quits" any right to property including title and interest and gives it to the buyer/grantee; clears title defects
- Bargain & Sale- seller doesn't warranty good title or any other matters; simply sells whatever interest the seller might have had
- Special Warranty- seller guarantees that nothing has been done to encumber the title during the grantor's ownership
- General Warranty/Full Covenant and Warranty- gives grantee every possible future guarantee to title protection
 - Quiet enjoyment- peaceful possession undisturbed by claims of title
 - Further assurance- guarantees the grantor will sign and deliver any legal instrument that might be required to make the title good in the future
 - Warranty forever- guarantees the grantor will forever warrant and defend the grantee's title against all lawful claims

Ownership Restrictions

- Public/Government (PET)
 - Police power- government can apply any restrictions necessary in the interest of general health, welfare, or safety of citizens; property can be restricted without compensation to the owner
 - Eminent domain- taking for just compensation
 - Taxation- foreclosure on the property for nonpayment of taxes
- Private (DELL)
 - Deed restrictions- restricts the way a property will be used; any restriction that is not discriminatory is okay
 - Easements- right to use portion of owner's property for a specific purpose (oil drilling); not possession
 - Easement Appurtenant- benefits adjacent parcel of land (right to cross parcel A to reach parcel B)
 - Easement in Gross- not related to parcel (utility company to trim trees)
 - Easement by Necessity- if one owner causes another owner to be landlocked, the landlocked owner would need an easement to access their property

- Easement by Prescription- created by longtime usage; like adverse possession but only gives an easement, not title
- Leases- not ownership but grant's possession of property for a specified period of time in return for compensation
 - Gross- tenant pays fixed rent
 - Net- tenant pays fixed rent plus building expenses; typically commercial property
 - Percentage- rent based on gross sales of tenant; common with large retail stores
 - Variable- rent will increase at set times; usually tied to an index like consumer price index
 - Ground- long-term lease on the land; tenant may erect a building
 - Can combine types of leases
- Liens- right given to creditor to have a debt satisfied out of some specific property belonging to a debtor; recorded with clerk of the circuit court in the country where the property is located
 - Priority- given to first lien and so forth
 - Subordination Agreement- earlier lien allows a later lien to take priority
 - Voluntary- with owner's consent
 - Involuntary- without owner's consent
 - General- not restricted to one property and may affect all debtor's properties
 - Judgment- involuntary attaching to real property when judgment is obtained against the owner
 - Income Tax (IRS)- delinquent federal tax payer; affects future property until lien is satisfied
 - Estate Tax- collect up to the maximum allowable federal estate tax credit for state death taxes paid
 - Specific- do not affect all of the debtor's property, but apply to only certain specified property
 - Property Tax & Special Assessment- government collecting taxes for improvements, like new sewers
 - Mortgage- when a lender makes a loan using real estate as security

- Vendor- buyer can't make full down payment so seller allows a purchase-money mortgage, essentially a loan from the seller
- Construction- loan on property that has been worked on without pay, like not paying for an installed pool

Calculate Rent Owed for a Variable Lease

- A variable lease features rent that changes at set times as specified in the lease agreement. A variable lease (or sometimes index lease) provides for adjustments of rent according to changes in a price index.
- For example, assume that a building rents for \$12 per square foot with an index of 1.5. The index increases to 1.8. What is the adjusted rental rate?
- Step One: Begin by calculating how much the rent prices increased.
 - $1.8 \text{ rate} - 1.5 \text{ rate} = .3 \text{ difference in index}$
 - $.3 \text{ difference} \div 1.5 \text{ original rate} = .20 \text{ or } 20 \text{ percent increase}$
- Step Two: Add the percent increase to the base index of 1.0, then multiply the rent per square foot times this figure.
 - $.20 \text{ increase} + 1.0 \text{ base index} = 1.20$
 - $\$12 \text{ per square foot} \times 1.20 = \$14.40 \text{ adjusted rental rate}$
- Alternative solution:
 - Step One: remains the same.
 - Step Two: Multiply the percent increase by the beginning rent per square foot. Then add this amount to the beginning rent per square foot. $.20 \text{ increase} \times \$12 \text{ per square foot} = \$2.40 \text{ rental increase}$ $\$2.40 + \$12 = \$14.40 \text{ adjusted rental rate}$

CHAPTER 10- Legal Descriptions**Purpose of Legal Description**

- To describe a particular piece of property in a way that uniquely identifies that parcel from any other parcel; a surveyor should be able to identify a parcel solely based on the legal description
- Survey- drawing of a parcel of land showing its boundary lines and includes legal description
- 5 additional purposes
 - Obtain current and accurate boundary information required to write a legal description
 - Establish the exact quantity of area within a described tract, whether it is described in square miles, acres, or square feet
 - Reestablish boundaries that may have become lost or obliterated
 - Obtain data required to divide a large tract into smaller units for development and sale
 - Identify and describe encroachments, if any

Patent

Original deed

Property Appraiser

Government office assigns Parcel ID numbers to land within a tax district

Types of Legal Descriptions

- Metes-and-bounds- used for regular and irregular shaped parcels; metes are distance and bounds are direction; most accurate method
 - Point of Beginning (POB)- starting point
 - Monument- visible corner that identifies each corner of the parcel
 - Primary reference line- runs north/south
- Government Survey- grid
 - aka US System of Rectangular Surveys, and Public Domain Survey
 - Township- E/W; 6 miles apart; 1 township = 36 square miles Range- N/S; 6 miles apart
 - Section- 36, each 1 square mile = 640 acres; numbered in S-pattern (begins in NE)

- Customary to show Section, Township, then Range
- Principal Meridian- north/south line; called Tallahassee Principal Meridian in FL
- Base Line- east/west line
- Lot & Block Method- most common for single-family dwellings; used only where plat maps have been recorded
 - Government Lot- fractional pieces of land less than a full quarter section located along the banks of lakes and streams
- Acre = 43,560 square feet
- Mile = 5,280
- Parcel $\frac{1}{4}$, $\frac{1}{4}$, $\frac{1}{4}$ = 10 acres
- Parcel $\frac{1}{4}$, $\frac{1}{4}$, $\frac{1}{4}$, $\frac{1}{4}$ = 2.5 acres

CHAPTER 11- Real Estate Contracts**Types of Contracts**

- Listing agreement- must include: expiration date, ID of property, price/terms, fee/commission, owners signatures; copy must be given to owners within 24 hours
 - Open listing- any SA/owner can sell
 - Exclusive-agency listing- only 1 agency or owner (if owner sells, they get it)
 - Exclusive right-of-sale listing- only 1 SA can sell (if owner sells, SA still gets it)
 - Net listing- SA gets to keep whatever they sell over the owner's asking price
 - Multiple listing- service provided by brokers and not a specific type of listing (MLS)
- Buyer brokerage agreements- agreement with broker
- Sale and purchase contract- contract btw owner and buyer
- Option contract- agreement to keep open for a specified period of time

Valid Contract has (COLIC)

- Competent parties
- Offer and acceptance (mutual assent)
- Legal purpose- description of contract purpose
- In writing and signed
- Consideration- whatever is given in exchange for something else
 - Valuable consideration- money or promise of something that can be measured in terms of money
 - Good consideration- promise that cannot be measured in terms of money, such as love and affection
- Additional contract rules and terms
 - Can be written or oral but must be written for transfer of real property
 - Real estate contracts do not require witnesses or notarization
 - Can be voidable if person is insane, intoxicated, or a minor
 - Void- does not meet all requirements
 - Voidable- valid contract but because of the way it was brought about, one party is permitted to avoid contractual duties
 - Unenforceable Contract- cannot be proved or will not be recognized by a court

Statute of Limitations

- Designates the period of time during which the terms of a contract may be enforced
- Written- 5 years
- Oral- 4 years
- Partly written and oral- 5 years for the written and 4 for the oral

Statue of Frauds

- Requires contracts conveying interest in real property, and contracts that are not to be performed within one year of the date created, must be in writing and signed to be enforceable. Contract covered by FL's statute of frauds include:
- Purchase and sale contracts
- Option contracts
- Deeds and mortgage instruments
- Lease agreements for a term longer than one year
- Listing agreements for a term longer than one year
- Exceptions
 - Both parties have performed as promised
 - When an oral contract has been formed and the buyer has paid a part of the purchase price and then has either taken possession of the property or made some improvements to the property

Contract Categories

- Formal- must be written in a particular format; does not require seal today
- Informal/Parol- oral agreement
- Bilateral- obligates both parties to perform in accordance with the terms of the contract
- Unilateral- obligates one party
- Implied- one in which some or all of the obligations or conditions of a contract are not stated expressly, but may be reasonably implied (order dinner, implied you will pay)
- Express- all terms and conditions have been spelled out
- Executory- contract and all conditions have not been fully performed yet
- Executed- all obligations have been performed

Offer is Terminated when (WILD CARD)

- Withdrawal by Offeror
- Insanity
- Lapse of Time
- Death
- Counteroffer- indicates willingness to contract, but on terms different from the those contained in the original offer
- Acceptance
- Rejection
- Destruction of the Property

Contract is Terminated when

- Performance- both parties fully perform terms and conditions
- Mutual Rescission- agreement between parties to terminate
- Impossibility of Performance- example- destruction of property
- Lapse of Time
- Bankruptcy
- Breach- when one party fails to perform and law does not recognize the reason for failure
- Additional terms
 - Assignment- transfer of rights and duties under a contract
 - Novation- substitution of a new party for the original one

Remedies for Breach

- Specific performance- court orders other party to perform terms
- Liquidated damages- amount of damages specified in the contract to be paid in the case of default
- Rescission- cancellation of contract and restoration of the parties to their original positions
- Compensatory damages- involved a lawsuit to recover monetary loss

Disclosures

- Help make informed decisions about real estate.
- Examples:
 - Material defects (Johnson v. Davis)
 - Radon gas
 - Lead-based paint (if house was built prior to 1978)
 - Energy efficiency brochure
 - Homeowner's association
 - Property tax
 - Building code violation

CHAPTER 12- Real Estate Finance**Lien Theory**

- Applies in FL
- Borrower retains title to property

Title Theory

- Borrower gets title once debt is paid in full, until then has equitable title

Mortgage Loan & Clauses

- Promissory note- actual promise to repay; represents debt
- Mortgage- pledges property as security (collateral)
 - Hypothecation- pledge property but don't surrender it

Parties to a Mortgage

- Mortgator- borrower/debtor
- Mortgagee- lender/creditor
- Assignment- transfers mortgage to someone else
 - Estoppel Certificate- verifies amount of unpaid balance, rate of interest, and date to which interest has been paid prior to the assignment

Equity Redemption

- Equity of redemption- allows mortgagor to prevent foreclosure by paying debts
- Statutory redemption period- specified period of time after foreclosure which borrower can still redeem

Mortgage Clauses

- Borrower's Covenants & Agreements
 - Promise to repay
 - Taxes; liens
 - Property insurance
 - Occupancy (primary residence for at least one year, unless otherwise agreed)
 - Maintenance and convenient of good repair
 - Due-on-sale clause- outstanding funds must be paid in full if property is sold
 - Acceleration clause (can accelerate due date if any promises are not fulfilled)
 - Right to reinstate (if acceleration is enforced but then payments are made)

- Defeasance clause- defeat mortgage lien and property is no longer pledged
- Other Mortgage Provisions
 - Prepayment clause- can pay off debt early without fees, unless fees are stated in the contract
- Special Mortgage Provisions
 - Escalator clause- lender can increase interest rate, usually tied to an event like transition to investment property
 - Exculpatory clause- lender waive right to a deficiency judgment against the borrower; relieves borrower of personal liability to repay loan
 - Open-end clause/Mortgage for future advances- allows borrower to increase loan amount as long as total debt does not exceed original amount of loan
 - Subordination- lender agrees to step down in priority of lien
- Land Development Loans
 - Blanket mortgages- cover a number of parcels, usually building lots
 - Partial release clause- provides for the release of individual parcels from the blanket mortgage upon payment of a specified amount
- Income Property
 - Receivership clause- allows a receiver to be appointed to collect income from the property and use the income to make mortgage payment in the event of default

Types of Mortgage Loans

- Conventional- not insured by government agency, lender assumes full risk
- Nonconventional- FHA/VA insured loans; typically require smaller down payment
 - Federal Housing Administration (FHA)
 - Created after depression to stimulate homeownership
 - Government agency within HUD
 - Functions as an insurance company
 - Insures loans made by approved lenders; does not make loans
 - Largest government insurer of mortgages in the world
 - Charges a user's fee to cover costs
 - Borrowers are required to pay:
 - Principal
 - Interest
 - Taxes
 - Hazard insurance
 - MIP

- Borrowers pay an upfront mortgage insurance premium (UFMIP)
 - 30 year mortgage, UFMIP is 1.75% of loan amount
- Also charged with the mortgage insurance premium (MIP)
 - 1.25% per year of the base loan amount on 30 year mortgage
 - Paid monthly
 - Cancelled after 5 years or when the LTV ratio is 78% (whichever is longer)
- Additional FHA features
 - Fully assumable; complete qualification of the buyer
 - No prepayment penalty
 - Minimum property standards; required HUD inspection

Foreclosure

- Enforcement of mortgage lien typically caused by mortgagor's failure to pay
- Remedies
 - Initiate a suit on the promissory note- sue on the note
 - Initiate a foreclosure proceeding- auction the house to get back some money

FHA Minimum Cash Investment Down Payment

- 3.5% on lesser of sale/appraisal
- 96.5% (reciprocal) is the maximum mortgage amount (rounded down to even \$50 increment)
- The down payment is calculated on the lesser of the sale price or appraised value
 - $\$218,000 \times .035 = \$7,630$ minimum down payment
- What is the maximum mortgage amount?
 - The reciprocal of 3.5 percent is 96.5 percent ($100\% - 3.5\% = 96.5\%$)
 - $\$218,000 \times .965 = \$210,370$ mortgage loan (rounded down to even \$50 increment = \$210,350; the \$20 difference is then added to the down payment)
- What is the cost of the UFMIP?
 - $\$210,350 \text{ loan} \times .0175 = \$3,681.13$
- What is the cost of the monthly MIP?
 - $\$210,350 \text{ loan} \times .0125 = \$2,629.38$
 - $\$2,629.38 \div 12 \text{ months} = \219.11 monthly

Veterans Affairs Mortgage (VA or GI loan)

- Partially guarantee mortgage loans made to veterans by private lenders for:
 - 90 days of active duty during any 5 wartime periods
 - 181 days of active duty during the time periods between the 5 war periods
 - 24 months of active duty on or after Sept 8, 1980 (except during Persian Gulf war)
 - 6 years of service in the Reserves or National Guard
- Entitlement- maximum amount the government guarantees the lender will be paid in the event the borrower defaults
- Guarantee entitlement
 - \$0 - \$45k = 50% of loan amount
 - \$45,001 - \$144k = minimum guaranty is \$22,500 with a max of up to 40% up to \$36k
 - \$144+ = up to \$104,250 or 25% of loan amount
- Veteran's borrower's total monthly obligations may not exceed 41% of total monthly gross income
 - Guarantee 25% of the loan amount or \$104,250
 - Most lenders observe a max loan amount of \$417k (4x loan amount)
- Funding fee = 2.15% (waived if service-connected disability)
- Down payments are not required
- Borrowers pay 1/12 of property taxes
- Maximum term is 30 years
- Can prepay without penalty
- Do not require mortgage insurance premiums (MIPs)

Conventional Loans

- Private lenders
- Usually have lower LTV than FHA or VA and thus require a larger down payment
- Typically require 20% down
- Loans greater than 80% require private mortgage insurance (PMI)

Other Types of Mortgage Loans

- Amortized mortgage- gradually killed by equal, regular payments
- Partially amortized mortgage- smaller periodic payments and one balloon payment at the end
- Package mortgage- real and personal property security for debt
- Purchase-money mortgage (PMM)- mortgage issued to the borrower by the seller of the home as part of the purchase transaction

Methods of Purchasing

- Cash
- Subject to mortgage- buyer takes over mortgage (when there is no due-on-sale clause), but is not responsible for it
- Assumption of an existing mortgage buyer to assume liability for debt; both buyer and seller are liable in default
- Novation- until loan is paid off, buyer is liable for the note; substitution of new obligation for old one
- Contract for Deed/Land Contract/Installment Sale Contract- buyer doesn't have sufficient cash for down payment, makes a small
- Down payment, take possession, seller finances and buyer makes installment payments to seller
 - Only an attorney should prepare contract for deed
- Wraparound mortgage- envelops an existing mortgage and is junior to it; existing mortgage stays and new one wraps around it

Other Types of Financing

- Adjustable rate mortgage (ARM)- fluctuating interest rate over term of loan; starts low and increases
 - Index- link interest rate of ARM with any recognized index, e.g., US treasury securities
 - Margin- percentage added to index; lender's cost of doing business plus profit
 - Calculated interest rate = index + margin
- Rate/Payment Cap- limiting how much interest/payments can increase
- Negative Amortization- when mortgage payments are not sufficient to cover the interest expense
- Teaser Rate- initial below-market interest rate

- Reverse Mortgage- homeowners 62+ who have paid off their mortgage or only have a small balance remaining can borrow against the equity
- Growing Equity Mortgage- increasing monthly payments increases the equity in a property
- Home equity loans- used to finance consumer purchases, consolidate credit, pay for college, medical expenses, or home improvement
- Buydown- pay an upfront fee to lender to reduce interest rate (generally for the first 1-3 years)

Qualifying Buyers

- Housing Expense Ratio (HER) = $\text{monthly housing expenses (PITI)} / \text{monthly gross income}$
 - PITI- principal, interest, property taxes, hazard insurance, and FHA mortgage insurance (if applicable)
 - Qualifying Ratios
 - FHA requirements allow up to 31% for HER; 43% for TOR
 - VA allow up to 41% TOR
 - Fannie Mae's TOR = 36%
- Total Obligations Ratio (TOR) = $\text{total monthly obligations} / \text{monthly gross income}$
- Loan-to-Value Ratio (LTV) = $\text{loan amount} / \text{price (aka value)}$
- Mortgage loan underwriting
 - Quantity/quality of income
 - Other assets of value
 - Past credit
 - LTV ratio
 - Credit score

CHAPTER 13- The Mortgage Market**Demand for Mortgage Money is Increase/Decreased by:**

- Changes in number and size of households
- Shifts in geographic preference of households
- Existing inventory of structure
- Changes in employment rates and income
- Changes in cost of real property services, taxes, maintenance
- Changes in construction costs

Federal Reserve System 3 Economic Tools to Influence Money Supply

- Open market operations- purchase and sale of US treasury and federal agency securities
 - When Fed sell securities, the supply of money decreases
 - All funds received are held by FRS
 - Reduces supply of money in circulation
 - Causes a drop in loanable funds
 - Interest rates rise
- Discount rate- interest rate charged member banks for borrowing money from the Fed
- Reserve requirements- amount of funds that an institution must hold in reserve against deposit liabilities

General

- FDIC insures up to \$250k; coverage limit returned to \$100k Jan 1, 2014 (except for IRAs)
- Office of Thrift Supervision- charters and regulates federal savings associations
- Deposit Insurance Fund- insures federally chartered savings associations
- Servicing the mortgage- lenders handle loan payment collection and record keeping associated with mortgage loans

Primary Mortgage Market

- Market where securities/goods are actually created
- Primary market activity- bank lends homebuyer money to buy house via mortgage loan

- Dominant primary lenders- commercial banks, savings associations, mutual savings banks, selected credit unions, mortgage companies
 - Make up 95% of all residential loans

Secondary Mortgage Market

- Investor market that buys/sells existing mortgages like
- Fannie Mae (Federal National Mortgage Association)
 - Keeps low-cost capital flowing to mortgage lenders, making sure they don't run out of funds
 - Purchases FHA, VA, conventional mortgages from lenders
 - Holds mortgages in it's portfolio and issues mortgage-backed securities (MBS) in exchange for pools of mortgages from lenders
 - Do not lend money directly to homebuyers, assures mortgage lenders of available funds
- Freddie Mac (Federal Home Loan Mortgage Corporation)
 - Savings associations can sell qualified mortgages to Freddie Mac for cash, then use the cash to make new mortgage loans
- Ginnie Mae (Government National Mortgage Association)
 - Part of HUD
 - In exchange for a fee, GM guarantees the timely payment of principal and interest to the investors

Mortgage Loan Originator (MLO)

- Take information from prospective borrower and "shop" for loans
- Person who solicits
 - Mortgage loans
 - Accepts mortgage loan applications
 - Negotiates the terms/conditions of new/exiting mortgage loans on behalf of a borrower/lender
 - Professes mortgage loan applications
 - Negotiates the sale of existing mortgage loans to non institutional investor for compensation

Mortgage Lender

- Mortgage company
- Makes mortgage loans or services mortgage loans for others

- For compensation
- Sells/offers to sell mortgage loans to non institutional investors
- Primarily make FHA and VA loans
- Secure short term loans from other lenders

Intermediation

- Process of consumers depositing funds into savings accounts at financial institutions; funds are used to provide loans for others

Disintermediation

- Savers withdraw funds from intermediary financial institutions, bypassing them to invest elsewhere which reduces funds available to others

Loan Programs Fall into

- Originate loans
- Insure loans (like FHA)
- Guarantee loans (like VA)

Discount Points

- Discount rate = interest charged member banks for borrowing from FRB
- Based on loan amount, not selling price
- Each point is equal to 1% of loan amount
- Each discount point paid to the lender will increase the lender's yield/return by approx 1/8 of a percent
- Dollar cost
 - \$40k loan, charging 6 points
 - Dollar cost = $\$40k \times 0.06 = \$2,400$
- Lender's yield
 - \$180k, 5.5%, 6 points
 - $1/8 \times 6 = 3/4$
 - $5.5\% + 3/4 = 6 \frac{1}{4}\%$

CHAPTER 14- Computations & Title Closing

- Profit = amount made on sale / total cost
- Loss = amount lost on sale / total cost
- Calculating cost
 - Lot sold for \$6,000, making 25% profit
 - 100% cost + 25% profit = 125%
 - Selling price / 1.25 = cost

Amortizing a Mortgage

- First month's interest = principle balance x annual interest / 12
- Payment on principal = monthly mortgage payment - first month's interest
- New principal balance = beginning principal balance - principal payment

Calculating Sale Price from LTV Ratio

- Mortgage payment x 12 months = annual interest
- Annual interest / interest rate = mortgage
- Mortgage / LTV ratio = sale price

Pre-Closing Steps

- Mortgage application
- Survey
- Appraisal
- Title insurance
- Closing documents
- Property inspections
- Pre-closing inspection

Pro-rate

- Yearly tax / 12 months = taxes owned per month
- Taxes owed per month / 30 days = taxes owed per day
 - Or yearly tax / 365

Documentary Stamp Tax on Deed (\$0.70 per \$100)

- One time tax; not paid annually
- Usually a debt to the seller

- Taxable increments (round up to nearest dollar) = sale price / 100
- Stamp Tax = taxable increments x .70

State Documentary Stamp Tax on Notes (\$0.35 per \$100)

- One time tax
- Debt to buyer on face value of promissory note
- Taxable increments = mortgage / 100
- Tax on note = taxable increment x .35
- If there are multiple mortgages, calculate the taxes on each mortgage, then add them

Intangible Tax (\$0.002 per \$1 of debt)

- One time tax
- Mortgages recorded previously should not be taxed again
- Buyer usually agrees to pay this tax (technically it is the debt of the mortgage owner/lender)
- Tax on second mortgage = second mortgage x 0.002

Binder Deposit

- Credit to buyer only

CHAPTER 15- Estimating Real Property Value**Types of Value**

- Assessed- used for basis for property taxation
- Insurance- estimate of the amount of money required to replace a structure in the event of some catastrophic event such as fire
- Investment- price an investor would pay, given the investor's own financing requirements and income tax situation; personal to the investor
- Liquidation- value associated with rapid sale like the dollars property should bring in a foreclosure sale
- Going concern- value of an income-producing property or business characterized by a significant operating history
- Salvage- estimated amount for which improvement can be sold at the end of a structure's useful life

Market Value

- Based on theory that in any open market there will be a number of buyers and sellers
- Some will pay too much and some will pay too little but it will even out

Cost v. Price v. Value

- Cost/Create- total expenditure require to bring a new improvement into existence, plus the cost of the land
- Price/Paid- amount of money actually paid in a transaction
- Value/Worth- determined by it's ability to command other goods/services in exchange; market value

Characteristics of Value (DUST)

- Demand
- Utility
- Scarcity
- Transferability

3 Approaches to Estimating Real Property Value

- Sales comparison approach (comparable sales method)
 - Based on theory that a knowledgeable purchaser will pay no more for a property than the cost of acquiring an equally acceptable substitute property
 - Value can be estimated accurately by reviewing recent sales of comparable properties
- Cost-depreciation approach (cost method)
 - Based on theory that a knowledgeable purchaser will pay no more for a property than the cost of acquiring a similar site and constructing an acceptable substitute structure
 - Cost depreciation approach formula
 - $\text{Reproduction cost of building} - \text{accrued depreciation} = \text{indicated value of building} + \text{estimated value of site} = \text{indicated value of property}$
- 4 steps in the cost-depreciation approach
 - Estimate current reproduction or replacement cost
 - Reproduction- money required to build an exact duplicate
 - Replacement- money required to build structure but with modern materials
 - Estimate the amount of depreciation from all causes (physical deterioration, functional obsolescence, and external obsolescence) and deduct it from the reproduction (or replacement) cost
 - Types of depreciation:
 - Curable depreciation- building component has been added/repared and owner can get money back in added value
 - Incurable depreciation- owners can't get money back in added value e.g., install new AC and it breaks
 - Physical deterioration- e.g., roof shingles
 - Functional deterioration- operational inadequacies e.g., poor traffic pattern to bathroom
 - External obsolescence- loss in value due to outside e.g., railroad tracks
 - Effective age- age indicated by structure's condition and utility
 - Economic/Useful life- total estimated years structure is expected to contribute to property's value
 - Estimated Total Accrued Depreciation
 - $\text{Effective age} / \text{total economic life} \times \text{reproduction cost new OR}$

- Reproduction cost new / total economic life x effective age
 - Estimate value of site and nonstructural site improvement, assuming site is vacant and will be put to its highest and best use
 - Derive the property's estimated value, add the estimated value of the site, including site improvements, to the depreciated structure value
- Income capitalization approach (income method)
 - Develops an estimate market value based on present worth of future income from the subject property
 - Primary approach for appraising income-producing property and comparing possible investments
 - Potential Gross Income (PGI)- total annual income a property would produce if it were fully rented and no collection losses were incurred
 - Effective Gross Income (EGI)- potential gross income (PGI) - vacancy/collection losses + other income
 - Net Operating Income (NOI)- EGI - operating expenses
 - Gross Rent Multiplier (GRM)- sale price / gross monthly rent
 - Gross Income Multiplier (GIM)- sale price / gross annual income
 - Estimated Market Value (EMV)- rental income x GRM
 - Overall Capitalization Rate (OAR)- NOI / value
 - Income Rate Value (IRV)
 - $i / (r \times v)$
 - Income = rate x value
 - Rate = income / value
 - Value = income / rate

Appraisal Terms

- Assemblage- combining two or more adjoining properties
- Plottage- added value as a result of assembling
- Progression- principle that value of an inferior property is enhanced by it's association with superior properties
- Regression- principle that value of an superior property is decreased by it's association with inferior properties
- Situs- people's preferences for certain areas due to weather, job opportunities, transportation facilities

CHAPTER 16- Product Knowledge**Lot Types**

- Corner- bounded with streets on two sides
- T-intersection- lot at the end of a t-intersection
- Cul-de-sac- street is open at one end only and it has a circular turnaround at the other end
- Flag- long access road or driveway back to the main part of the lot
- Key- generally long skinny lots similar to that of the shaft of a key that are often bounded by as many as five or six lots

Plumbing

- Purpose of U-shaped trap under kitchen sink is to prevent combustible gases from entering the home
- High-pressure brings water in
- Low-pressure carries water out

Electrical

- Wiring
 - Hot wire
 - Black and/or red
 - Carries current to switches
 - Power is always present
 - Neutral wire
 - White or gray
 - Carries current away and completes the loop
 - Grounded to a cold water pipe or grounding rod
 - Ground wire
 - Green, but is usually non insulated bare copper wire
 - Routes excess electricity to the ground
 - Higher the number, the larger the wire, the larger the load
 - Wall switches usually 12-gauge
 - Large appliances such as refrigerators, W/D, require 8 or 6 gauge wire
- Volts x Amps = Watts
 - Amperage- amount of electricity/current flowing in a circuit
 - Wattage- indicates how much energy a device consumes

- Volts- force that moves the current (can be compared to water pressure)
- Circuit breaker protect electric circuit from damage caused by too much current
- Ground-fault-interrupters (GFIs) are required in kitchens and bathrooms to protect the home's occupants from possible electrical shock

Residential Foundations

- Pier
 - Column of masonry
 - 4 or more piers are used to support a structure
 - Lift the structure above ground level to allow a crawl space below the structure
 - Allows easy access to plumbing, electrical connections, and provides space for duct work
 - Used in coastal and flood-prone areas
- Slab-on-Grade- can be one of two types
 - Monolithic
 - Both foundation and a first-floor slab
 - Involves pouring concrete slab directly on the ground
 - Footers are poured with slab
 - Floating
 - Footers and slab are poured separately

Wood Frame Construction

- Platform
 - Most common
 - Each floor is built separately
 - First floor provides a work platform for the structure above
 - Construction is safer for the framers because a flat surface is provided on which to work
 - Typically the wall framing is assembled to the concrete slab and then hoisted into place and anchored
- Balloon
 - Studs extend continuously to the ceiling of the second floor, providing a smooth unbroken wall surface at each floor level
 - Continuous construction reduces uneven settling that can cause cracking of brock, stucco, and stone veneer finishes

- More expensive
- Post & Beam
 - Construction allows for large spans between supporting side walls
 - Posts provide some of the ceiling support so rooms can be constructed with larger spans between the supporting side walls

Insulation & Windows

- R-value- higher the R-value, the better the energy efficiency

CHAPTER 17- Real Estate Investment Analysis & Business Opportunity Brokerage**Real Estate Investment Trust (REIT)**

- Offers investors the opportunity to invest in income-producing real estate properties
- Generally specialize in a particular type of property, like multi-family communities or retail malls
- Provide a means for individuals to pool resources for investment in a professionally managed portfolio of real property and/or mortgages secured by real property
- Attractive because they offer diversification and liquidity, similar to mutual funds
- Offer advantages of skilled centralized mgmt and continuity of operation
- May be purchased through a stockbroker

Types of Property

- Residential (e.g., home)
- Industrial (e.g., factory)
- Agricultural (e.g., farm)
- Commercial (e.g., business office)
- Special-Purpose (e.g., church, school)

For investment purposes, the value of an investment property should be based on the property's return and the appreciation it will yield.

Advantages to Real Estate Investment

- Good rate of return (historically)
- Tax advantages
- Hedge against inflation- historically, real estate prices have increased at a faster pace than inflation
- Leverage
 - An investor can typically borrow 70-75% of the appraised value to finance a real estate investment
 - Goal of leveraging is to increase one's yield (return) on equity (investor's own capital) by using borrowed funds
- Equity buildup- as a property appreciates in value and the mortgage debt is reduced, the investor's equity grows

Disadvantages of Real Estate Investment

- Illiquidity- real estate is not considered to be a liquid investment
- Market is local in nature (unlike other investments that are sold in an national or international market)
- Need for expert help
- Management- labor intensive investment; properties must be cared for
- Risk

Risk

- Static Risk- can be transferred to an insurer such as the risk of vandalism, fire, etc.
- Dynamic Risk- arises from the continual change in the business environment and therefore cannot be transferred to an insurer
- Business Risk (Operating Risk)- associated with the degree of variance between budgeted/projected income/expenses and actual income/expenses
- Financial Risk (Operating Financial Risk)- associated with the ability of a property to pay operating expenses from funds provided from operations, borrowing, and equity sources
- Purchasing Power Risk- related to inflation; example- if rent is fixed by lease, gross income may not keep up with pace of inflation
- Interest Rate Risk- risk that interest rates may fluctuate
- Liquidity Risk- possible loss that may be incurred if the investment has to be converted quickly into cash
- Safety Risk- possible loss of invested capital and/or expected earnings; related to:
 - Market Risk- associated with a decrease in the market value of an investment as a result of increased interest rates
 - Risk of Default- risk that promised earnings will be lost by the investor because of the failure of the investment to earn as expected

Business versus Real Estate Brokerage

- Similarities
 - Real property involved
 - Long-term liabilities
- Differences
 - Personal property
 - Goodwill
 - Going concern value

- Shares of stock
- Short-term liabilities
- Wider geographical market

Expertise Required in Business Brokerage

- Corporate Finance
 - Classes & characteristics of corporate stock
 - Securities analysis and valuation
 - Reasons for valuation include
 - Obtain financing
 - Eminent domain proceedings
 - Destruction of real property
 - Management of working capital
 - Budgeting
- Business Finance
 - Income statement analysis
 - Balance sheet analysis
 - Cash flow analysis
 - Asset depreciation
 - Taxation

Methods of Appraising Businesses

- Comparable Sales Analysis- compare to similar properties
- Reproduction/Replacement Cost Less Depreciation Analysis- estimating the value of improvements either by reproduction (replicating with same materials) or replacement (using modern materials)
- Income Capitalization Analysis- estimating anticipated income from the business
- Liquidation Analysis- value of the business if needed to convert to cash which would include inventory, stocks, etc.

Accounting Terminology

- Assets- entire resource of a business
- Liabilities- all the debts of a business
- Capital- net worth (assets - liabilities)
- Equity- market value - mortgage debt

- Cash Flow- total amount of money generated from an investment after expenses have been paid

Steps in the Sale of a Business

1. List the business for sale.
2. Identify all assets belonging to the business and separate them from all assets that are not part of the business sale (personal).
3. Establish a value for the business, using the various methods of appraisal previously mentioned.
4. Subtract the value of all short-term and long-term liabilities (including the value of preferred stock) from the value of the business.
5. If organized as a corporation, divide the net value of the business by the number of common shares of stock outstanding. The value per share resulting then can be multiplied by the number of shares to be transferred. (Note: Most small businesses are sold as an asset sale even if the business is held as a corporation.)
6. Check and recheck to ensure compliance with all pertinent laws.
7. Market (advertise) the business.
8. Secure a buyer, and have the buyer sign a confidentiality/non-disclosure agreement before releasing the name, location, and financial information regarding the business.
9. Enter into a contract with both parties.
10. Establish a due diligence period for the buyer to inspect the financials of the business.
11. If real estate is not sold with the business, an assignment of the lease or a new lease from the landlord is prepared; if real estate is included in the sale, title work is ordered.
12. Coordinate with all parties involved to schedule a date for closing the transaction.

CHAPTER 18- Taxes Affecting Real Estate**Important Tax Dates**

- January 1st- Tax year begins
- March 1st- Tax exemption filing period ends
- April 1st- Property taxes for previous year become delinquent
- November 1st- Property taxes payable for current year
- December 31st- Current tax year ends

Assessed Value Protest Procedure

- Step 1- Go to county property appraiser's office
- Step 2- Go before value adjustment board
 - Composed of 5 members
 - 1 school board member
 - 2 county commissioners
 - 2 citizen members
- Step 3- Go to court

Exemption from Property Taxes

- Immune- not assessed and are not subject to taxation; city, county, state, and federal government properties, e.g., courthouse
- Exempt- are subject to taxation, but the owner is released from obligation; properties belonging to churches and nonprofit organizations
- Partially Exempt- subject to taxation, but the owner is partially relieved of the burden; for example, all owners of homestead property are granted a partial tax exemption

Homestead

- Florida residents who hold title to a home in Florida and use the home as their permanent residence may establish their residence as a homestead
- Exemptions
 - \$25,000 tax exemption
 - Taxable value for calculating school taxes uses only the first \$25k
 - \$50,000 tax exemption if assessed value is \$75,000+
 - Prorated \$25k exemption if value is between \$50-\$75k
 - Example- \$66k value gets \$25k exemption for first \$50k and \$16k prorated exemption ($\$66k - \$50k = \$16k$)

- Additional \$500 exemption each for:
 - Widow/widowers
 - Legally blind
 - Nonveterans who are totally and permanently disabled
- Additional \$5,000 exemption for veterans who are at least 10% disabled by military service-connected misfortune
- Total exemption for:
 - Veterans who are totally and permanently disabled due to a service-connected injury
 - Quadriplegic individuals
 - Low-income individuals with total and permanent disabilities may be eligible
- \$50,000 exemption for persons 65+ with income no more than \$20,000
- Taxable Value = assessed value - homestead exemptions

Green Belt Law

- Protects farmer's from having taxes increased just because the land might be in the path of urban growth and well suited for development

Save Our Home

- Caps how much the assessed value of homestead property may increase in a given year
- 3% annually OR percentage change of the Consumer Price Index (CPI) for the preceding year (whichever percentage is less)

Tax Rate

- $(\text{Approved budget} - \text{Nonproperty tax revenue}) / (\text{Total assessed value} - \text{Exemptions})$
- Tax rates are expressed in mils
 - 1 mill = .001
 - 10 mil (max) = .010
 - To convert tax rate to mills, move decimal 3 places to the right
 - Always use 3 digits after the decimal when expressing tax rates to prevent confusion; add zeros if necessary

Annual Property Taxes

- Taxable Value x Tax Rate

Special Assessments

- One-time taxes levied on properties to help pay for some public improvement that benefits the property e.g., paving a road
- If sides of an improvement are shared, costs are shared e.g., two home face each side of a road so if the city partially paid to pave a road the remaining cost would be split between the two homeowners

Itemized Deductions

If homeowners-taxpayers itemize deductions rather than claiming the standard deduction on their annual federal income tax returns, they may deduct:

- Mortgage interest
- Property taxes
- Interest on a home equity loan
- Mortgage origination fees (point)
- First-time homebuyers
- May make a penalty free (but not tax free) withdrawal of up to \$10k from their tax-deferred individual retirement funds (IRAs) for a down payment
- Exclusion of gain from the sale of a principal residence
- An exclusion of up to \$250k of gain realized on the sale or exchange of a principal residence
- \$500k for married couples filing a joint return

Amount Realized

- Sale Price - Expense of Sale

Adjusted Basis

- Original Purchase Price + Purchase Expenses + Capital Improvements

Capital Gain/Loss

- Amount Realized - Adjusted Basis

Ordinary Income includes

- Active Income (e.g., wages, tips, commission)
- Portfolio Income (e.g., interest, stock, royalties)
- Passive Income (i.e., income from activities in which the taxpayer does not participate like income from a rental property)

Deductions from Gross Income

- Three types of deductions from gross income are allowed when calculating taxable income from investment real property:
 - Operating expenses- cash outlays necessary for running and maintaining the property
 - Financing expenses- include interest paid as well as costs of obtaining borrowed money
 - Depreciation- allows taxpayers to recover the cost of depreciable property by paying less tax than would otherwise have to be paid
- Depreciable Basis- amount that may be depreciated; generally the initial cost of the asset plus acquisition costs minus the value of the land
- Straight-Line Method Depreciation = depreciable basis / 27.5 years for residential (or 39 years for commercial)
- You cannot deduct loss from the sale of a principal residence

CHAPTER 19- The Real Estate Market**Characteristics of Real Estate Market**

- Immobility- location is fixed
- Market is slow to respond to change in supply and demand
- Land is permanent
- Unique- no two tracts of land are the same
- Government controls influence the market through zoning, building codes, taxes, etc
- Most important cause of population increase in FL has been in-migration of new residents

Market Indicators

- Price levels
- Vacancy rates
- Sales volume
- Barometer of real estate market is cost and availability of credit

Variables that influence Supply (availability of):

- Skilled Labor
- Construction Loans & Financing
- Land
- Materials

Variables that influence Demand

- Price of real estate
- Population numbers and household composition
- Income of consumers
- Availability of mortgage credit
- Consumer taste/preference

Buyer's v. Seller's Market

- A buyer's market occurs when the supply and demand equilibrium is upset by excess supply (supply exceeds demand).
- A seller's market occurs when the supply and demand equilibrium is upset with excess demand (demand exceeds supply).

CHAPTER 20- Planning & Zoning

Three areas of responsibility for which city planning commissions are commonly delegated final authority are:

- Subdivision plat approval
- Site plan approval (i.e., how traffic and parking will be dealt with)
- Sign control

Basic Background Studies

- Population background- most basic and important of all studies
 - Number
 - Structure
- Area economic base- base-industry employment in the area
 - Service industries
 - Base industries (attract outside money like citrus industry)
- Existing land-use
 - Existing
 - Planned
- Physiographic- help avoid unexpected problems with soil conditions
 - Surface
 - Subsurface
- Recreation and community facilities
 - Inventory
 - Future requirements
- Thoroughfare- existing and projected traffic circulation systems; normally a cooperative project between city, county, and state transportation departments
 - Present networks
 - Future requirements

Zoning Ordinances

- Local laws that implement the comprehensive plan
- Permissible uses for each parcel of land
- Lot size
- Type of structures
- Building heights
- Setback requirements (space between lot lines and building lines)
- Density (ratio of land area to structure area aka floor ratio)

General

- Legal right to enact zoning laws is derived from government rights known as police powers
- Residential zoning is designed to regular density (number of homes per acre)
- Commercial zoning is designed to regular intensity of use
- Concurrency Provision- FL's Growth Mgmt Act requires sewers and drinking water to be available before new development is allowed
- Elected City Government Officials have final authority in planning matters
- Local planning commission is made of members that represent the community's residents
- Planning commissions' primary function is to make policy recommendations to the elected government body
- Building Codes- protect public health and safety from inferior construction practices
- Health Ordinances- control maintenance and sanitation of public spaces

Variances

- Allow property owner to vary from strict compliance with all or part of a zoning code because to comply would force an undue hardship on the property owner
- Two conditions must be met for variance to be granted
 - Show hardship exists
 - Zoning Board of Adjustment must use the same established criteria to judge the validity of all requests for a variance
- Example- setback requirement of 25 feet from river but 10 feet of erosion has occurred minimizing available space for setback

Special Exceptions

- Grants a specific use of a particular parcel
- Departure from zoning ordinance, generally permitted in cases where surrounding area would be better served by allowing the special exception
- Example- adult day care allowed in a residential neighborhood of retirees
- Most require public hearings before a decision can be granted

Nonconforming Use

- Property's use was lawfully established but then zoning ordinances changed; allowed to continue as nonconforming use

Planned Unit Development (PUD)

- Type of special land use allowed under most local zoning ordinances
- Special characteristics
 - Clustered homes- developer clusters residential units on smaller lots to create maximum open spaces
 - Mixed land use- variety of types of housing may include single-family detached homes in addition to, for example, townhouses and garden apartments; some incorporate shopping, restaurants, etc to create a sense of community
 - Planned open spaces- one spaces resulting from clustering units is often developed into recreational areas maintained by community association